

Mandates of the Special Rapporteur on the rights of persons with disabilities; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE:
UA IRN 4/2019

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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the rights of persons with disabilities; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the situation of human rights in the Islamic Republic of Iran and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 35/6, 33/9, 35/15, 37/30 and 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged flogging and execution of [REDACTED] and [REDACTED], two boys reportedly convicted in a reported rape and robbery case and sentenced to death despite having been both 15 years old at the time of the alleged commission of the crimes. There are concerns that the conviction, sentencing and execution of these children breached their rights to a fair trial, to not be arbitrarily detained, and to life. The prohibition of execution of child offenders is absolute under the International Covenant on Civil and Political Rights and the Convention of the Rights of the Child.

Several allegations concerning the execution of child offenders have been the subject of a number of communications, most recently IRN 8/2018 to which your Excellency's Government replied to on 28 August 2018 as well as IRN 7/2018, and IRN 2/2018.

According to the information received:

On 25 April 2019, two 17-year-old boys, [REDACTED] and [REDACTED] were executed in Adelabad Prison in Shiraz, Fars Province. The two were reportedly flogged prior to their executions. The two children, who are cousins, were convicted for the crimes of rape and robbery. The offences allegedly occurred when they were 15 years old. The children were reportedly unaware that they had been sentenced to death.

██████████ and ██████████ were held at a Shiraz child correction centre from 2017 until their executions. On 24 April 2019, the cousins were transferred to Adelabad Prison and received a visit from their families. Reportedly, neither they nor their families were informed of the reason for the transfer. The families were reportedly told when leaving Adelabad Prison that this was probably the last time they would see them. However, the families were not informed that the execution would be the next day. On 25 April 2019, Iran's Legal Medicine Organisation called the families of ██████████ and ██████████, informed them that the two boys had been executed, and asked them to collect their bodies.

Their conviction and sentence breached international fair trial standards and principles of child justice. Both were allegedly held for two months after their arrest in 2017 in a police detention centre where they were beaten into making a false confession. They were also initially denied access to a lawyer during the interrogation phase and reportedly had three different lawyers during their court proceedings.

It is also alleged that the convictions against the two cousins came after an unfair trial. While the Supreme Court allegedly overturned the initial lower court sentence of the death penalty, the lower court reportedly re-sentenced them to death at a retrial. It is believed that another appeal to the Supreme Court was being prepared. It is alleged that while the Iranian Judiciary normally waits until children sentenced to death turn 18 before executing them, these children were executed as children (17 years old). It is also reported that ██████████ was a child with intellectual disabilities who spent nearly 10 years in a special needs education centre and was depressed.

Evidence of ██████████'s intellectual disability, was reportedly presented during his trials. This information reportedly came from official state health institutions and from the Ministry of Education. However, it did not change the court's decision at the lower court level and possibly the Supreme Court. Despite Article 91 of Iran's amended Penal Code (2013), it is unclear whether the judge used his discretion to request an assessment of the maturity of the child notwithstanding his intellectual disability.

Reportedly, ██████████ was not provided any disability-specific procedural accommodations to guarantee his access to justice on an equal basis with others, including adequate access to information and communication during the trial.

We express grave concern over the death penalty carried out against ██████████ and ██████████, who were both children at the time of the commission of the alleged crime and execution. This appears to have followed judicial proceedings that did not fulfil the most stringent guarantees of fair trial, including alleged

use of torture to extract confessions in violation of the international human rights treaties to which the Islamic Republic of Iran is a party. Paragraph 7c of Human Rights Council Resolution 16/23 urges States “To ensure that no statement established to have been made as a result of torture is invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made, recognizing that adequate corroboration of statements, including confessions, used as evidence in any proceedings constitutes one safeguard for the prevention of torture and other cruel, inhuman or degrading treatment or punishment.”

While we do not wish to prejudge the accuracy of these allegations, the above information seems to indicate a *prima facie* violation of the right of every individual to life and security and not to be arbitrarily deprived of his life or liberty and not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment as set forth in articles 6 (1) and 7 of the International Covenant on Civil and Political Rights (ICCPR) ratified by the Islamic Republic of Iran on 24 June 1975 and articles 3 and 5 of the Universal Declaration of Human Rights (UDHR). The right to life and prohibition of torture are also enshrined in articles 10 and 15 of the Convention on the Rights of Persons with Disabilities (CRPD), acceded by the Islamic Republic of Iran on 23 October 2009.

