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PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

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OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Working Group on Arbitrary Detention; 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; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the Special Rapporteur on violence against women, its causes and consequences.

REFERENCE: UA G/SO 218/2 G/SO 214 (3-3-16) Iran (2011-16) G/SO 214 (33-27) G/SO 214 (53-24) G/SO 214 (89-15)
IRN 6/2014

14 April 2014

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; 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; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and Special Rapporteur on violence against women, its causes and consequences pursuant to Human Rights Council resolutions 24/7, 17/2, 25/24, 17/5, 25/13, and 23/25.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received concerning the case of **Ms. Rayhaneh Jabbari**, who is reportedly at risk of imminent execution.

According to the information received:

Ms. Rayhaneh Jabbari, a 26-year-old woman, is currently facing imminent execution by hanging. She has been convicted of murdering Mr. Morteza Abdolali Sarbandi, a physician and a member of the Iranian intelligence services, who allegedly attempted to rape her on 7 July 2007. Currently held in the Evin prison in Tehran, Ms. Jabbari is reportedly set for execution in the next few days.

In July 2007, Ms. Jabbari, an interior designer by profession, was allegedly approached by Mr. Sarbandi for advice about renovating his office. Mr. Sarbandi reportedly learnt about her profession by overhearing her phone conversation in a coffee shop. The two subsequently set up a meeting to discuss Mr. Sarbandi's renovation project on 7 July 2007.

Upon arriving at the location, Ms. Jabbari allegedly became suspicious of the arrangement, including when she saw two drinks waiting on a table. Once both individuals were inside, Mr. Sarbandi locked the door and allegedly approached Ms. Jabbari, putting his hands around her waist and demanding sex. When she refused, a struggle ensued. After Mr. Sarbandi allegedly attempted to rape her a number of times, Ms. Jabbari reportedly stabbed him in the shoulder and escaped. Mr. Sarbandi reportedly died from bleeding.

On 8 July 2007, Ms. Jabbari was arrested and allegedly tortured until she confessed to the murder. During the trial in 2007, Mr. Sarbandi's children and the prosecution sought death penalty for Ms. Jabbari which was granted by the first-instance court and subsequently upheld by the Supreme Court.

During the proceedings against her, Ms. Jabbari was reportedly not allowed to be assisted by a lawyer of her own choosing. Ms. Jabbari claimed that she had killed Mr. Sarbandi in self-defense and that the laboratory analysis allegedly showed that the drinks at Mr. Sarbandi's place contained sedatives.

While we do not wish to prejudge the accuracy of the information provided to us, we would like to express our concerns that the death penalty may have been imposed and might be carried out against Ms. Rayhaneh Jabbari after proceedings which did not comply with a number of international human rights standards. We would also like to bring to the attention of your Excellency's Government our concerns relating to the continued imposition and implementation of the death penalty after trials that do not comply with international obligations undertaken by your Excellency's Government, including fair trial safeguards.

In view of the irreversibility of the punishment of the death penalty, we urge your Excellency's Government to take all steps necessary to prevent the execution of Ms. Rayhaneh Jabbari, which, if carried out, would be inconsistent with acceptable standards of international human rights law. We call upon your Excellency's Government not to execute her and to commute without delay the death sentences imposed against them.

In this context, we wish to refer to article 6(1) of the International Covenant on Civil and Political Rights (ICCPR) that the Islamic Republic of Iran ratified on 24 June 1975, stipulating that "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life". Although international law does not prohibit the death penalty, it nonetheless provides that it must be regarded as an exception to the fundamental right to life, and must as such be applied in the most restrictive manner.

We would like to respectfully remind your Excellency's Government that "in countries which have not abolished the death penalty", the "sentence of death may be imposed only for the most serious crimes" in accordance with Article 6(2) of the ICCPR. In interpreting article 6(2) of the Covenant, the United Nations Human Rights Committee has consistently rejected the imposition of a death sentence for offences that do not result

in the loss of life, finding only cases involving murder not to raise concerns under the most serious crimes provision. Safeguard 1 of the United Nations Safeguards Protecting the Rights of those Facing the Death Penalty, approved by Economic and Social Council resolution 1984/50 of 25 May 1984, further provides that “in countries which have not abolished the death penalty, capital punishment may be imposed only for the most serious crimes, it being understood that their scope should not go beyond intentional crimes with lethal or other extremely grave consequences”. A killing committed in self-defense does not meet the threshold of the “most serious crimes” provision under international human rights law.

