

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

Ref.: UA IRN 13/2022  
(Please use this reference in your reply)

13 June 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 49/24.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning the imminent amputation of fingers of Mr. Hadi Rostami, Mr. Mehdi Sharafian, and Mr. Mehdi Shahivand, who have been allegedly coerced to confess guilt under torture and convicted without proper investigation into their allegations.

Special Procedures mandate holders have previously raised concern about these cases in an urgent appeal (IRN 24/2020) dated 8 October 2020, to which your Excellency's Government responded on 16 December 2020 confirming the amputation risk. We regret the lack of information on any investigation that may have been instructed or foreseen into allegations of torture and ill-treatment with the purpose to obtain confessions of guilt.

I would further like to note that concerns have been raised regarding the application of corporal punishments in previous communications on 28 June 2013 (IRN 9/2013), 20 August 2015 (IRN 14/2015) and 19 April 2017 (IRN 15/2017). We thank your Excellency's Government response to the latter dated 4 August 2017 and continue to urge for an imminent amendment to the penal code to abolish judicial and administrative corporal punishments.

According to the information received:

Mr. Hadi Rostami, born in 1987 in Mehran County, Ilam Province, Mr. Mehdi Sharafian, born in 1984 in Orumieh, and Mr. Mehdi Shahivand, born in 1997 in Lorestan, were suspected of multiple burglaries that took place in the cities of Orumieh, Ardabil, and Bandar Anzali.

Mr. Rostami had reportedly left school to work as a construction worker due to poverty. He committed thefts after a car accident that left him and one of his sons seriously injured and incapacitated, resulting in him losing his job as a construction worker and later as a cabinet maker. He is unable to bend his left arm and has a limp in his right leg. Prior to his arrest, he had been convicted of theft once. The two other men were both construction workers and had no criminal record.

On 25 August 2017, the three men were arrested by the burglary division of the Azerbaijan Gharbi Province Police Investigation Office in Orumieh and held in several police investigation offices for more than a month; 13 days in Orumieh, 12 days in Bandar Anzali, and 10 days in Ardabil, where they were severely beaten, coerced to confess under torture, and denied access to legal counsel.

Mr. Rostami was reportedly beaten by police officers with various objects, as well as punished, kicked and insulted. He was also flogged with a cable, which left marks on his body. In Ardabil, interrogators broke Mr. Rostami's arm and bent a metal pin holding his bones in place, which led to his hospitalisation for several days as the bent metal pin in his arm had been driven into the flesh, causing infections. Mr. Rostami has reportedly consented to sign a blank paper, on which the police later added multiple instances of theft that he had not committed, to stop the torture.

Mr. Shahivand was subjected to torture and hanged from both his hands and feet. As a result of the beating, he could not hear properly almost seven months. In addition, police officers pulled down his pants and threatened to sexually abuse him with a baton. Both Mr. Shahivand and Mr. Sharafian were coerced to confess to burglaries they had allegedly not committed and to attest to Mr. Rostami's implication in the burglaries, under torture.

Throughout interrogations, the three men were denied access to legal counsel. Mr. Rostami and Mr. Shahivand informed the investigative judge of Branch 1 of Orumieh of the beating they were subjected to and showed him the cable marks on their body. The judge refuted the physical marks were a result of torture and claimed that they could be self-inflicted. Furthermore, requests to investigate phone records to corroborate their locations at the time of the burglaries were rejected by the judge, arguing that they may have owned other phones.

On 5 March 2018, the three men were convicted of burglaries by Branch 112 of Criminal Court Two of Orumieh. According to the judgment, of the 27 counts of theft they were charged with, Mr. Shahivand and Mr. Sharafian admitted to 11 and Mr. Rostami to 6. The court sentenced Mr. Shahivand and Mr. Sharafian to three years in prison, 74 lashes, and paying the plaintiffs an amount equal to the value of the stolen goods. Mr. Rostami, who had a previous conviction, was sentenced to four years in prison, four instances of 80 lashes, and paying the plaintiffs an amount equal to the value of the stolen goods. The three men were acquitted of burglaries carrying a hadd punishment, citing article 37 of Iran's constitution.

Three of the 27 plaintiffs objected to the verdict, arguing that the case had a hadd aspect that had not been investigated. According to the criminal code, hadd is a special class of punishment understood to be divine prerogatives. Article 278 of Iran's Islamic Penal Code foresees "amputation of the full length of four fingers of the right hand of the thief in such a manner that the thumb and palm of the hand remain" for a first conviction of the crime of theft,

where it meets the conditions for hadd.

Branch 18 of West Azerbaijan Province Appeals Court accepted the objection, and held a session without informing the defendants nor their lawyers. On 7 June 2018, the Court ruled that some of the thefts committed amount to hadd, nullifying the Branch 112 verdict and referring the case to Branch 1 of Criminal Court One of West Azerbaijan. The latter, citing article 302 of the Code of Criminal Procedure, determined some of the thefts to be hadd and issued an amputation verdict in a ruling dated 19 November 2019.

