

*Information obtained from pages 181-183 of the:*

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**27 May 2011**

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**Human Rights Council**

**Seventeenth session**

**Agenda item 3**

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

**Report of the Special Rapporteur on extrajudicial summary  
or arbitrary executions, Christof Heyns**

**Addendum**

**Summary of information, including individual cases, transmitted to  
Governments and replies received\***

**Violation alleged:** Non-respect of international standards on safeguards and restrictions  
relation to the imposition of capital punishment

**Subject(s) of appeal:** 2 males

**Character of reply:** No response

**Observations of the Special Rapporteur**

The Special Rapporteur regrets that the Government of the Islamic Republic of Iran has failed to cooperate with the mandate that he has been given by the General Assembly and the Human Rights Council.

**Urgent appeal dated 30 December 2010**, sent with the Chair-Rapporteur of the Working Group on Arbitrary Detention; and Special Rapporteur on freedom of religion or belief. In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding Mr. **Behrouz Sadegh-Khanjani** and Mr. **Yousef Nadarkhani**, two Protestant pastors living in the Islamic Republic of Iran.

**According to the information received**

Mr. Behrouz Sadegh-Khanjani is Chair of the Pastoral Council of the Church of Iran, and is currently held in a security prison in Shiraz where he has been since June 2010 on charges of apostasy. He has been arrested on account of his faith on a total of three different occasions in the past four years. In December 2006, he was arrested for apostasy, but was acquitted and released in January 2007. He was again arrested in January 2010 along with two other pastors after being summoned to Shiraz to offer an explanation for the church's activities. He was released on bail on 17 March 2010. Upon returning to Shiraz on 16 June

2010, following another summons to “present his defence”, he was re-arrested. Mr. Sadegh-Khanjani has now been charged with apostasy, blasphemy and “contact with the enemy”. In the period between his arrest and late November 2010, and despite the seriousness of the charges against him, Pastor Khanjani has been given access to his attorney only once.

During most of his imprisonment he has been held in solitary confinement. It is reported that Mr. Sadegh-Khanjani’s health is suffering due to extremely unhygienic conditions and because he has experienced the infliction of deliberate harm.

**Mr. Yousef Nadarkhani**, a 33-year-old member of the Church of Iran ministry and pastor of an approximately 400-person congregation in the northern city of Rasht, faces the death sentence. After complaining locally about the Muslim monopoly on the religious instruction of children in his country, Mr. Nadarkhani was arrested and initially charged for protesting. He has been in prison in Lakan since 12 October 2009. Later the charges were changed to apostasy and evangelism of Muslims. The authorities reportedly used various methods to induce him to return to Islam, including giving him drugs, apparently to provide evidence to the claim that he was insane. On 21 and 22 September 2010, Mr. Nadarkhani was put on trial, found guilty and verbally given a death sentence. The written verdict was delivered on 13 November 2010 by the First Court of the Revolutionary Tribunal. The judgment indicated that Mr. Nadarkhani was born to Muslim parents but converted to Christianity when he was 19 and that he admitted during interrogations having left Islam for Christianity. However, Mr. Nadarkhani reportedly said during his trial that his interrogators pressured him into making the statement and that before he was 19 he did not have any religion. An appeal has been filed by Mr. Nadarkhani’s lawyer on 5 December 2010, however a date for an appeal hearing has yet to be set. Unless the appeal proves successful Mr. Nadarkhani is to be executed by hanging for the crime of apostasy.

Without expressing an opinion on the facts of the case and on whether the detention of Mr. Sadegh-Khanjani and Mr. Nadarkhani is arbitrary or not, we would like to appeal to your Excellency’s Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of their liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights and articles 9 and 14 of the International Covenant on Civil and Political Rights.

We also wish to draw to the attention of your Excellency’s Government that carrying out the executions of Mr. Sadegh-Khanjani and Mr. Nadarkhani would be incompatible with the international obligations that the Islamic Republic of Iran has undertaken under various instruments. Article 6(2) of the of the International Covenant on Civil and Political Rights (ICCPR), which the Islamic Republic of Iran ratified on 24 June 1975, stipulates that “in countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide.” The death penalty is limited to the “most serious crimes”. As observed in a report to the Human Rights Council, the conclusion to be drawn from a thorough and systematic review of the

jurisprudence of all of the principal United Nations bodies charged with interpreting the most serious crimes provision, is that a death sentence can only be imposed in cases where it can be shown that there was an intention to kill which resulted in the loss of life (A/HRC/4/20, para. 53). Moreover, when the Human Rights Committee last considered a report presented by your Excellency's Government, it expressly stated in its concluding observations that it "considers the imposition of [the death] penalty for crimes [...] that do not result in loss of life, as being contrary to the Covenant" (CCPR/C/79/Add.25, para. 8). On 21 December 2010, the General Assembly adopted resolution 65/226 on the situation of human rights in the Islamic Republic of Iran, in which the Assembly expressed deep concern at serious ongoing and recurring human rights violations in the Islamic Republic of Iran relating to, *inter alia*: "[...] (d) The imposition of the death penalty for crimes that lack a precise and explicit definition, [...] or for crimes that do not qualify as the most serious crimes, in violation of international law" (resolution 65/226, para. 2)

Moreover, we would like to appeal to your Excellency's Government to ensure that Mr. Sadegh-Khanjani and Mr. Nadarkhani enjoy the right to freedom of religion or belief in accordance with article 18 of the Universal Declaration on Human Rights and article 18 of the International Covenant on Civil and Political Rights. Furthermore, the General Assembly, in its resolution 65/211, "urges States to step up their efforts to protect and promote freedom of thought, conscience and religion or belief, and to this end: (a) To ensure that their constitutional and legislative systems provide adequate and effective guarantees of freedom of thought, conscience, religion and belief to all without distinction, *inter alia*, by the provision of effective remedies in cases where the right to freedom of thought, conscience, religion or belief, or the right to practise freely one's religion, including the right to change one's religion or belief, is violated; (b) To ensure that existing legislation is not implemented in a discriminatory way or does not result in discrimination based on religion or belief, and that no one within their jurisdiction is deprived of the right to life, liberty or security of person because of religion or belief and that no one is subjected to torture or other cruel, inhuman or degrading treatment or punishment, or arbitrary arrest or detention on that account and to bring to justice all perpetrators of violations of these rights;" (resolution 65/211, para. 12).

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned person are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

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. Sadegh-Khanjani and Mr. Nadarkhani in compliance with the above international instruments.

Moreover, 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. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and

your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the above summary of the case accurate?
2. Has a complaint been lodged by or on behalf of Mr. Sadegh-Khanjani and Mr. Nadarkhani?
3. Please indicate the specific conduct on the basis of which Mr. Sadegh-Khanjani has been arrested and detained as well as the specific conduct on the basis of which Mr. Nadarkhani has been found guilty of and the legal basis of the death sentence imposed against him. Please indicate how these are compatible with international norms, specifically with international norms and standards as contained, inter alia, in the International Covenant on Civil and Political Rights.
4. Please also specify how the imposition of the death sentence upon Mr. Nadarkhani is compatible with the requirement contained in article 6(2) of the ICCPR that the “sentence of death may be imposed only for the most serious crimes in accordance with the law and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide”.
5. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to these cases. If no inquiries have taken place, or if they have been inconclusive, please explain why.