

Mandates of the Working Group on Arbitrary Detention and the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran

REFERENCE:
UA IRN 22/2017

9 August 2017

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention and Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, pursuant to Human Rights Council resolutions 33/30 and 34/23.

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. Alireza Tajiki, who was sentenced to death in 2013 on murder charges and on charges of “*lavat-e be onf*” (forced male to male anal intercourse) while he was 15 years old.**

Mr. Alireza Tajiki was the subject of a previous communication, sent by several Special Procedure mandate holders on 13 May 2016 (see case IRN 13/2016). We acknowledge receipt of your Excellency's Government reply dated 26 October 2016 which informed us about the suspension of Mr. Tajiki's sentence.

According to new information received:

The execution of Mr. Alireza Tajiki who is now aged 20 years is scheduled to take place on 10 August.

Mr. Tajiki was sentenced to death in April 2013 when he was 15 years old. His trial before the Provincial Criminal Court in Fars Province, which convicted him of murder and “*lavat-e be onf*” (forced male to male anal intercourse), was reportedly unfair as the court relied on “confessions” which Mr. Tajiki has said were extracted through torture, including beatings, floggings, and suspension by arms and feet.

Mr. Tajiki was denied access to a lawyer throughout the investigation process and held in solitary confinement for 15 days without access to his family.

In April 2014, the Supreme Court quashed his conviction and death sentence due to a lack of forensic evidence linking him to the sexual assault, and ordered the lower court to carry out further investigations. It also instructed the lower court to

examine Mr. Tajiki's "mental growth and maturity" at the time of the crime in light of the juvenile sentencing provisions in Iran's 2013 Islamic Penal Code.

In November 2014, Branch 4 of the Criminal Court of Fars Province resented him to death, referring to an official medical opinion stating he had attained "mental maturity". Its decision made no reference to concerns raised by the Supreme Court about the lack of forensic evidence, suggesting that the investigation was not carried out. The Court also relied again on his "confessions" as proof of guilt, without conducting an investigation into his torture claims. The Supreme Court upheld the death sentence in February 2015.

Since this verdict, Mr. Tajiki's execution has already been scheduled two times. On 15 May 2017, his planned execution was stopped 24 hours before it was due to take place. Again on 1 August 2017, his execution scheduled to take place on 3 August was postponed. However, the authorities did not explain the reasons behind their decision for the postponement.

We would like to express serious concern that the death penalty may be carried out against Mr. Alireza Tajiki in violation of international treaties to which the Islamic Republic of Iran is a party. We are further concerned that Mr. Tajiki'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. Alireza Tajiki**, which on the facts available to us may constitute a violation of applicable international human rights standards, and thus constitute an arbitrary execution. We further urge you to ensure that Mr. Tajiki's death sentence is annulled and that he is re-tried in compliance with international law and standards.

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 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. These allegations also seem to be in contravention of articles 6(5) of the 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 18 years of age.

The alleged treatment of Mr. Alireza Tajiki 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.

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 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. Alireza Tajiki, 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 on the investigation conducted, if any, into the allegation that Mr. Alireza Tajiki was subjected to torture during the investigations phase, and its outcome. If no investigation has taken place, please explain why.
4. Please provide detailed information on the measures taken to provide Mr. Alireza Tajiki 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 detailed information on children sentenced to death and/or executed in 2017 and those who remain on death row for crimes committed under the age of 18.

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.

Elina Steinerte
Chair-Rapporteur of the Working Group on Arbitrary Detention

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