

Mandates of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; Special Rapporteur on extrajudicial, summary or arbitrary executions and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 46/18, 44/5 and 43/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **reported imminent execution of two child offenders, namely Mr. Ali Arjangi Fardghujeh-Biglou and Mr. Hossein Shahbazi**. The two individuals were reportedly convicted and sentenced to death in separate cases for murder, which they allegedly committed when they were 17 years old. There are serious concerns that their imminent executions would be a violation of the right to life. The prohibition of the execution of child offenders is absolute under the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child. There are also serious concerns in these cases of the use of torture to extract forced confessions that were later relied on by the judiciary in rendering a verdict, the lack of proper consideration of evidence and defences that raise doubt as to whether the guilty verdicts are well-founded, and other reported violations of due process and fair trial guarantees.

According to information received:

Ali Arjangi Fardghujeh-Biglou

Ali Arjangi Fardghujeh-Biglou is an Iranian male born on 3 February 2000. He is currently on death row in the juvenile ward of Ardabil Prison in Ardabil Province in the Islamic Republic of Iran. On 10 May 2017, Mr. Arjangi Fardghujeh-Biglou was arrested for an alleged murder that occurred two days earlier on 8 May 2017. He was 17 years old at the time of the alleged crime and arrest. Mr. Arjangi Fardghujeh-Biglou claims that he acted in self-defence against the individual who died after that individual tried to sexually assault him and threatened him with a knife.

On an unknown date, Mr. Arjangi Fardghujeh-Biglou was convicted by Branch Three of the Criminal Court of Ardabil and sentenced to *qisas* (retribution-in-kind) for murder, which carries the death penalty. During the trial, the judge requested under Article 91 of the Iranian Penal Code that an assessment be undertaken into whether Mr. Arjangi Fardghujeh-Biglou was mentally mature. Under this article, in a case punishable by *qisas*, a judge

may, but is not obliged to, request a medical examiner to examine the mental development of the alleged child offender or whether they realised the nature of the crime committed or its prohibition at the time of the alleged offence. In the case of Mr. Arjangi Fardghujeh-Biglou, the Legal Medicine Organization found he had full mental maturity at the time of the offence, despite being a child when it occurred.

The Supreme Court upheld this decision in 2018, with relevant court processes and decisions reportedly taking place on 6 April 2018 and 22 September 2018. The lawyer for Mr. Arjangi Fardghujeh-Biglou put forward the argument that his client was not guilty of murder as he had acted in self-defence. The Supreme Court reportedly rejected the self-defence argument in part because the person who was killed was two years younger than Mr. Arjangi Fardghujeh-Biglou. The Supreme Court decision states that Mr. Arjangi Fardghujeh-Biglou was 17 years old and three months at the time of the alleged murder.

The family of the person killed reportedly requested a *diya* (blood money) of 1 billion toman (USD23,789.46 as of 26 May 2021) from Mr. Arjangi Fardghujeh-Biglou's family, with an initial deadline for receipt of payment of 21 May 2021. His family does not have the means to provide this amount of *diya*. His mother has a disability due to her legs being amputated and had only been able to gather 200 million toman by the initial deadline for payment. It has been reported that a final deadline for payment of *diya* has been set at the end of the Iranian month Khordad, which is the equivalent of 14 June 2021. It is understood that if the *diya* is not paid by this date, the implementation of the death penalty against Mr. Arjangi Fardghujeh-Biglou will be requested and his execution could take place at any time.

Hossein Shahbazi

Hossein Shahbazi is an Iranian male born on 25 January 2001. He is currently on death row in Shiraz Prison, Shiraz, Fars Province, in the Islamic Republic of Iran. He is reportedly at imminent threat of execution. On 30 December 2018, when he was aged 17 years old, Mr. Shahbazi was arrested on accusations that he had killed an individual on the same day. It is reported that the death resulted after a fight between four individuals, including Mr. Shahbazi, where one of the four involved suffered injuries which required hospitalization. The injured person died in hospital several hours later. Mr. Shahbazi claims he did not intend to injure anyone and that the death was accidental.

