



6 October 2011

Office of the UN High Commissioner for Human Rights
Palais des Nations
1211-CH Geneva 10
Switzerland
Fax: +41 22 917 9006/+ 41 22 917 9008
Email: urgent-action@ohchr.org

Re: Violation of Human Rights in Iran and Imminent Execution of Christian Apostate

To:

Mr. Ahmed Shaheed, Special Rapporteur of the Human Rights Council on the situation of human rights in the Islamic Republic of Iran
Mr. Frank La Rue, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression
Mr. Heiner Bielefeldt, Special Rapporteur on freedom of religion or belief
Ms. Rita Izsák, Independent Expert on minority issues

From:

Grégor Puppinck
Director
European Centre for Law and Justice

Jay Alan Sekulow
President/Chief Counsel
European Centre for Law and Justice
American Center for Law and Justice

Tiffany N. Barrans
International Legal Director
American Center for Law and Justice

Jordan Sekulow
Executive Director
American Center for Law and Justice

**COMMUNICATION TO THE OFFICE OF THE HIGH COMMISSIONER FOR
HUMAN RIGHTS REGARDING THE RECENT DEATH SENTENCE
AND PENDING EXECUTION OF CHRISTIAN PASTOR YUCEF NADARKHANI
FOR APOSTASY IN IRAN**

Pursuant to the Special Procedures of the Human Rights Council,¹ the European Centre for Law and Justice (ECLJ) submits this communication to Dr. Amhed Shaheed, Special Rapporteur of the Human Rights Council on the situation of human rights in the Islamic Republic of Iran;² Mr. Frank La Rue Lewy, Special Rapporteur on the promotion and protection

¹ G.A. Res. 60/251, ¶ 6, U.N. Doc. A/RES/60/251 (3 April 2006).

² H.R.C. Res. 16/25, U.N. Doc. A/HRC/16/L.25/Rev.1 (23 March 2011).

of the right to freedom of opinion and expression;³ Mr. Heiner Bielefeldt, Special Rapporteur on freedom of religion or belief;⁴ and Ms. Rita Izsák, Independent Expert on minority issues;⁵ to highlight the plight of Pastor Youcef Nadarkhani who has been sentenced to death in Iran for refusing to recant his religious beliefs in Jesus Christ. Iran's pattern of gross and systematic violations of human rights and fundamental freedoms of its Christian minority must come to the forefront of issues on your agenda before an innocent man is executed.

By way of introduction, the ECLJ is an international legal organization dedicated to protecting human rights and religious freedom in Europe and worldwide.⁶ Attorneys for the ECLJ have served as counsel in numerous cases before the European Court of Human Rights. Additionally, the ECLJ has special Consultative Status with the Economic and Social Council (ECOSOC) of the United Nations.

BACKGROUND

Pastor Youcef Nadarkhani of the Church of Iran denomination was arrested in his home city of Rasht on October 13, 2009. His arrest allegedly resulted because he questioned the Muslim monopoly on religious instruction of children in Iran. The government of Iran has mandated that all school children, regardless of their faith, be taught Islamic teachings. Pastor Youcef protested this decision at his sons' school, arguing that the Iranian Constitution granted freedom of religion, which included a parent's right to bring up his children under the religious teaching of the family. Local police demanded Pastor Youcef appear before a tribunal in Rasht, Iran. Upon his appearance, police arrested Pastor Youcef and detained him in a prison located in Lakan, Iran. Despite being formally charged with unlawful protesting, Pastor Youcef's charge changed to unlawful apostasy (turning one's back on Islam).

On September 21- 22, 2010, a state court in Gilan convicted Pastor Youcef and verbally sentenced him to death. He is to be executed by hanging for the crime of apostasy. A written verdict by the 1st Court of the Revolutionary Tribunal was delayed and delivered on November 13, 2010. Pastor Youcef appealed his sentence to the Supreme Court in the Shia holy city of Qom, Iran. On June 12, 2011, the third chamber of the Supreme Court in Qom upheld the apostasy conviction and the death sentence (*See ATTACHMENT*), but returned the case to the state court of Gilan Section 11 for further investigation as to whether Pastor Youcef was a Muslim between the age of majority (15 years) and the age of his conversion (19 years). The Supreme Court said, "if it can be proved that he was a practicing Muslim as an adult and has not repented, the execution will be carried out."

