

# Further Information on the Execution of Delara Darabi after Unfair Trial

This update was issued following Delara Darabi's abrupt execution on 1 May 2009 in Rasht's prison. The main facts relating to Delara Darabi's arrest, detention and trial can be viewed in ELEI's Urgent Appeal Request of 30 July 2007.

## Table of Contents:

1. The U.N. Working Group on Arbitrary Detention's 7 May 2008 Opinion.....	2
2. Notification of execution in four days .....	4
3. Judiciary Head's last minute reprieve.....	5
4. The deceased's family's response.....	6
5. The abrupt execution on a holiday Friday 1 May 2009.....	7
6. Amir Hossein Sotoudeh's alleged attempts to admit the murder, the authorities' suppression, and his guilt suicide in 2011 .....	8

## Summary

On 28 December 2003, Ms. Delara Darabi, citizen of Iran, was arrested and detained at age seventeen for killing her father's elderly cousin, Mrs. Mahin Darabi. In winter 2005 and summer 2006 two lower courts declared her guilty of 'intentional homicide', as defined broadly in Islamic murder *qisas* laws of Iran, and sentenced her to the mandatory *qisas-e-nafs* death penalty. Both judgments were issued after trials that lacked even a minimum of due process and in the absence of any reliable evidence that she had intended or even could have physically participated in the fatal stabbing of the victim, much less in a premeditated manner. This is while all credible incriminating evidence pointed to her at-the time 21-year-old male friend, Amir Hossein Sotoudeh, as the primary suspect who had committed the murder to burglarize the victim's money and jewelry and who upon their arrest had deceived Ms. Darabi to falsely confess to the murder. Mr. Sotoudeh was sentenced to a mere 10 years as the 'accomplice'. Despite worldwide protests and appeals by UN human rights bodies, Ms. Darabi was executed hastily and secretly on the official weekend holiday Friday of 1 May 2009. In early January 2011, Mr. Sotoudeh reportedly hanged himself in prison. A cell-mate reported his death as an act of remorse following judicial authorities' preventing him from admitting the murder and declaring Ms. Darabi's innocence.



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The Project on **Extra-Legal Executions in Iran (ELEI)** was established by the Iranian Refugees' Alliance Inc, a non-governmental organization working from the US since 1995, to collect and analyze data on capital crimes, judicial proceedings in capital cases, and judicial executions in Iran that violate binding international legal standards on capital punishment.

## 1. *The U.N. Working Group on Arbitrary Detention's 7 May 2008 Opinion*

In its fifty-first session held from 5-9 May 2008 in Geneva, the United Nations Working Group on Arbitrary Detention [WGAD] adopted a decision (No. 4/2008) which condemned the detention of Ms. Delara Darabi by the Iranian authorities as arbitrary and in contravention of the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR). WGAD consequently called on the Iranian Government to remedy the situation of Ms. Darabi.<sup>1</sup>

WGAD is one of the Special Procedures that the UN Commission on Human Rights (now replaced with the Human Rights Council) set up in 1991 to investigate cases of detention imposed arbitrarily or otherwise inconsistently with the relevant international standards set forth in the Universal Declaration of Human Rights or in the international instruments adopted by the States concerned.<sup>2</sup> It is the only one of the many such Procedures that has an explicit mandate to consider individual cases. Because the Special Procedures systems are not treaty-based, nationals of all countries are allowed to submit their complaints. Once a complaint is received, WGAD forwards it to the Government concerned through diplomatic channels with an invitation to communicate within 90 days its comments and observations on the allegations made. A reply sent by the Government to the Working Group is transmitted to the source for any final comments or observations. Then, in the light of the information collected, WGAD decides on an appropriate measure in private session in one of its three annual meetings. If it decides that the arbitrary nature of the deprivation of liberty is established, it renders an opinion to that effect and makes recommendations to the Government.<sup>3</sup>

<sup>1</sup> OpinionNo.4/2008 (Islamic Republic of Iran), May 2008, in Opinions adopted by the Working Group on Arbitrary Detention, A/HRC/10/21/Add.1, 4 February 2009, pp 91-98, <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/107/13/PDF/G0910713.pdf>>.