For 11 days after his arrest, the authorities did not provide Mr. Shahbazi access to a lawyer or to his family while he was detained and interrogated by the Investigation Unit of the police (*agahi*) in Shiraz, Fars Province. He was later transferred to a juvenile detention facility in Shiraz but was still initially denied access to his family. It is reported that during that time, police officers subjected Mr. Shahbazi to torture and cruel, inhuman and degrading treatment, which caused visible bruises on his face and noticeable weight loss. He

reportedly made forced confessions due to the mistreatment by police officials during the interrogations.

On 13 January 2020, Branch Three of Criminal Court One of Fars Province convicted Mr. Shahbazi and sentenced him to *qisas* for murder. The court reportedly relied in part on the alleged forced confessions made due to torture during Mr. Shahbazi's interrogation by police officials. The judge also reportedly requested the Legal Medicine Organization to undertake an examination as to his mental maturity under Article 91 of the Iranian Penal Code. The examination found that, while acknowledging he was under 18 years old at the time of the alleged crime, he had attained mental growth and maturity.

On 16 June 2020, Branch Four of the Iranian Supreme Court upheld his conviction and sentence. The verdict reportedly acknowledges that Mr. Shahbazi was under 18 years old at the time of the alleged crime and the Legal Medicine Organization assessment, and upheld the conviction.

In late January/early February 2021, Mr. Shahbazi's lawyer lodged an application for a retrial with the Supreme Court. It is understood this application for a retrial was rejected by the Supreme Court in March 2021.

In late February 2021, it was reported that Mr. Shahbazi's execution would be imminent. His family was reportedly informed that they should go to the prison for their last visit with him before his execution and he was reportedly moved temporarily to solitary confinement, as is customary before an execution. However, the judge for the implementation of sentences assured that the execution is being halted in an attempt to request the family of the individual who died to accept *diya*. The delay provided would only be for one week from 28 February 2021. It is noted that the delay extended for longer than one week.

In late May 2021, it was reported that Mr. Shahbazi's execution had again been officially scheduled to be implemented on 28 June 2021. Mr. Shahbazi's lawyer has reportedly made another retrial request with the Supreme Court.

Without prejudging the accuracy of the received information, we express grave concern at the imminent executions of Mr. Ali Arjangi Fardghujeh-Biglou and Mr. Hossein Shahbazi, who were below the age of 18 at the time of the commission of the alleged crime, in violation of the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child, to which the Islamic Republic of Iran is a party. We are also concerned by the reports in these cases that the judiciary of the Islamic Republic of Iran failed to properly take into account or investigate allegations of torture and forced confessions under duress, the evidence and defences that raise serious doubt as to the guilt of the individuals for the alleged crimes, and the serious flaws in the investigations of these criminal allegations. The alleged violations of due process and fair trial guarantees, including the denial of a lawyer at all stages of these criminal proceedings and the reliance in part on alleged forced confessions as the basis for court decisions, is an additional concern.

We are also gravely concerned that 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, as set forth in articles 6(1) and 9 of the International Covenant on Civil and Political Rights (ICCPR), ratified by the Islamic Republic of Iran on 24 June 1975, and article 3 of the Universal Declaration of Human Rights (UDHR). Article 6(2) of ICCPR states that the death penalty may not be imposed when doing so would be contrary to the provisions of the ICCPR and pursuant to a final judgment rendered by a competent court.

Importantly, the Human Rights Committee specifies that “under no circumstances can the death penalty ever be applied as a sanction against conduct the very criminalization of which violates the Covenant”, (General comment No. 36, para 36). Thus, the violation of the fair trial guarantees provided for in article 14 of the ICCPR resulting in the imposition of the death penalty would render the sentence arbitrary in nature, and in violation of article 6. Such violations might involve the use of forced confessions (concurrent violation of article 7); lack of effective representation during all stages of the criminal proceedings; failure to respect the presumption of innocence; lack of an effective right of appeal; lack of adequate time and facilities for the preparation of the defence; and general lack of fairness of the criminal process, or lack of independence or impartiality of the trial or appeal court.

