

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on freedom of religion or belief; 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

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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on freedom of religion or belief; 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 25/2, 22/20, 25/24, and 26/12.

In this connection, we would like to bring to the attention of your Excellency's Government information which we have received concerning the situation of Mr. **Soheil Arabi**, who has been sentenced to death for "insulting the Prophet of Islam".

According to the information received:

In November 2013, Mr. Soheil Arabi, a 30 year old photographer, was arrested by the Islamic Revolutionary Guard Corps (IRGC) in his home in Tehran. Following his arrest, Mr. Arabi was placed in solitary confinement for two months in section 2A of Evin Prison, which is apparently under the control of the IRGC. It is reported that during interrogations, he was pressured into making a "confession" of guilt. Subsequently, he was transferred to Section 350 of the Prison, which is under the control of the Judiciary.

On 30 August 2014, Branch 76 of the Criminal Court of Tehran sentenced Mr. Arabi to death for "insulting the Prophet of Islam" (Sabbo al-Nabbi). The charge stems from postings Mr. Arabi made on eight Facebook accounts, which the

authorities believe belong to him. Three out of five-judges in the panel ruled in favour of the death penalty.

On 4 September 2014, a Tehran Revolutionary Court sentenced Mr. Arabi to an additional three years' imprisonment for "spreading propaganda against the system" and "insulting the leader", on a separate case stemming from the same Facebook posts.

On 24 November 2014, the Supreme Court upheld the death sentence against Mr. Arabi.

According to Article 262 of the revised Islamic Penal Code, which entered into force in 2013, "anyone who curses the Prophet of Islam or other Prophets or accuses them of adultery is (considered) *sabbo al-nabi* and will be sentenced to death". However, Article 263 stipulates that an accused would not be sentenced to death if he or she claims that their statement was made under duress, as a result of negligence, or in a state of intoxication.

We express grave concern that Mr. Arabi has been sentenced to death on charges of "insulting the Prophet of Islam", which do not meet the threshold of "most serious crimes" warranting the death penalty under international law. Concern is also expressed that Mr. Arabi was retained in solitary confinement for 2 months in Evin prison and that his confession may have been extracted under duress.

Without making any judgment as to the accuracy of the information made available to us, the above allegation concerning the imposition of the death sentence against Mr. Arabi would seem to be in contravention of the right of every individual to life and security and not to be arbitrarily deprived of his life, as set forth in articles 3 of the Universal Declaration of Human Rights (UDHR) and 6(1) of the International Covenant on Civil and Political Rights (ICCPR), which the Islamic Republic of Iran ratified on 24 June 1975.

We would like to draw the attention of your Excellency's Government attention to article 6(2) of the ICCPR which states that the sentence of death may be imposed only for the most serious crimes. The UN Human Rights Committee has interpreted this to mean that the death penalty must be an "exceptional measure and should not be used on non-violent crimes" (Communication No. 838/1998, 20 December 2002, paras. 6.3,7). The Human Rights Committee also noted that the imposition of the death penalty for crimes that do not result in the loss of life is incompatible with the Covenant (CCPR/C/79/Add.25). Furthermore, article 6.4 of ICCPR establishes that anyone sentenced to death shall have the right to seek pardon or commutation of the sentence.

We would also like to bring to the attention of the Excellency's Government article 18 of the ICCPR, which stipulates that everyone shall have the right to freedom of

thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching. In this regard we would like to stress that the right to freedom of religion protects primarily the individual, but it does not protect religions or beliefs per se.

The Human Rights Committee has further stated in paragraph 48 of its General Comments 34 that prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the ICCPR, except in the specific circumstances envisaged in article 20, paragraph 2, of the Covenant. Such prohibitions must also comply with the strict requirements of the Covenant's article 19, paragraph 3, as well as articles as 2, 5, 17, 18 and 26. The Committee observed that nor would it be permissible for such prohibitions to be used to prevent or punish criticism of religious leaders or commentary on religious doctrine and tenets of faith (CCPR/C/GC/34).

We are drawing your Excellency's Government's attention to article 19 of the International Covenant on Civil and Political Rights, which guarantees the right to freedom of expression, which includes the freedom to seek, receive and impart information and ideas of all kinds.

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

In view of the irreversibility of the punishment of death penalty, we urge your Excellency's Government as a matter of urgency to take all steps necessary to prevent the execution of Mr. Soheil Arabi. If carried out, this execution would be inconsistent with international human rights law. As a State Party of the ICCPR, your Excellency's government has the obligation to protect all individuals' right to life and their right not to be arbitrarily deprived of their life. Implementing capital punishment in these circumstances may amount to an arbitrary execution.

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 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 to Your Excellency's Government to provide to us any information, observations or comments concerning:

- 1) the above mentioned allegations;

2) the legal grounds for the arrest and detention of Mr. Soheil Arabi 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) the legal grounds for the imposition of the death penalty against Mr. Arabi, and how this sentence complies with international human rights laws prohibiting arbitrary imposition and implementation of capital punishment;

4) each stage of the judicial and post-conviction proceedings against Mr. Arabi, and how they comply with the guarantees of fair trial and due process, as enshrined, inter alia, in article 14 of ICCPR;

5) whether the Court had the discretion to give a lesser sentence in the case of Mr. Arabi and whether there are any provisions for appeal or pardon from this judicial decision.

We would appreciate a response within sixty days. We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the reports we will submit to the Human Rights Council for its consideration.

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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