

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

Ref.: UA IRN 7/2022
(Please use this reference in your reply)

5 May 2022

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, pursuant to Human Rights Council resolution 46/18.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning the **reported imminent execution of child offender Mr. Hamidreza Ajdari on 8 May 2022**. He has been reportedly convicted and sentenced to death for murder, which he is alleged to have committed when he was 17 years old. There are serious concerns that his imminent execution 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 this case of the use of torture to extract a forced confession that was later relied on by the court in rendering a verdict.

According to information received:

Hamidreza Ajdari is an Iranian male. He is currently held on death row in Shiraz Central Prison (Adelabad prison), Fars Province in the Islamic Republic of Iran. His execution is scheduled to take place on 8 May 2022.

Mr. Ajdari is sentenced to death in connection with the fatal stabbing of a man during an incident that took place in February 2020. While Mr. Ajdari was born at the end of 2003, his family did not request a birth certificate for him and used the birth certificate of an older son born on 30 December 2000 who had shortly passed away after his birth. While his identity card indicates he was 19 at the time of the alleged crime, due to the error in his official document he was in fact 17 years old.

Mr. Ajdari sustained severe stab wounds during the incident, for which he was hospitalized for about a week, underwent a surgical operation, and received multiple stitches. On 3 March 2020 and while Mr. Ajdari had not yet fully recovered, officials from the investigation unit of police (Agahi) in Shiraz, Fars province forcibly discharged him from hospital in a semi-conscious state. Mr. Ajdari was transferred to police detention centre in Shiraz where the medical care he required was not available. He was reportedly held in solitary confinement for about two weeks, without access to his family. He was reportedly subjected to torture and other ill-treatment, including kicking, punching and beatings on his wounds, in order to extract forced confessions. The beatings caused his stitches to open, leading to bleeding and exposing him

to infections, for which he did not receive medical care. Mr. Ajdari was also reportedly deprived of sufficient food and water. He was subsequently moved to Adelabad prison in Shiraz, Fars province.

After Mr. Ajdari's arrest in March 2020, he was allowed to meet with his family for the first time sometime around April or May 2021. During the investigation stage and until his trial in January 2021, Mr. Ajdari was reportedly only allowed to meet with his lawyer twice; the first time was during the period he was detained in the police detention centre and the second time was shortly before his trial.

On 3 August 2020, Branch 8 of the Office of the Special Prosecutor for Criminal Affairs and Security Offences in Shiraz charged Mr. Ajdari with murder, assault and armed robbery. His trial before Branch 2 of Criminal Court 1 of Fars province consisted of only one session held on 19 January 2021. During the trial, Mr. Ajdari was represented by two lawyers of his own choosing. Mr. Ajdari retracted his forced "confessions" stating they had been obtained under torture and other ill-treatment. In his written submission, it was further noted that during the investigation stage, whenever Mr. Ajdari was taken before the lead investigator of Branch 8 of the Office of the Special Prosecutor for Criminal Affairs and Security Offences in Shiraz for questioning, the interrogator who was directly involved in torturing and extracting forced confessions from him was present and, as a result, Mr. Ajdari was afraid to speak the truth and retract his statements. There are also reportedly contradictions and ambiguities in the incriminating statements obtained from Mr. Ajdari and his co-defendant concerning the nature and whereabouts of the knife which the prosecution authorities alleged was used in the stabbing.

The court did not investigate allegations of torture. On 31 January 2021, Branch 2 of Criminal Court 1 of Fars province convicted Mr. Ajdari of the charges brought against him and sentenced him to death for retribution-in-kind (qisas) for murder as well as 15 years' imprisonment and 74 lashes for armed robbery and the payment of financial compensation (diyah) for assault. The court cited Mr. Ajdari's allegedly forced confessions during the preliminary interrogations as proof of guilt and dismissed his allegations of torture and other ill-treatment, as "unfounded". The Supreme Court upheld the conviction and sentence later in 2021.

Due to the error in Mr. Ajdari's legal documents, his status as a minor was not considered during the judicial proceedings and he did not benefit from the special provisions of the juvenile justice system in the Criminal Code of Islamic Republic of Iran. Article 91 of the Criminal Code exempts children aged below 18 years and above the age of maturity from the death penalty if it is assessed that they "do not realize the nature of the crime committed or its prohibition, or if there is uncertainty about their full mental development, according to their age". Article 91 also stipulates that "the court may ask the opinion of forensic medicine or resort to any other method that it sees appropriate in order to establish the full mental development".

Without prejudging the accuracy of the received information, I express grave concern at the imminent execution of Mr. Hamidreza Ajdari, who was reportedly under 18 years old 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. I am particularly concerned that due to the error in the legal documents of Mr. Ajdari, the provisions of Article 91 of the Criminal Code of the Islamic Republic of Iran has not been applied to his case. I am also concerned by the reports in this case that the court did not properly take into account or investigate allegations of torture and forced confessions under duress and the flaws in the investigation of this criminal allegation. The alleged violations of due process and fair trial guarantees, including and the reliance in part on an alleged forced confession as the basis for court decisions, is an additional concern.

I am 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 and 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 judgement 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.

I 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, I 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. I 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.”

With regards to the allegations of prolonged solitary confinement, I would like to recall paragraph 6 of General Comment No. 20 of the Human Rights Committee (1992), which states that prolonged solitary confinement of the detained or imprisoned person, may amount to acts prohibited by article 7 of the ICCPR. I also would like to recall the report by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/66/268), in which he concluded that prolonged or indefinite solitary confinement runs afoul of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment. Furthermore, due to the prisoner’s lack of communication, as well as the lack of witnesses inside the prison, solitary confinement may also give rise to other acts of torture or ill-treatment.

In view of the urgency of the matter, and of the irreversibility of the punishment of the death penalty, I call upon your Excellency’s Government to immediately halt the execution of Mr. Hamidreza Ajdari, 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. I further urge your Excellency’s Government to ensure that the death sentence against the aforementioned individual is annulled and that he is 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, I would appreciate a response on the initial steps taken by your Excellency's Government to halt the execution and safeguard the rights of Mr. Hamidreza Ajdari in compliance with international instruments.

As it is my responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to my attention, I 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 about steps taken to halt the execution and ensure that Mr. Ajdari is re-tried in line with international human rights law.
3. 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 this case. 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.
4. Please provide detailed information as to why the court in the above-mentioned case relied in part on alleged forced confessions as the basis for their decisions.
5. 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, I 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.

I may publicly express my concerns in the near future as, in my view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. I also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that I 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 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 my highest consideration.

Javaid Rehman

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