Branch 13 of the Supreme Court confirmed this decision on 10 May 2020. The Supreme Court noted that the defendants had claimed they had made confessions under torture, yet confirmed the sentence without investigation into the veracity of these allegations.

Mr. Shahivand's lawyer argued that the acts committed do not meet all the requirements for hadd, and that the sentence should be reduced. Furthermore, Mr. Rostami's lawyers argued that, even if the theft charges were accurate, they did not amount to hadd. The defence arguments were not taken into account.

While awaiting his amputation, Mr. Rostami was taken to the hospital, on 18 January 2021, after swallowing broken glass to protest the renewal of his detention in a high security ward, where he has been held for a month. On 14 February 2021, he was given 60 lashes convicted of "disturbing prison order," for reasons including a hunger strike he undertook to draw attention to his case.

The three men who were serving their sentences in Orumieh Prison, have been transferred to Tehran, where they were held at the Greater Tehran Prison. Upon arrival, they were informed by guards that their sentence would be implemented when a machine for this purpose was ready arrives at Evin Prison. On the morning of 8 June 2022, they, along with five other men, were called to the prison guard's office to be taken to another location, yet the transfer did not take place for unknown reasons.

On 13 June 2022, another attempt to transfer the three men, along with four other sentenced to amputation of fingers, failed amidst clashes between prisoners and guards. All 7 men remain at imminent risk of amputation of their fingers.

While I do not wish to prejudge the accuracy of these allegations, I would like to express serious concern at the imminent amputation of fingers of Mr. Hadi Rostami, Mr. Mehdi Sharfian, and Mr. Mehdi Shahivand, and would like to emphasise that corporal punishments, such as amputation or flogging, violate the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in article 7 of the International Covenant on Civil and Political Rights (ICCPR), which Iran ratified on 24 June 1975. The ICCPR states that "no one shall be subjected to torture or to cruel,

inhuman or degrading treatment or punishment”. The Human Rights Committee has also called for the abolition of judicial corporal punishment, in paragraph 5 of General Comment No. 20 (1992), the Committee stated that the prohibition of torture and ill-treatment must extend to corporal punishment, including excessive chastisement ordered as punishment for a crime as an educative or disciplinary measure. Furthermore, the Committee urged the Government of Iran to “amend the Penal Code to abolish the imposition of corporal punishment by judicial and administrative authorities.” (CCPR/C/IRN/CO/3, Para.16). I also draw the attention of your Excellency’s Government to paragraph 7a of Resolution 8/8 of the Human Rights Council, which reminded Governments that corporal punishment, including of children, can amount to cruel, inhuman or degrading punishment or even to torture.

I would also like to highlight the UN Special Rapporteur on Torture conclusion, with reference to the jurisprudence of UN treaty bodies, that any form of corporal punishment is contrary to the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. The Rapporteur also noted that States cannot invoke provisions of domestic law to justify violations of their human rights obligations under international law, including the prohibition of corporal punishment and called upon States to abolish all forms of judicial and administrative corporal punishment without delay (para.28, A/60/316, 2005). This position has been reiterated in the 2012 report to the General Assembly of the Special Rapporteur on Torture (para. 28, A/67/279, 2012).

I would also like to express grave concern at the allegations according to which the above-mentioned individuals were forced to confess guilt under torture in the absence of legal representation. I am also seriously concerned about the failure of the court to investigate these allegations and exclude all torture tainted confessions as incriminatory evidence. In this regard, I would like to remind your Excellency’s Government of its duty to ensure that complaints of torture are promptly and impartially investigated by competent authorities, in accordance with the Istanbul Protocol (Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment). I would also like to highlight that the deprivation of fundamental safeguards, if confirmed, would contravene international standards of fair trials and due process, in particular article 9 of the ICCPR.

I would like to underscore the State obligation to ensure that all legal proceedings are conducted in full compliance with article 14 of the ICCPR, and guarantees are fully respected and fulfilled, including the right to legal assistance of one’s own choosing and the intervention and presence of lawyers throughout the investigation stage, and the presumption of innocence, among others.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://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 safeguard the rights of the above-mentioned person(s) in compliance with international instruments.

As it is my responsibility, under the mandate provided to me 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 detailed information on the measures taken to provide the three above-mentioned men with the guarantees of due process, fair trial, notably the effective access to a legal assistance of their choosing as established under international human rights law. Also, please explain how the verdict to amputate the fingers of Mr. Rostami, Mr. Sharafian, and Mr. Shahivand complies with the norms and standards developed under international law, in particular under ICCPR.
3. Please provide information on investigations conducted, or foreseen, into the allegations of forced confessions under torture and any outcome, including the prosecution of those responsible. If no inquiries have taken place or if they have been inconclusive, please explain why and how this would comply with Iran's international obligations.
4. Please provide information on measures taken by your Excellency's Government to implement the recommendation of the Human Rights Council, urging Iran to amend the penal code provisions abolishing the imposition of corporal punishment by judicial and administrative authorities.

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'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 my highest consideration.

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