<sup>2</sup> According to the methods of work of the Group, deprivation of liberty is arbitrary if a case falls into one of the following three categories: A) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his sentence or despite an amnesty law applicable to him) (Category I); B) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 10 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights (Category II); C) When the total or partial non-observance of the international norms relating to the right to a fair trial, spelled out in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character (Category III).

<sup>3</sup> For more information on the working methods of the Working Group on Arbitrary Detention see <http://www2.ohchr.org/english/issues/detention/complaints.htm>

The communication submitted to WGAD on 30 July 2007 by the Project on Extra-Legal Executions (ELEI) alleged that Ms. Darabi's arrest, detention, trial, and death sentence contravened the Iranian Government's obligations under Articles 6, 7, 9, 14 of the ICCPR as well as Article 37 (a) Convention on the Rights of the Child.<sup>4</sup> On 30 October 2007, WGAD communicated the allegations to the Iranian Government. On 28 February 2008, the Permanent Mission of the Islamic Republic of Iran to the United Nations Office in Geneva provided its comments. The Permanent Mission's response failed to address any of the alleged violations. While it was acknowledged that Ms. Darabi was condemned to death indeed when she still was under the age of 18, the response merely tried to deflect ??? the Iranian Government's manifest breach of the unconditional prohibition of the imposition of the death penalty on persons under the age of 18:

since the case is one of murder under the age of 18, the pertinent authorities have been exerting their utmost effort to decrease carrying out verdicts to a level close to stop, with the hope of ultimate conciliation.<sup>5</sup>

The Iranian Government's allegation of 'utmost efforts' to not carry out the execution was of course proved to be false when Ms. Darabi's was executed a year later hastily and secretly. Regardless of its disingenuousness, nor was the allegation considered favorably by the WGAD which said in their Opinion No. 4/2008:

The fact that the Government seeks conciliation with the victim's family in order to avoid the execution of the mentioned death penalty according to internal law, does not exempt the State from its obligations to respect article 6 of the ICCPR.

Noting the numerous violations of fair trial and criminal justice standards alleged by ELEI, the WGAD'S Opinion further added:

The Working Group notes that the Government has not refuted the serious irregularities of the proceedings as alleged by the source, which in view of the additional infringements of the guarantees afforded by article 6 of the ICCPR amount to violations of the right to fair trial of such gravity as to confer upon Ms. Darabi's detention an arbitrary character.

<sup>4</sup> The communication was also sent to the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the independence of judges and lawyers, and the Special Rapporteur on violence against women.

<sup>5</sup> The Permanent Mission has sent exactly identical responses to the Special Rapporteur on extra judicial, summary and arbitrary executions regarding other juvenile death penalty cases raised by the Special Rapporteur. See Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, Addendum, 30 May 2008, A/HRC/8/3/Add.1 response page 223-4 & 225-6 (to *qisas* sentences of Behnam Zare and Soghra Najafpour)

In view of these findings, the WGAD rendered the final conclusion that:

The deprivation of liberty of Ms. Darabi is arbitrary, as being in contravention of 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 ....”

## 2. *Notification of execution in four days*

Under the 1996/99 Islamic Criminal Code of Iran, before a *qisas* sentence is implemented it must be officially endorsed [*istizan*] by the Judiciary Head.[Articles 205, 212 and 219] The Judiciary Head is empowered by law to also annul any judgment at any time if it is found to be ‘manifestly against *Shari’a*’. [Article 18 of the 2002 Revised Law for the Establishment of General and the Revolutionary Courts].

Since 25 April 2007 [05.02.86], when the now abolished Discernment Branches of the Supreme Court confirmed Ms Darabi’s *qisas-e-nafs* sentence, her case was sent to the office of the then Judiciary Head, Ayatollah Shahroudi, for his final official endorsement to carry out the death sentence. In the meantime, on 9 May 2007 [19.02.1386], Ms Darabi’s lawyer also requested Ayatollah Shahroudi, to use his power under the law to annul the judgment. [see ELEI’s 30 July 2007 Urgent Action Appeal, p. 23]

It is not clear when the then Judiciary Head Shahroudi endorsed Ms. Darabi’s *qisas* death sentence. But on 7 April 2009 [16.01.88] Ms. Darabi reportedly told his lawyer that she had heard from prison authorities that her execution is imminent.<sup>6</sup> On 16 April 2009 [27.01.1388], her lawyer, Mr. Abdolsamad Khoramshahi told daily newspapers that judicial authorities have just informed him that Ms. Darabi would be executed in four days.<sup>7</sup> Insisting on her client’s innocence and expressing disappointment in legal recourse, Khoramshahi called on celebrities and all who wanted to prevent Ms. Darabi’s execution to plead with the deceased’s family for her pardon.