We would also like to draw your Excellency’s Government’s attention to the fact that any judgment imposing the death sentence and execution of a child offender is incompatible with the international legal obligations undertaken by your Excellency’s Government under the various instruments and unlawful. Article 6 (5) of the ICCPR, and Article 37(a) of the Convention on the Rights of the Child, ratified by the Islamic Republic of Iran on 13 July 1994, expressly prohibit the imposition of the death penalty for offences committed by persons below 18 years of age. The Committee on the Rights of the Child, in its General Comment No. 10 on children’s rights in juvenile justice, has interpreted article 37(a) of CRC to mean that the death penalty may not be imposed for a crime committed by a person under 18 regardless of his/her age at the time of the trial or sentencing or of the execution of the sanction.

Further, the mandate of the Special Rapporteur on torture has concluded that the execution of persons who committed their crimes while they were under 18 years of age is *per se* a violation of an existing norm of customary international law (para. 64, A/67/279) and renders the punishment tantamount to torture and that under many other, less severe conditions, it still amounts to cruel, inhuman or degrading treatment (para. 75, (A/67/279) which is prohibited *inter alia* in the Convention on the Rights of the Child, the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

We would like to stress that the Government has the obligation to protect the right to physical and mental integrity of all persons within its jurisdiction. In this regard, the alleged treatment of [REDACTED] and [REDACTED] and the alleged flogging prior

to their execution further violates the absolute and non-derogable prohibition of torture and cruel, inhumane or degrading treatment or punishment, as codified, inter alia, in Article 7 of the ICCPR, article 37 of the Convention on the Rights of the Child and reflected in Human Rights Council Resolution 25/13 and in paragraph 1 of General Assembly Resolution 68/156.

Moreover, with regard to the allegations according to which the lower court proceeded to use the confession as part of the basis for the ruling, we would like to draw your Excellency's Government's attention to paragraph 6(c) of Human Rights Council resolution 8/8 of 2008 which urges States "to ensure that no statement established to have been made as a result of torture is invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made". In addition to being a crucial fair trial guarantee, this principle is also an essential aspect of the non-derogable right to physical and mental integrity set forth, inter alia, in article 7 of the ICCPR.

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. Moreover, we note that 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 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).

We further note that the imposition of the death penalty for crimes that do not result in the loss of life is incompatible with the ICCPR (CCPR/C/79/Add.25).

Additionally, Article 13 of the Convention on the Rights of Persons with Disabilities enshrines an explicit right to access to justice on an equal basis with others. The Committee on the Rights of Persons with Disabilities has expressed concern at the fact that persons with psychosocial and/or intellectual disabilities may face a greater risk of death penalty due to the lack of procedural accommodations in criminal proceedings (A/HRC/37/25, para. 31). Furthermore, several resolutions adopted by the Commission on Human Rights urge all States not to impose the death penalty on, or to execute, any person with intellectual or psychosocial disabilities (e.g., Commission resolution 2005/59 para. 7 (c)).

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 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 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 [REDACTED] and [REDACTED] identified above, and the legal basis and evidence used in the lower court to sentence them to death. Please also clarify the details of the Supreme Court's ruling to overturn the initial death sentence, and whether a decision had been made by the Supreme Court on the second death penalty decision subsequently made by the lower court.
3. 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. In addition, please provide details of the court's consideration of Article 91 of the Islamic Penal Code, including the official state health institution's report on [REDACTED]'s intellectual disability.
4. Please provide detailed information on the measures taken to provide [REDACTED] and [REDACTED] with a fair trial and due process guarantees, as provided in under international human rights law, in particular articles 9 and 14 of the ICCPR. Please also share details of specific measures that were provided to [REDACTED] to guarantee his access to justice in accordance with article 13 of the CRPD.
5. Please indicate what measures have been taken to investigate the allegations of torture and other cruel inhuman, or degrading treatment or punishment to which the prisoners have reportedly been subjected, and if proved true, the measures taken to ensure that they do not recur; and to prosecute or punish any public official or person acting on their behalf found to be responsible. If no investigation has taken place, please explain why. Please explain how this is compatible with the universal prohibition of torture as a peremptory norm of international customary law.
6. Please provide updated detailed information on all children sentenced to death, and/or executed in Iran in 2017, 2018 and 2019 thus far and those who presently remain on death row for crimes committed under the age of 18, including name, age, sex and exact situation.

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.

We intend to publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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

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