We would also like to highlight 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 is unlawful. Article 6(5) of the ICCPR, and Article 37(a) of the Convention on the Rights of the Child (CRC), ratified 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 aged under 18 regardless of his or her age at the time of the trial or sentencing or of the execution of the sanction.

With regard to the alleged violations of due process and of fair trial guarantees, we would like to recall article 14 of the ICCPR, which provides inter alia for the principle of equality before competent, independent and impartial courts and tribunals, the presumption of innocence, provision of adequate time and facilities for the preparation of the defence, the right of accused persons to communicate with counsel of their own choosing, and the right not to incriminate oneself. We also refer to General Comment No. 32 (2007) by the Human Rights Committee (CCPR/C/GC/32), the UN Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court (A/HRC/30/37) and the UN Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana (Cuba) from 27 August to 7 September 1990, which provide for the right to legal assistance, and for the prompt access and consultation with counsel without intimidation, hindrance, harassment or improper interference.

Article 7 of the ICCPR prohibits torture and other cruel, inhuman or degrading treatment or punishment. 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, and calls upon States to consider extending that prohibition to statements made as a result of cruel, inhuman or degrading treatment or punishment, 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.” We would also like to remind your Excellency’s Government that the absolute prohibition of torture is an international norm of jus cogens that is not subject to derogation under any circumstances, as reflected inter alia, in Human Rights Council Resolution 25/13 and General Assembly Resolution 68/156.

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 to immediately halt the executions of Mr. Ali Arjangi Fardghujeh-Biglou and Mr. Hossein Shahbazi, which, on the basis of the information made available to us, would violate international human rights law and standards, and thus constitute an arbitrary execution. We further urge your Excellency’s Government to ensure that the death sentences against the aforementioned individuals are annulled and that they are re-tried in compliance with international human rights law and standards.

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. Ali Arjangi Fardghujeh-Biglou and Mr. Hossein Shahbazi 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 explain how the decision to sentence the individuals to death is compatible with the Islamic Republic of Iran’s strict and absolute international human rights law obligation not to implement the death penalty against individuals who were aged under 18 years at the time of the alleged criminal act.
3. Please provide the details of the proceedings against the individuals identified above, and the legal basis and information about the scientific basis for the evidence used in court to sentence them to death.

In addition, please provide specific information regarding the court's consideration of applying the provisions of the Juvenile Sentencing Guidelines relating to alternative punishments to the death penalty.

4. Please provide information on the application of Article 91 of the 2013 Penal Code during the court proceedings of the two individuals, from the court of first instance to the final Supreme Court hearings, including on how the assessments of maturity was carried out by the Legal Medicine Organization of Iran. In particular, please provide a detailed description of the methodology for maturity assessments by the Legal Medicine Organization and any relevant guidelines and documents in this regard.
5. Please detail the investigations undertaken by the authorities into the allegations of the use of torture and other forms of cruel, inhuman and degrading treatment during the criminal investigations into these cases. If such investigations were conducted, please provide information as to their findings and the basis for the findings. If no investigations have been undertaken, please explain why.
6. Please provide detailed information as to why judges in the above-mentioned cases relied in part on alleged forced confessions as the basis for their decisions. Please also provide detailed information as to how the guilty decisions have been justified, especially given the serious evidentiary issues outlined above, as well as other defences to the charges.
7. Please explain how the individuals mentioned above were afforded a fair trial and guaranteed due process, especially in light of the allegations that the individuals were denied legal representation for at least part of the investigation period, amongst other concerns regarding the failure to adhere to fair trial and due process expressed above.
8. Please provide updated detailed information on all child offenders sentenced to death and/or executed in Iran from 2013 until the date of this letter and those who remain on death row for crimes allegedly 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.

We may 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 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 after 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.

Javaid Rehman
Special Rapporteur on the situation of human rights in the Islamic Republic of Iran

Morris Tidball-Binz
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