

Mandates of the Working Group on Arbitrary Detention; 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 the situation of human rights in the Islamic Republic of Iran

REFERENCE:
UA IRN 5/2017

31 January 2017

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; 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 the situation of human rights in the Islamic Republic of Iran, pursuant to Human Rights Council resolutions 33/30, 26/12, 25/13 and 28/21.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the imminent execution of Mr. Hamid Ahmadi, who was sentenced to death on murder charges while he was under the age of 18 years.** Mr. Ahmadi was the subject of a joint urgent appeal sent on 2 June 2015 (see case IRN 7/2015). We acknowledge receipt of your Excellency's Government reply dated 4 March 2016.

According to the information received:

In August 2009, Hamid Ahmadi was sentenced to death after Branch 11 of the Provincial Criminal Court of Gilan Province convicted him of the fatal stabbing of a young man during a fight between five boys. He was 17 years old at the time of the crime.

In November 2009, the Supreme Court overturned the verdict due to some doubts about the testimony of several key witnesses, but in November 2010 eventually upheld it. Mr. Hamid Ahmadi's trial was reportedly unfair as the court relied on "confessions" he made at Siahkal's police station where he was held for three days in an apparently filthy, urine-stained cell without access to a lawyer or his family. Moreover, his "confessions" were reportedly obtained under torture and other ill-treatment, including beating and denial of food and water. One officer allegedly told him that he should not fear execution and should just "confess" so that the investigation could be concluded as soon as possible. No investigation is known to have been conducted into his allegations of torture.

Mr. Hamid Ahmadi was reportedly granted a retrial in June 2015 after Branch 35 of the Supreme Court accepted his "application for retrial", which he filed based

on the new Juvenile Sentencing Provisions of the 2013 Islamic Penal Code. Under these provisions, judges are given the discretion to replace the death penalty with an alternative punishment if they determine that the juvenile offender did not understand the nature of the crime or its consequences, or there were doubts about his or her “mental growth and maturity” at the time of the crime. However, in December 2015, he was informed that the Provincial Criminal Court of Gilan Province had sentenced him to death again. The Supreme Court upheld the death sentence later in 2016.

On 27 January 2017, he was reportedly transferred to solitary confinement in Rasht’s Prison, northern Iran, in preparation for his execution.

We would like to express serious concern that the death penalty may be carried out against Mr. Hamid Ahmadi who was a juvenile at the time of the alleged offence, in violations of international treaties to which the Islamic Republic of Iran is a party. We are further concerned that Mr. Ahmadi’s confession was obtained under duress and that the death penalty was upheld following judicial procedures that may not fulfil the most stringent guarantees of fair trial and due process.

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. Hamid Ahmadi, 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 you to ensure that Mr. Hamid Ahmadi’s death sentence is annulled and that he is re-tried in compliance with international juvenile justice standards. Concern is expressed about the growing number of reports concerning similar cases that are being communicated to us. In the month of January alone, two juvenile executions were reported.

While we do not wish to prejudge the accuracy of the information made available to us, 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, as set forth in articles 6(1) 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. These allegations also seem to be in contravention of articles 6(5) of the International Covenant on Civil and Political Rights (ICCPR) and 37(a) of the Convention on the Rights of the Child (CRC), both of which strictly prohibit the issuing of death sentences for offences committed by persons below eighteen years of age. The alleged treatment of Mr. Hamid Ahmadi further violates the absolute and non-derogable prohibition of torture and cruel, inhumane or degrading treatment or punishment, as codified, inter alia, in the ICCPR and, in Human Rights Council Resolution 25/13 and in paragraph 1 of General Assembly Resolution 68/156.

We would also like to refer your Excellency's Government to article 14 of the ICCPR and article 40 of the CRC, which enshrine the right to a fair trial, including the right to access to a lawyer and other essential procedural guarantees. The imposition of a death sentence following a trial in which these provisions have not been respected constitutes a violation of the right to life.

We would also 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. In addition, article 4 of the Safeguards provides 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.

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 Mr. Ahmadi 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. Hamid Ahmadi, 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 regarding steps taken to guarantee the physical and psychological integrity of Mr. Hamid Ahmadi while in detention. Please also provide information on investigation conducted, if any, into the allegations that Mr. Ahmadi was subjected to torture during the investigations phase and forced to confess under torture, and its outcome, and how these were taken into consideration during his trial.

4. Please provide detailed information on the measures taken to provide Mr. Hamid Ahmadi with the guarantees of due process and fair trial, as provided in under international human rights law, in particular articles 9,14 and 15 of the ICCPR.
5. Please provide information on juvenile sentenced to death and executed in 2016 and 2017 and those who remain on death row for crimes committed under the age of 18.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to halt the alleged violations and prevent their re-occurrence and in the event that investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible for 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.

José Antonio Guevara Bermúdez
Vice Chair of the Working Group on Arbitrary Detention

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

Nils Melzer
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Asma Jahangir
Special Rapporteur on the situation of human rights in the Islamic Republic of Iran