

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 30/2017

13 November 2017

Excellency,

We have the honour to address you in our capacities 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, 35/15, 34/19 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 conviction and sentencing to death of **Dr. Ahmadsreza Djalali** amidst serious concerns related to due process and adherence to fair trial guarantees.

This case was already the subject of a joint urgent appeal sent on 10 February 2017 (case IRN 7/2017). We thank your Excellency's Government for its reply dated 24 August 2017 which stated that Mr. Djalali had been held since 27 May 2016, charged, afforded meetings and phone calls with his family. The reply also noted that no final verdict had been issued.

According to information previously received, Dr. Djalali was arrested on 25 April 2016 without a warrant. His family were not informed about his initial whereabouts. He spent three months in solitary confinement, was prevented from accessing his lawyer, and was forced under emotional and psychological pressure to sign statements. During his imprisonment he began a hunger strike leading to serious concerns for his health. On 31 January 2017, Dr. Djalali was taken before Branch 15 of the Revolutionary Court in Tehran, without his lawyer, and was informed that he was accused of "espionage" and could face the death penalty. The prosecution authorities refused to share the court files with his lawyers. Dr. Djalali was subsequently charged with "corruption on the earth".

According to the new information received:

Dr. Djalali was convicted of "corruption on the earth" and sentenced to death by Branch 15 of the Revolutionary Court in Tehran on 21 October 2017. The court failed to produce evidence to substantiate the claim, and did not produce a copy of the verdict. One of his lawyers was instead requested to read the verdict in court, and the verdict itself has yet to be provided in writing.

New information was also received describing how, during his imprisonment, Dr. Djalali was threatened with torture and other forms of ill-treatment, as well as with being held in isolation for a prolonged period of time. He was also threatened with being sentenced to death through an expedited process. Following this alleged coercion, he was forced to confess to certain crimes. He was also forced to repeat dictated statements before cameras amidst threats of physical violence against him. During this time, he neither had access to a lawyer nor to visits from his family. He was only afforded family visits after four months in detention and was provided with access to a lawyer after six months. He was further threatened that he would be sentenced to death if he did not replace his lawyer with a court-appointed one. He was also informed that the interrogation process and upcoming court sessions were mere formalities, and a death sentence had already been decided. The investigating authorities also refused to review supporting documentation submitted by Dr. Djalali's lawyer, and further refused to meet with persons suggested by the lawyer to corroborate information.

Without making any judgment as to the accuracy of the information made available to us, we express grave concern at the death sentence handed down to Dr. Djalali, particularly given it was imposed following judicial proceedings that do not appear to have fulfilled the most stringent guarantees of fair trial and due process, including in relation to the initial lack of access to a lawyer and the forced extraction of a confession. Concern is further expressed that Dr. Djalali was tried before a revolutionary court instead of an ordinary court. Serious concern is also expressed that the Court reportedly did not produce evidence substantiating the charges, and that documentation submitted by Dr. Djalali's lawyer was not accepted, which appears to contravene the principle of equality of arms.

Serious concern is reiterated about the alleged arbitrary arrest and detention of Dr. Djalali and the torture or other cruel, inhumane and degrading treatment he has reportedly been subjected to since his arrest.

In view of the irreversibility of the punishment of the death penalty, we call upon your Excellency's Government **to halt any steps being taken towards the execution of Dr. Djalali**, which on the facts available to us would constitute a violation of applicable international human rights standards, and thus an arbitrary execution. We further urge you to ensure that Dr. Djalali's **death sentence is annulled and that he is re-tried in compliance with international law and standards.**

The above allegations appear to be in contravention of the rights of every individual to life, liberty and security, and not to be arbitrarily deprived of life and liberty, as well as the right to fair proceedings before an independent and impartial tribunal and to an effective defense. These rights are guaranteed by articles 3, 9, 10 and 11 of the Universal Declaration of Human Rights and articles 6, 9, 10 and 14 of the International Covenant on Civil and Political Rights (ICCPR), which the Islamic Republic of Iran ratified on 24 June 1975. The right to have access to a lawyer is also enshrined in the UN Basic Principles on the Role of Lawyers.

