

Mandates of the Working Group on the issue of discrimination against women in law and in practice; 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

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Excellency,

We have the honour to address you in our capacity as Chairperson-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice; 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 23/7, 28/21, 26/12, 25/13, and 23/25.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the imminent execution by stoning or hanging of Mrs Fariba Khalegi**.

According to information received:

In November 2013, Mrs Fariba Khalegi was reportedly arrested on suspicion of involvement in the murder on 12 November 2013 of her husband, Mr [REDACTED]. She was later released without charge. During the course of the murder trial, evidence was reportedly presented, which the trial court believed suggested that Mrs Khalegi had been involved in a sexual relationship with her husband's murderer, Mr [REDACTED]. On 15 October 2014, Mrs Khalegi was allegedly convicted of adultery (*zina-ye mohseneh*) under Article 225 of the Islamic Penal Code by the Provincial Court of Zanjan and sentenced to death by stoning. Mr [REDACTED] was sentenced to death for the murder of Mr [REDACTED] but the court neither tried nor convicted Mrs Khalegi for the murder.

Mrs Khalegi's adultery conviction allegedly depended solely on the evidence (text messages and video) presented at the trial. She had reportedly denied all charges against her and never confessed to having committed adultery. Her conviction was not based on witness testimony during the trial, despite article 199 of the 2013 Islamic Penal Code requiring four male witnesses, or three male witnesses and two female witnesses, to prove the crime of adultery. It is not clear what efforts were made to confirm the authenticity of the evidence acquired and presented at the trial.

On 27 January 2015, the Supreme Court reportedly upheld the sentence. A later application for retrial (*E'ade dadrasi*) was allegedly unsuccessful. Mrs Khalegi is currently being held in Central Prison, Zanjan. It is believed that her execution may be imminent as all legal avenues of appeal appear to have been exhausted.

Grave concern is expressed that the death penalty may be carried out against Mrs. Khalegi, who has been convicted on charges of adultery which does not meet the threshold of the "most serious crime", in contravention of article 6 of the International Covenant on Civil and Political Rights (ICCPR), to which Iran acceded on 24 June 1975. We wish to recall in particular that Article 6(2) of the ICCPR 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 intentional killing, which would not include adultery.

We wish to affirm that adultery should not be classified as a criminal offence and should not be punishable by imprisonment, flogging or sentence of death as the criminalization of sexual relations between consenting adults is a violation of their right to privacy and infringement as per article 17 of the ICCPR and the equal protection against discrimination as per article 26 of the ICCPR.

Grave concern is also expressed at the imposition of the death penalty against Mrs. Khalegi following judicial proceedings that do not appear to have fulfilled the most stringent guarantees of fair trial and due process, particularly in connection to irregularities in the use of evidence, which is in contravention of articles 6 and 14 of the ICCPR. This also appears to be in contravention of Article 199 of the 2013 Islamic Penal Code, which requires four male witnesses, or three male witnesses and two female witnesses, to prove the crime of adultery. Where only two men and three women provide testimony, the only available punishment is flogging. No witness testimony was allegedly delivered during Mrs Khalegi's trial. In this regard, we would like to recall that 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. Only full respect for stringent due

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

The Human Rights Committee, in paragraph 12 of its concluding observations to the third periodic report of the Islamic Republic of Iran (CCPR/C/IRN/CO/3), called upon your Excellency's government to restrict the imposition of the death penalty to the most serious crimes and ensure that, where it is imposed, the requirements of article 6 and article 14 of the ICCPR are fully met. The Committee also called upon the government to ensure that everyone sentenced to death, after exhaustion of all legal avenues of appeal, has an effective opportunity to exercise the right to seek pardon or commutation of sentence from the relevant authorities.

Great concern is further expressed on the proposed manner of execution, which is death by stoning, unless the judiciary determines that death by hanging is more appropriate. Article 7 of the ICCPR states that "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." Paragraph 28 of the 2012 report to the General Assembly of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/67/279) makes it clear that there is no exception for lawful sanctions and that sentences determined by a domestic court, including death by stoning can amount to a breach of Article 7.

In paragraph 12 of the concluding observations (CCPR/C/IRN/CO/3, above), the Human Rights Committee called upon the government to prohibit the use of public executions and stoning as a method of execution. In paragraph 76 of his 2012 report to the General Assembly (A/HRC/19/66), the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, called upon the government to take steps to explicitly prohibit the use of execution by stoning and to commute existing sentences for execution by stoning.

We would moreover like to recall that, as a State Party to the ICCPR, your Excellency's Government has undertaken to ensure equality between men and women in the enjoyment of all civil and political rights, including the right to life and the right not to be subjected to torture or to cruel, inhuman or degrading punishment. In this regard, we continue to be concerned about the reported imbalance between the number of men and women sentenced to death on charges of adultery, which raises certain questions in terms of possible discrimination in relation to both criminal enforcement and sentencing in adultery cases. It would be important to have gender disaggregated data on the use of the death penalty for adultery in the Islamic Republic of Iran. Furthermore, in its 2015 report (A/HRC/29/40), the Working Group on the issue of discrimination against women in law and in practice recalled that the criminalization of sexual relations between consenting adults is a violation of their right to privacy as set at article 17 of the ICCPR (para. 49) and that all laws that support the patriarchal oppression of women, such as laws that criminalize adultery, must be repealed (para. 73. c) v). In this regard, we also would

like to refer to article 2 of the Convention on the Elimination of all Forms of Discrimination against Women, which calls on States Parties to condemn discrimination against women in its all forms and pursue by all appropriate means and without delay a policy of eliminating discrimination against women.

We would further like to recall that according to article 4 of General Comment 31 of the Human Rights Committee, the obligations contained in the Covenant are binding on every State as a whole and that all branches of government (executive, legislative and judicial), and other public or governmental authorities, at whatever level - national, regional or local - are in a position to engage the responsibility of the State Party.

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 and of the irreversibility of the punishment of the death penalty, **we call upon your Excellency's Government as a matter of urgency to take all steps necessary to prevent the execution of Mrs. Khalegi**, which, on the facts available to us may constitute a violation of applicable international human rights standards, and thus an arbitrary execution. **We further call upon your Excellency's Government to annul the death sentence against her and to ensure a fair retrial.**

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 detailed information on the measures taken to provide Mrs Khalegi with the guarantees of due process, fair trial, and effective access to a lawyer as established by articles 9 and 14 of the ICCPR and the *UN Basic Principles on the Role of Lawyers* at all stages of criminal process, including the right to appeal.
3. Please provide detailed information on the nature of the evidence presented in the trial, in support of the adultery conviction, in light of the requirements and guarantees of a fair trial as enshrined in international standards".
4. Please provide information concerning Ms Khalegi's sentence to death in light of the above mentioned international norms and standards, in particular with regard to the right to life and the absolute prohibition of torture and other ill-treatment.

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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discrimination against women in law and in practice

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