

**Mandates of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran
and the Special Rapporteur on extrajudicial, summary or arbitrary executions**

REFERENCE: UA
IRN 11/2016

6 May 2016

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the situation of human rights in the Islamic Republic of Iran and Special Rapporteur on extrajudicial, summary or arbitrary executions pursuant to Human Rights Council resolutions 28/21 and 26/12.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the alleged denial of due process and fair trial to, the infliction of torture and inhuman and degrading treatment on, and the imposition of the death penalty upon a juvenile, Mr. [REDACTED], in the northern province of Gilan, Iran.**

According to the information received:

On 2 May 2013, Mr. [REDACTED] was reportedly arrested in relation to the fatal stabbing of an individual, which had taken place the previous day during a fight. He was subsequently convicted of murder. Mr. [REDACTED] was sixteen years old at the time of the offence.

On 19 October 2013, Mr. [REDACTED] was sentenced to death under qesas (retribution-in-kind) by Branch Three of the Criminal Court in Gilan Province. The court did not take into account Mr. [REDACTED]'s young age in its proceedings and ruling, despite the juvenile sentencing guidelines which had entered into force in Iran in May 2013. The guidelines, which form part of the Islamic Penal Code 2013, allow courts to replace death sentences with other alternatives if they determine that a juvenile offender had not understood the nature of the crime or its consequences,

or if there were doubts about the "mental growth and maturity" of the juvenile at the time of the offence.

On 14 June 2014, the death sentence against Mr. [REDACTED] was upheld by Branch 24 of the Supreme Court.

In April 2015, the Supreme Court rejected Mr. [REDACTED]'s application for a retrial (e'adeh dadresi), stating that the documents submitted by his lawyer with regards to Mr. [REDACTED]'s mental state at the time of the crime, including a neurologist's certificate, did not amount to fresh evidence. A further application for retrial, which was submitted in February 2016, was also rejected by the Supreme Court.

Due process was not upheld in the judicial proceedings that led to Mr. [REDACTED]'s conviction.). He reportedly did not have access to his lawyer, and to his family, during his detention, even though he was subjected to interrogations. He is believed to have been tortured or otherwise ill-treated while held in a police detention center (agahi). No investigation is known to have been carried out into his allegations of torture and other ill-treatment.

Since 8 April 2016, Mr. [REDACTED] has been kept in solitary confinement in Rasht's Lakan prison, in Gilan Province, in preparation for his planned execution. His execution, which was scheduled for 16 April 2016, was postponed, allowing families to mediate a settlement.

We express grave concern that the death penalty has been imposed against Mr. [REDACTED], who was believed to be a minor and less than 18 years old at the time of the alleged crime, which is in contravention of international human rights law. Concern is also expressed at the allegations of torture and other ill-treatment, including in solitary confinement, against Mr. [REDACTED].

While we do not wish to prejudge the accuracy of these allegations, the above alleged facts indicate a prima facie violation of the right of every individual to life and security and not to be arbitrarily deprived of his life or liberty, as set forth in articles 6(1) and 9 of the International Covenant on Civil and Political Rights (ICCPR), ratified by the Islamic Republic of Iran on 24 June 1975, and 3 of the Universal Declaration of Human Rights (UDHR). These allegations also seem to be in contravention of the right to fair proceedings before an independent and impartial tribunal, as set forth in article 14 of the ICCPR and article 10 of the UDHR.

We would also like to draw your Excellency's Government attention to the fact that any judgments imposing the death sentence and execution of juvenile offenders are incompatible with the international legal obligations undertaken by your Excellency Government under various instruments. Article 6 (5) of the ICCPR, and Article 37(a) of

the Convention on the Rights of the Child, ratified on 13 July 1994, expressly prohibit the imposition of the death penalty for offences committed by persons below eighteen years of age. 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.

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. Furthermore, article 6.4 of ICCPR establishes that anyone sentenced to death shall have the right to seek pardon or commutation of the sentence and that amnesty, pardon or commutation of the sentence of death may be granted in all cases.

We would also like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other ill-treatment as codified, inter alia, in article 7 of the ICCPR, and recall paragraph 6 of General Comment No. 20 of the Human Rights Committee, which states that prolonged solitary confinement of the detained or imprisoned person, may amount to acts prohibited by article 7 of the ICCPR.

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 halt the execution of Mr. [REDACTED]**, which, on the facts available to us may constitute a violation of applicable international human rights standards, and thus an arbitrary execution. We further urge your Excellency's Government to ensure that the death sentence against the aforementioned individual is annulled and that he is retried in compliance with international standards.

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.

As 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 be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above mentioned allegations.

2. Please provide the details of the proceedings against Mr. [REDACTED] identified above, and the legal basis and evidence used in court to sentence him to death. In addition, please provide specific information regarding the application in this case of the provisions of the juvenile sentencing guidelines relating to alternative punishments to the death penalty.

3. Please provide information concerning any laws or regulations related to the right to a fair trial and imposition of the death penalty, and how these are in conformity with the international norms and standards mentioned above.

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.

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

Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions