



PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 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 Iran (2011-16) G/SO 214 (33-27) G/SO 214 (53-24) G/SO 214 (89-15) G/SO 218/2 G/SO 214 (67-17)
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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 promotion and protection of the right to freedom of opinion and expression; 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, 22/23, 17/5, 16/23, and 23/25.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the cases of Mr. **Rouhollah Tavani** and Ms. **Farzaneh Moradi**, who are currently at risk of imminent execution in the Islamic Republic of Iran.

According to the information received:

Mr. Rouhollah Tavani was arrested at his home in Mashhad in October 2011 under charges of Sabb Al-Nabi, (insults to the Prophet of Islam or other Great Prophets) for allegedly insulting the Holy Prophet and producing alcoholic beverages. The agents from Mashhad's Ministry of Intelligence Office, who arrested him, reportedly found a video recording on Mr. Tavani's personal computer, in which Mr. Tavani made comments that were interpreted at a later stage by the judiciary as pejorative toward the Holy Prophet. In the video, Mr. Tavani was allegedly intoxicated.

Subsequent to his arrest, Mr. Tavani was sentenced to death by hanging in 2013. His death sentence was upheld by an appeals court, as well as by the Supreme Court on 14 February 2014.

It is alleged that Mr. Tavani spent 3.5 months in solitary confinement following his arrest. Furthermore, according to the Khorasan Medical Examiner who assessed the defendant's mental health state, Mr. Tavani suffers from mental health issues and requires psychological counseling.

With regard to Ms. Farzaneh Moradi, a 26 year-old woman from Isfahan province, she reportedly risks being executed in the beginning of March 2014, after having been found guilty and sentenced to death for allegedly murdering her husband.

Ms. Moradi was initially scheduled to be hanged on 1 February 2014. However, her execution was postponed for a month by the Attorney General, who questioned the evidence used for convicting her for killing her husband.

Ms. Moradi is reportedly a former child bride who was forced to marry a paternal relative at the age of 15, and became a mother at the age of 16. It is reported that after a few years of marriage, Ms. Moradi tried to obtain a divorce, but she was unable to do so, due to existing cultural and legal barriers to divorce in the Islamic Republic of Iran.

Allegedly, Ms. Moradi fell in love at the age of 19, with a man who reportedly convinced her to act as an accomplice in the murder of her husband. According to the defendant, the man suggested, planned and committed the crime, without her involvement. However, at the time of the arrest, Ms. Moradi reportedly took responsibility for the murder, as the man convinced her that forgiveness from the victim's family, and by extension, the blessing to marry the other man, would only follow if she were to assume personal responsibility for the crime. Concerns have also been expressed regarding the evidence used in the court proceeding against Ms Moradi to convict her and sentence her to death for the murder of her husband. The main alleged perpetrator reportedly remains at large, leaving few prospects for his prosecution.

Without prejudging the accuracy of the information made available to us, we would like to express concern that the death penalty may have been imposed and be carried out against Mr. Rouhollah Tavani and Ms. Farzaneh Moradi in contravention of international human rights law, in particular after proceedings that did not comply with international human rights law standards of fair trial and due process. Concern is expressed that the personal circumstances of Ms. Moradi, including the fact that she was a victim of a forced and early marriage, might not have been adequately taken into consideration in the deliberation of her case. Concern is also expressed with regard to information received indicating that women charged with the murder of their spouses in the Islamic Republic of Iran were often forced to marry as children between 13 and 18

years of age, and that many of those are unable to flee forced or abusive marriages due to cultural and legal barriers to divorce.

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 Mr. Rouhollah Tavani and Ms. Farzaneh Moradi, 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 them and to commute without delay the death sentences imposed against them.

Without expressing at this stage an opinion on the facts of the cases and on whether the detention of these persons is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of their 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 (UDHR) and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR), which the Islamic Republic of Iran ratified on 24 June 1975.

Article 6(1) of the ICCPR stipulates 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 are respectfully drawing your attention to the fact that 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".

With regard to the case of Mr. Tavani, we would like also 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.

Furthermore, we would like to remind your Excellency's Government Safeguard 3 Protecting the Rights of Those Facing the Death Penalty, which provides that the death

penalty shall not be carried out on persons who have become insane. In addition, resolution 1989/64 of the Economic and Social Council of 24 May 1989 on the Implementation of the Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty, recommends in paragraph 1 (d) that States further strengthen the protection of the rights of those facing the death penalty, eliminating the death penalty for persons suffering from mental retardation or extremely limited mental competence, whether at the stage of sentence or execution.

We further wish to draw your Excellency's Government's attention to the right to physical and mental integrity of the above-mentioned persons.

In this context, we wish to draw your Excellency's Government's attention to the report of the Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment to the General Assembly (A/67/279), stating that even if the emergence of a customary norm that considers the death penalty as per se running afoul of the prohibition of torture and cruel, inhuman or degrading treatment is still under way, most conditions under which capital punishment is actually applied renders the punishment tantamount to torture. Under many other, less severe conditions, it still amounts to cruel, inhuman or degrading treatment.

We would also like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the ICCPR, which provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

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 persons 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 cases accurate?
2. Please provide information concerning the legal grounds for the detention of Ms. Moradi and Mr. Tavani, and how these measures are compatible with international norms and standards, as stated, inter alia, in the UDHR and the ICCPR.
3. Please provide detailed information on each stage of the judicial proceedings against Ms. Moradi and Mr. Tavani and indicate how they comply with the requirement

and guarantees of a fair trial and due process guarantees as enshrined inter alia in article 14 of the ICCPR, and United Nations Safeguards Guaranteeing Protection of the Rights of those Facing the Death Penalty. Please provide details on the evidence used to convict and sentence Ms. Moradi to death.

4. Please indicate the specific crime that Mr. Tavani has been found guilty of and the legal basis of the death sentence imposed against him. Please indicate how this is compatible with international human rights law, specifically with the requirement in article 6(2) of the ICCPR to impose the death penalty for the most serious crimes only.

5. Please explain how the information that Mr. Tavani suffers from psycho-social disabilities was taken into consideration while sentencing him to death, and explain how this is compatible with the mentioned human rights law standards in this regard.

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 to guarantee that the rights and freedoms of the above mentioned persons are respected. 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

Frank La Rue
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

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

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