

Mandates of the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on freedom of religion or belief; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; Special Rapporteur on extrajudicial, summary or arbitrary executions; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 22/20, 26/7, 28/21, 26/12, and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged torture, denial of due process and fair trial, and imminent execution of Messrs. **Mohammad Ali Zehi** and **Milad Azimi** who were children at the time of the alleged offences of which they were convicted. We would also like to bring to your attention information we have received about the alleged torture, denial of due process and fair trial, and impending execution of **Mr. Shahram Ahmadi**.

According to the information received:

Mr. Mohammad Ali Zehi

Mr. Mohammad Ali Zehi, an Afghan national, has been imprisoned since at least 2008, when he was reportedly sentenced to death by a Revolutionary Court in Jahrom for his alleged involvement in drug offences. It is reported he was under 18 years old at the time he allegedly committed these offences. He was allegedly tortured and denied access to his family for two months, at which point he made a false confession. He was also denied access to a lawyer until the start of his trial.

The lawyer informed the court of Mr. Zehi's young age, although he was unable to provide official documentation of Mr. Zehi's age because Mr. Zehi and his family lived in impoverished conditions.

In 2009, the Prosecutor General's Office granted a review of Mr. Zehi's case. However, his death sentence was confirmed when the Legal Medicine Organization of Iran was unable to verify Mr. Zehi's age by physical examination. In 2015, Branch 26 of the Supreme Court agreed to consider Mr. Zehi's case for review, but has not yet issued a decision. It is reported that Mr. Zehi's death sentence could be executed at any time. It should be noted that the 2013 amendments to Penal Code of Iran abolished use of the death penalty for non-violent drug-related crimes.

Mr. Milad Azimi

In early December 2013, Mr. Milad Azimi was reportedly involved in a fight between several boys and young men. On 11 December 2013, Mr. Azimi, who was under 18 years old, was arrested for allegedly fatally stabbing another man in the fight and held at the police station in Kermanshah for 6 days without access to his family and 15 days without access to a lawyer. Over these 15 days he was reportedly flogged and subjected to other forms of torture and mistreatment. In May 2015, a provincial court in Kermanshah province convicted and sentenced Mr. Azimi to death under the Islamic principles of Qesad (retribution-in-kind) for allegedly causing death by stabbing in the December fight. During his detention, Mr. Azimi was forced to confess to the crime under torture, however, he retracted his confession during the trial. Although the court acknowledged that he was a child at the time of the fight, it determined that he nonetheless understood the nature of his crime and sentenced him to death. In August 2015, Branch 17 of the Supreme Court upheld Mr. Azimi's sentence. The Supreme Court has since reportedly denied Mr. Azimi's request for retrial under the 2013 revised juvenile sentencing guidelines. It is reported that Mr. Azimi's death sentence could be executed at any time.

Mr. Shahram Ahmadi

On 26 April 2009, Mr. Shahram Ahmadi, a religious activist, who was reportedly promoting Sunni beliefs by distributing books and leaflets, was shot in the back by Revolutionary Guards while leaving a mosque in Sanandaj. He was unarmed and reportedly severely beaten at the time of arrest. He awoke in a hospital after major surgery to remove his kidney and part of his intestinal tract. Mr. Ahmadi was then kept in solitary confinement and tortured for 33 months, 12 months in Sanandaj and 21 months in Zanjan. He was convicted of "waging war against God" through "links to Salafi groups" and "propaganda against the system, through participating in ideological and political classes and possessing, selling, and buying books and CDs of speeches related to Sunni beliefs. Mr. Ahmadi never confessed to any crime, but under duress from beatings, psychological

attacks, and exposure to extreme cold he signed a blank sheet of paper on which revolutionary guards later composed a confession. For nearly three years, Mr. Ahmadi was denied access to a lawyer. Mr. Ahmadi was then transferred to Evin Prison and later to Rajai Shahr Prison. In total, he was held for over 42 months in pre-trial detention.

At his 2 October 2012 hearing before Branch 28 of the Tehran Revolutionary Court, neither Mr. Ahmadi nor his lawyer was allowed to present a defence. The lawyer was instructed to submit a defence in writing. Mr. Ahmadi was reportedly convicted based on other prisoners' confessions obtained under torture, which were later retracted. Mr. Ahmadi was sentenced to death. At trial, there were several references to Mr. Ahmadi's alleged tie to a group believed to have assassinated Mr. Mohammad Sheikholeslam, a Kurdish cleric, in September 2009. However, there is reportedly no murder or other charges related to Mr. Sheikholeslam's death in Mr. Ahmadi's court documents. Moreover, Mr. Ahmadi was shot and imprisoned five months before Mr. Sheikholeslam's death. In early 2015, the Supreme Court overturned Mr. Ahmadi's death sentence. However, a few months later Branch 28 of the Tehran Revolutionary court re-sentenced him to death without a retrial. Mr. Ahmadi's lawyer was again only allowed to submit a written defence. It is reported that Mr. Ahmad's death sentence could be executed at any time.

We express serious concern at the allegations that Messrs. Zahi, Mr. Azimi, and Mr. Ahmadi have been subjected to torture during their detention and forced to confess. Moreover, we express grave concern that the death penalty may be carried out against Mr. Mohammad Ali Zehi and Mr. Milad Azimi, who were under 18 years old at the time of the alleged crime. We are further concerned that Mr. Mohammad Ali Zehi and Mr. Shahram Ahmadi have been convicted, respectively, for drug-related offences and for "waging war against God", which do not meet the threshold of "most serious crimes". We are also concerned that the death sentences against the three above mentioned individuals have been imposed following judicial procedures that may not fulfill the most stringent guarantees of fair trial and due process, which includes adequate access to legal counsel, equality of arms, and the prohibition of using evidence extracted under torture.

In view of the urgency of the matter, and of the irreversibility of the punishment of the death penalty, we call upon your Excellency's Government as a matter of urgency **to prevent the executions of Messrs. Mohammad Ali Zehi, Milad Azimi, and Shahram Ahmadi** which, on the facts available to us may constitute a violation of applicable international human rights standards, and thus an arbitrary execution. We further appeal to Iran **to annul the death sentence against the aforementioned individuals and to ensure a re-trial in compliance with international standards.**

While we do not wish to prejudge the accuracy of information made available to us, the above allegations appear to be in contravention with international law, in particular the right of every individual to life and security as set out in articles 6.1 of the International Covenant on Civil and Political Rights (ICCPR) and the Convention on the

Rights of the Child (CRC), ratified by Iran respectively on 24 June 1975 and 13 July 1994, and article 3 of the Universal Declaration of Human Rights (UDHR), as well as the right not to be deprived arbitrarily of his liberty and to fair proceedings before an independent and impartial tribunal, including the right to have access to legal counsel, in accordance with articles 9 and 14 of the ICCPR, articles 37 and 40 of the CRC and articles 9 and 10 of the UDHR. The right to have access to a lawyer is also enshrined in the UN Basic Principles on the Role of Lawyers.

Moreover, article 6 (5) of the ICCPR and 37(a) of the CRC, explicitly prohibit the imposition of the capital punishment for offences committed by persons below eighteen years of age. The prohibition of sentencing children to death is absolute and constitutes a non-derogable norm of *jus cogens* under international law (see for instance report by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment A/67/279, para. 62). The Committee on the Rights of the Child, in its General Comment No. 10 on children's rights in juvenile justice, has interpreted article 37(a) of CRC to mean that a death penalty may not be imposed for a crime committed by a person under 18 regardless of his/her age at the time of the trial or sentencing or of the execution of the sanction.

The treatment of Mr. Zahi, Mr. Azimi, and Mr. Ahmadi may have further violated the absolute and non-derogable prohibition of torture and cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the ICCPR and, in Human Rights Council Resolution 25/13 and in paragraph 1 of General Assembly Resolution 68/156. We also recall paragraph 7c of Human Rights Council Resolution 16/23 that urges states to ensure that no confession extracted under torture is invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.

Additionally we would like to refer to the report by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/66/268), in which it is stated that the use of prolonged solitary confinement in itself runs afoul of this absolute prohibition. Moreover, due to the prisoner's lack of communication, and the lack of witnesses, solitary confinement enhances the risk of other acts of torture or ill-treatment.

We would also like to bring to the attention of your Excellency's Government Article 6(2) of the ICCPR which provides that countries which have not abolished the death penalty may only impose it for the most serious crimes. This provision has consistently been interpreted by the Human Rights Committee to mean that the death sentence may only be imposed in respect of crimes that involve intentional killing. Furthermore, article 6.4 of ICCPR establishes that anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Moreover, article 5 of the United Nations Safeguards Protecting the Rights of those Facing the Death Penalty provides that capital punishment may only be carried out following a legal process which gives all possible safeguards to ensure a fair trial, including the right to adequate legal assistance at all stages of the proceedings. Only full respect for stringent due process guarantees

distinguishes capital punishment as possibly permitted under international law from an arbitrary execution.

We are further concerned that Mr. Ahmadi's conviction violated the right to freedom of religion or belief and freedom of association in articles 18 and 21 of ICCPR. We recall Human Rights Council resolution 24/5 which reminds States of their obligation to respect and fully protect the rights of all individuals to associate freely, including persons espousing minority or dissenting views or beliefs, and human rights defenders. It calls on States to take all necessary measures to ensure that any restrictions on the free exercise of the right to association is in accordance with their obligations under international human rights law. Human Rights Committee general comment 22 Para. 4 also stresses that the practice and teaching of religion or belief includes acts integral to the conduct by religious groups of their basic affairs, [...] the freedom to prepare and distribute religious texts or publications."

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person(s) in compliance with international instruments.

It is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. We would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above on the above mentioned allegations.
2. Please provide the procedural history of Messrs. Mohammad Ali Zehi, Milad Azimi, and Shahram Ahmadi's cases, including disposition of all relevant courts and the dates of all trials, appeals and decisions.
3. Please provide information regarding the pretrial detention of Messrs. Zehi, Azimi, and Ahmadi, including whether they were accompanied by a lawyer during interrogations and if they were able to meet with their lawyer before their trials.
4. Please provide information regarding the nature of the evidence used at trial against Messrs. Zehi, Azimi, and Ahmadi, which led to their conviction and death sentences.
5. Please explain what steps, if any, were taken to ensure that Messrs. Zehi and Azimi would not be sentenced to death because they are allegedly juvenile offenders, including the criteria and evidence used by the judiciary to determine whether they comprehended the nature of the crimes they allegedly committed.
6. Please provide information relative to the measures taken to ensure the physical and psychological integrity of Messrs. Zehi, Azimi and Ahmadi, and current policies for

ensuring that prisoners are not subject to torture or cruel, inhumane or degrading treatment or punishment.

7. Please provide detailed information on the measures taken to guarantee the above-mentioned individuals due process and a fair trial, including the effective access to a lawyer and equality of arms, as established in international human rights law, in particular articles 9 and 14 of the ICCPR, 37 and 40 of the CRC and the UN Basic Principles on the Role of Lawyers.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

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