Under the 1996/99 Islamic Criminal Code of Iran, the decision to inflict or mitigate a finalized *qisas* death penalty rests only with the heirs of the victim, and not with the state. Regardless of what the circumstances are, the state can neither pardon nor commute that sentence, nor grant clemency. Heirs of the victim however can forgo their right to *qisas* and instead request *diyyeh* (blood-money) or they can merely pardon the convicted person without monetary compensation [Articles 219 and 257].

<sup>6</sup> RoozOnline, 5 April 2009 [16.01.1388], *Delara Darabi dar astaneh idam* (“Delara Darabi’s execution imminent”).

<sup>7</sup> *Etemaad* Newspaper, 16 April 2009 [27.01.1388], *Delara 4 ruze dgar qsas mishavad* (“Delara to be executed in four days”). <http://www.etemaad.ir/Released/88-01-27/97.htm>.

On 16 April 2009 [27.01.88], Delara Darabi's father wrote to the Judiciary Head again insisting on her daughter's innocence

On 18 April 2009 [29.01.88] the Etemaad newspaper printed a letter from Delara Darabi's family which said:<sup>8</sup>

In our final pleadings and quest for justice to save our daughter we ask the deceased's family to forgive her. We ask state officials and celebrities to help us in reconciling with the complainants [deceased's family].

Our daughter has made a mistake in the past in cooperating with an ignorant boy. Recently our friends have informed us that there is talk about your daughter in foreign satellite networks. We were surprised and when we followed up and asked friends who watch satellite [TVs] we found out that these networks have produced and broadcasted a film without our knowledge by putting together three or four year old clips and other scenery footage. Since we are living in the Islamic Republic we abide by Iran's laws and we condemn any foreign interference in the internal affairs. To prevent any harm to our children's future lives, we ask all sites to avoid such action about our family. We hereby apologize to the deceased's family and plead with them to rescue us from the bottom of this well of misery for the sake of our other children. Please forgive us and please pardon our daughter.

We plead with the most honored Amir-Eftekhari family – who are survived by the deceased Mahin – a very kind woman and a great teacher for our today's generation who always treated us with kindness, affection and graciousness. We hope that as gracious as you have been so far you would also graciously grant us your pardon and forgiveness.

### 3. *Judiciary Head's last minute reprieve*

On 19 April 2009 [30.01.88], daily papers reported that Ayatollah Shahroudi has suspended Delara Darabi's execution to provide a reprieve for 'reconciliation with the victim's heirs'.<sup>9</sup> Later on, her family was quoted as saying that the reprieve was issued for a period of two months.<sup>10</sup>

<sup>8</sup> *Etemaad* Newspaper, 18 April 2009 [29.01.1388], *Estemdad Khanevadeh Delara az Khanevadeh Maqtul* ("Delara's family plea to the deceased's family"). <http://www.etemaad.ir/Released/88-01-29/97.htm>

<sup>9</sup> *Etemaad* Newspaper, 19 April 2009 [30.01.88], *Forsat be Delara baraye jalb-e rezayate khanevadeh-ye maqtul* ("Reprieve for Delara to obtain pardon from victim's family", <http://www.etemaad.ir/Released/88-01-30/97.htm>)

<sup>10</sup> *RoozOnline*, 5 April 2009 [13.02.1388], *Seh sal ba Delara* ("Three Years with Delara") written by Asieh Amini, <http://www.roozonline.com/persian/news/newsitem/article/-4d076d8319.html>.