In connection with above alleged facts and concerns, we would like to further bring to the attention of your Excellency's Government that, article 6(2) of the International Covenant on Civil and Political Rights, ratified by the Islamic Republic of Iran on 24 June 1975, 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).

Moreover, the United Nations Safeguards Protecting the Rights of those Facing the Death Penalty (ECOSOC resolution 1984/50) provides that capital punishment may only be carried out pursuant to a final judgement rendered by a competent court after a legal process which gives all possible safeguards to ensure a fair trial, including the right to adequate legal assistance at all stages of the proceedings (safeguard 5), and 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" (safeguard 4). Only full respect for stringent due process guarantees distinguishes capital punishment as possibly permitted under international law from an arbitrary execution.

With respect to the charge of "corruption on the earth", we underline that this is a vaguely worded, lacks clarity and precision for restricting expression, and therefore represents a criminalization of expression in violation with Iran's obligations under article 19 of the ICCPR. In this connection, we reiterate the principle enunciated in Human Rights Council Resolution 12/16 which calls on States to refrain from imposing restrictions which are not consistent with article 19(3), including on expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.

We would like to call the attention of your Excellency's Government to the evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (A/67/279).

Moreover, if proven to be accurate, the alleged mistreatment of Dr. Djalali, in particular the forced extraction of a confession, his prolonged solitary confinement, and his initial incommunicado detention, would violate the universal recognition of the absolute and non-derogable prohibition of torture and cruel, inhumane or degrading treatment or punishment as an international norm of customary law, and as reflected, inter alia, in Human Rights Council Resolution 25/13 and in paragraph 1 of General Assembly Resolution 68/156.

Furthermore, we would like to refer your Excellency's Government to the Rule 43 of the United Nations Standard Minimum Rules for the Treatment of Prisoners, according to which in no circumstances may restrictions or disciplinary sanctions amount to torture

or other cruel, inhuman or degrading treatment or punishment such as indefinite solitary confinement (confinement of prisoners for 22 hours or more a day without meaningful human contact) or prolonged solitary confinement (solitary confinement for a time period in excess of 15 consecutive days.)

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(s) in compliance with international instruments.

As it is our responsibility, under our mandate 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 information on the investigation conducted, if any, into the allegation that Dr. Djalali was subject to threats in custody, and its outcome. If no investigation has taken place, please explain why.
3. Please provide detailed information on each stage of the judicial proceedings against Dr. Djalali on the charge of "corruption on the earth" and his sentencing to death by the Revolutionary Court on 21 October 2017, including any relevant appeals procedure, and indicate how they comply with fair trial and due process guarantees as enshrined in international human rights law and standards.
4. In connection with the above, please provide information on how the charge of "corruption on the earth" complies with Iran's obligations under international human rights law.
5. Please further explain how Dr. Djalali's trial by a revolutionary court complies with Iran's obligations under international human rights law.
6. Please provide further details on the legal and factual grounds for the prosecution and deprivation of liberty of Dr. Djalali and how they are in compliance with international human rights law, norms, and standards as stated, *inter alia*, in the UDHR and ICCPR, in particular with the rights to life, liberty and security, and not to be arbitrarily deprived of life and liberty.

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 investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible for the alleged violations.

We would like to inform your Excellency's Government that we may publicly express our concerns regarding Dr. Djalali's situation in the future, as we believe the wider public should be alerted to his situation. The press release will indicate that we have been in contact with Your Excellency's Government to clarify the issues in question.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

We would also like to inform your Excellency's Government that after having transmitted an urgent appeal to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such urgent appeals in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent appeal procedure and the regular procedure.

Please accept, Excellency, the assurances of our highest consideration.

Elina Steinerte
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