Furthermore, only full respect for stringent fair trial and due process guarantees distinguishes capital punishment as permissible under international law from a summary execution, which by definition violates international human rights law standards. 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 pursuant to a final judgment rendered by a competent court after a legal process which gives all possible safeguards to ensure a fair trial, at least equal to those contained in article 14 of the ICCPR. Safeguard 4 further stipulates that “capital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts”.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Ms. Jabbari is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee her right not to be deprived arbitrarily of her liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights, and articles 9 and 14 of the ICCPR.

Regarding the allegation that Ms. Jabbari was not allowed to appoint a lawyer of her choice, we would like to refer your Excellency's Government to article 14(3) of the International Covenant on Civil and Political Rights, which states: “In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing; (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it.”

The right to be assisted by a lawyer of one's choice is also set forth in the Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, in particular in principle 1, which states: “All persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings”; and principle 5, which states:

“Governments shall ensure that all persons are immediately informed by the competent authority of their right to be assisted by a lawyer of their own choice upon arrest or detention or when charged with a criminal offence.”

Regarding the allegation that a confession was obtained under torture, we would like to refer your Excellency's Government to the Guidelines on the Role of Prosecutors, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, and in particular guideline 16, which states: “When prosecutors come into possession of evidence against suspects that they know or believe on reasonable grounds was obtained through recourse to unlawful methods, which constitute a grave violation of the suspect's human rights, especially involving torture or cruel, inhuman or degrading treatment or punishment, or other abuses of human rights, they shall refuse to use such evidence against anyone other than those who used such methods, or inform the Court accordingly, and shall take all necessary steps to ensure that those responsible for using such methods are brought to justice.”

In this context, we would also like to recall that paragraph 7c of Human Rights Council Resolution 16/23 urges States “To ensure that no statement established to have been made as a result of torture is invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made, and calls upon States to consider extending that prohibition to statements made as a result of cruel, inhuman or degrading treatment or punishment, recognizing that adequate corroboration of statements, including confessions, used as evidence in any proceedings constitutes one safeguard for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;”

We would like to bring to the attention of your Excellency's Government article 4 (c & d) of the United Nations Declaration on the Elimination of Violence against Women, which notes the responsibility of States to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons. To this end, States should develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence. Women who are subjected to violence should be provided with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm that they have suffered. States should, moreover, also inform women of their rights in seeking redress through such mechanisms.

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 Ms. Jabbari in compliance with the above international instruments.

Moreover, 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. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for

your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the summary of the case accurate?
2. Please provide information concerning the legal grounds for the arrest and detention of Ms. Jabbari and how these measures are compatible with international norms and standards as stated, inter alia, in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.
3. Please provide detailed information on each stage of the judicial proceedings conducted against Ms. Jabbari and indicate how they comply with the requirements and guarantees of a fair trial as enshrined inter alia in article 14 of the ICCPR.
4. Please provide information on the crime that Ms. Satinah Binti Jumadi Ahmad was found guilty of, and sentenced to death. Please clarify how this is compatible with the aforementioned “most serious crimes” provision under international human rights law.
5. Please provide details, and where available the results, of any inquiries, medical examination, and judicial or other inquiries carried out in relation to the allegations of torture in this case.

We undertake to ensure that your Excellency’s Government’s response will be available in the report we will submit to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures not to execute Ms. Rayhaneh Jabbari, to guarantee that her rights and freedoms are respected, and, in the event that your investigations support or suggest the above allegations of torture to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency’s Government adopt effective measures to prevent the recurrence of these acts.

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

Mads Andenas
Chair-Rapporteur of the Working Group on Arbitrary Detention

Gabriela Knaul
Special Rapporteur on the independence of judges and lawyers

Ahmed Shaheed
Special Rapporteur on the situation of human rights in the Islamic Republic of Iran

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