#### 4. *The deceased's family's response*

On 18 April 2009 [29.01.1388], the deceased's son-in-law was quoted in a daily newspaper: "Yesterday evening we all gathered for a family meeting to discuss what we should do about Delara and today we will announce our demands in the media". The paper added that when Delara Darabi's father was asked whether her daughter has asked the deceased's family for forgiveness he had said: "Delara has said it many times that she was guilty only as far as she had knocked at her [the deceased's] door, that she was not the killer and that if they [family of the deceased] still insist that she was the killer, she would consequently ask for their forgiveness". Expressing hope, he added: "They [the deceased's family] have told us that there is a 50% chance of pardoning her."<sup>11</sup>

On 20 April 2009 [31.01.88], three of the deceased's four children sent a letter to daily papers to complain about the behavior of "the media, some human rights activist, Delara's family and in particular Delara's lawyer, Abdolsamad Khoramshahi" saying that the pain this behavior has caused them has exceeded the pain of their mother's death. The letter added that the writers were from the educated echelon and were themselves human rights advocates. But that they cannot accept Delara Darabi's father's and lawyer's insistence that she was innocent of murder and that the media had portrayed a 'murderer as an angel and a soft hearted artist'. They concluded that they were thus left with no choice but to choose execution and that this was first and foremost the fault of Delara's lawyer and her father and then the media's.<sup>12</sup>

On 22 April 2009 [02.02.88] it was reported that in order to forgo Ms. Darabi's death sentence, the family of the deceased has demanded a punishment of 20 years to life imprisonment, her apology and the dismissal of her lawyer, Mr. Khoramshahi.<sup>13</sup> Delara Darabi's family apparently terminated Mr. Khoramshahi's representation of their daughter as requested by the deceased's family.<sup>14</sup>

<sup>11</sup> *Sarmayeh* newspaper, 18 April 2009 [29.01.1387], *Delara dar entezar-e rezayat-e khanevadeye maqtul* ("Delara awaiting the victim's family's consent").

<sup>12</sup> *Sarmayeh* newspaper, 20 April 2009 [31.01.1388], *Nameh sargoshadeh khanevadeh maqtul dar parvandeheh DDelara: ma ham motaqed be afv hastim* ("Open letter by the victim's family in Delara's case").

<sup>13</sup> *Sarmayeh* newspaper, 22 April 2009 [02.02.1388], *Oliya'a dam parvandeheh Delara shart gozashtand, 20 sal habs* ("The heirs of the blood in Delara's case declared their condition: execution or 20 years' imprisonment").

<sup>14</sup> Radio Zamaaneh, 2 May 2009 [12.02.88], *Delara dar intizare azadi idam shod* ("Delara executed awaiting her freedom"), [http://zamaaneh.com/ardavan/2009/05/post\\_225.html](http://zamaaneh.com/ardavan/2009/05/post_225.html)



On 25 April 2009 [05.02.88], the deceased's family was quoted as saying that the written apology provided by Delara Darabi's family to the press was not enough and that Ms. Darabi must "show remorse for the crime she committed in person both verbally and in her actions".<sup>15</sup>

### 5. *The abrupt execution on a holiday Friday 1 May 2009*

Under Iran's criminal system, the law only requires a minimum 48-hour notification of a death warrant to the prisoner's lawyer [Article 7-h of the 2003 Implementation Procedure Code for Sentences of *Qisas*, Stoning, Killing, Crucifixion, Execution, and Lashing]. The prisoner herself or her relatives are not required by law to be notified at all. Since the presence of 'the heirs of the blood' or their proxy at the execution is necessary, they are also required to be notified [Article 7-g]. The 'heirs' are also given permission to carry out the execution themselves [Article 15 and also Article 265 of the Islamic Criminal Code].

In the three decades of the Islamic Republic of Iran, executions have never been carried out on Fridays which is the official weekend holiday. In his personal blog Mohammad Mostafaie quoted the following from Ms. Darabi's tearful mother:<sup>16</sup>

This morning at 7 in the morning Delara telephoned. She said: 'Mom they want to hang me. I can see the hanging rope. Mom please rescue me. I want to speak to Dad.' She then begged her Dad to help her. Then someone took the receiver from Delara and said: 'We'll kill your child and you cannot do anything about it.'

One day after the execution, on 2 May 2009, Ms. Darabi's paternal uncle described to a reporter:<sup>17</sup>

At 6:30 am my brother received a call from the prison informing him that Delara's sentence was going to be implemented in moments. When my brother contacted me he could not speak because we were previously told that the sentence was suspended for two months on order from the Judiciary Head. We rushed to the prison. No one was at the gate. As we were trying to convince the guard so that we can see Delara in her last moments of life and plead with the heirs of the blood to spare her we heard an ambulance siren. When the ambulance which had the 'Forensic Department' label on it exited the prison we knew that my 23-year-old niece's

<sup>15</sup> *Sarmayeh* newspaper, 25 April 2009 [02.05.1388], Deceased's family member: until she does not apologize face-to-face, we will not forgive yeki az azaye khanevadeh maqtul parvande Delara: ta ozr-khahi ru-dar-ru nakonid, rezayat nemidahim

<sup>16</sup> Mohammad Mostafaie, 1 May 2009 [11.02.1388], <http://mohegh.blogfa.com/8802.aspx>

<sup>17</sup> *Etemaad* newspaper, 2 May 2009 [12.02.1388], *Sa'at-e 6 sobh-e ruz-e jom'eh bedun-e elam-e qabli hokm-e qisas-e Delara ejra shod* ("Delara's *qisas* sentence carried out Friday 6 am with no advance notification").

body was in it but we did not want to believe. When were finally allowed to go inside we were told to go to the Forensic Department to collect the body.

In regard to Ms. Darabi's knowledge of the date of execution, he said:

Delara contacted her mother late Thursday night [the night before the execution]. She asked why the heirs of the blood were hesitating to forgive her now that she had met all their demands. Even that late at Thursday night she did not know that she was going to be executed on Friday. Just like us, she too found out about it as they were taking her to the gallows.

In regard to what had happened during the execution, he said:

We were not there, but we were told that only one of the deceased's children who live in Rasht was present at the time of the execution. As told by people who were present, Delara had pleaded with her for forgiveness but she had put the noose around Delara's neck saying 'blood must be washed with blood'.

In response to a flood of protests nationally and internationally for Delara Darabi's execution, Payman Mohammadi, the spokesperson for Gilan Province's Justice Administration said:<sup>18</sup>

Unfortunately, instead of seeking the deceased's family's reconciliation for which the atmosphere was ready, Delara's family resorted to foreign press and foreign countries with the intention to put pressure on Iran's Judicial Branch in order to save their daughter from execution.

#### **6. *Amir Hossein Sotoudeh's alleged attempts to admit the murder, the authorities' suppression, and his guilt suicide in 2011***

On 11 January 2011 [21.10.89], it was reported that Amir Hossein Sotoudeh, who was serving a ten-year prison sentence as the 'accomplice' in Delara Darabi's case had hanged himself in prison. The report stated that he had died due to prison authorities' negligence.

On 31 March 2011, Mohammad Mostafaie, Delara Darabi's lawyer in the last days before her execution, related Sotoudeh's cell-mate's account of his suicide:<sup>19</sup>

A few days ago I heard that Amir Hossein who was the real killer in Delara's case has hanged himself in Rasht's prison. I knew one of his cell-mates who had recently been released. I was

<sup>18</sup> IRNA, 5 May 2009 [15.02.88], *Dadgostary Gilan: Idam-e Delara Darabi dar Rasht Qanuni surat gereft* ("Gilan Justice Administration: Delara Darabi's execution in Rasht was legal").

<sup>19</sup> Mohammad Mostafaie, 31 March 2011 [11.01.90], *Che kasi pasokhgooye marg-e Delara Darabi ast?* ("Who is accountable for Delara Darabi's death?"), <http://www.rahana.org/archives/38018>.



able to find his phone number and talk to him. He said before Delara was executed Amir Hoseein had repeatedly asked for the prosecutor and told him that Delara was not the killer and that he had committed the murder. After Delara was executed he again wrote a letter stating that she was innocent. The prosecutor visited him in prison once and threatened him that if he said anything he would kill him. He [Amir Hossein's former cell-mate] said that no one wanted to listen to what Amir Hossein had to say. After Delara was executed he became depressed and lived miserably. In the end he hanged himself to relieve his conscience.