On September 25, 2011, the state court of Gilan Section 11 began four days of hearings. On the first day, a panel of five judges stated that Pastor Youcef had abandoned the faith of his ancestors and must face execution unless he recants. During the following three days of hearings, when asked to recant his faith, Pastor Youcef stated, "Repent means to return. What should I return to? To the blasphemy that I had before my faith in Christ?" The judges replied, "To the

³ H.R.C. Res. 16/4, U.N. Doc. A/HRC/16/4 (24 March 2011) (extending the mandate for three years).

⁴ H.R.C. Res. 14/11, U.N. Doc. A/HRC/14/11 (23 June 2010) (extending the mandate for three years).

⁵ H.R.C. Res. 16/6, U.N. Doc. A/HRC/16/6 (8 April 2011) (extending the mandate for three years).

⁶ The American Center for Law and Justice (ACLJ), with whom the ECLJ is affiliated, also shares the views expressed in this communication.

religion of your ancestors, Islam.” To which he replied, “I cannot.” As of the date of this printing, the state court of Gilan Section 11 has not issued its written verdict. But as various human rights groups have reported, the Iranian regime often enacts death sentences without advance notice to prisoners’ families.⁷ Time is of the essence.

HUMAN RIGHTS SITUATION IN IRAN

The human rights situation in Iran is deplorable.⁸ A member of the Council of Elders for the Church of Iran and a close personal friend of Pastor Youcef, who for security reasons will remain anonymous, stated that there is an active religious apartheid taking place in the Middle East. He described the current situation for Christians in the Middle East as akin to “the final decision in Germany” – the strategic eradication of Jews under Hitler’s regime. Tragically, he also said that “international reaction [to the religious apartheid in the Middle East] is also like the time of Hitler. They waited and didn’t react until it was too late . . . we are in the same situation.” He believes the politically driven verdict against Youcef reflects this religious apartheid and Pastor Youcef’s only hope for freedom is if the international community rallies and cries out for his release.

The religious cleansing in Iran is apparent. Various religious and political leaders, including Ayatollah Hosseini Booshehri, a religious leader and member of the Assembly of Experts, and Iranian Supreme Leader Ayatollah Ali Khamenei,⁹ have publicly declared Christians enemies to Islam and enemies to Iran. A senior religious expert affiliated with the Islamic Republic recently stated that Christianity poses more of a threat to Iran than Satanism.¹⁰ The level of public approval of persecution of Christians in Iran is also apparent, as at least 285 Christians were arrested in 35 different cities in Iran during the first six months of 2011 without reaction. Many of the crimes charged carry death sentences. According to multiple sources, the Iranian regime executed approximately 312 individuals for various charges in summary executions during 2010, and is on pace to meet or surpass this number for 2011.¹¹

⁷ See International Federation for Human Rights (8 June 2011), <http://www.fidh.org/Prosecutor-says-hundreds-to-be-executed-in>.

⁸ “[There are] thousands who face persecution for their religious beliefs in Iran, including the seven leaders of the Baha’i community . . . and hundreds of Sufis who have been flogged in public because of their beliefs. While Iran’s leaders hypocritically claim to promote tolerance, they continue to detain, imprison, harass, and abuse those who simply wish to worship the faith of their choosing.”

U.S. Dep’t of State, Press Release (6 July 2011), <http://www.state.gov/r/pa/prs/ps/2011/07/167733.htm>

⁹ U.S. Comm’n on International Religious Freedom Annual Report 6 (2011), <http://www.uscirf.gov/reports-and-briefs/annual-report/3594-2011-annual-report.html>.

¹⁰ *A Shiite Clergy views Spreading Christianity as a serious danger*, Mohabat News (24 Aug. 2011), http://www.mohabatnews.com/index.php?option=com_content&view=article&id=2669:a-shiite-clergy-views-spreading-christianity-as-a-serious-danger&catid=36:iranian-christians&Itemid=279.

¹¹ U.S. Dep’t of State, *2010 Human Rights Report: Iran*, <http://www.state.gov/g/drl/rls/hrrpt/2010/nea/154461.htm> (reporting that about 500 democracy activists and journalists were in detention in Evin Prison at the end of 2010 and the Iranian regime arrested, convicted, and executed persons on questionable criminal charges, including charging members of religious minorities with crimes such as “confronting the regime” and apostasy); see also Amnesty International, *Sharp rise in public executions as Iran executes first juvenile offenders in 2011*,

Pastor Youcef's lawyer, Mohammad Ali Dadkhah, has also been the subject of persecution for defending human rights. Dadkhah, in collaboration with Noble Peace Laureate Shirin Ebadi, founded the Center for Defenders of Human Rights in Iran. As a result of Dadkhah's advocacy for human rights, which includes representing roughly 20 alleged apostates, he has repeatedly faced imprisonment. In 2001, after representing various newspapers' and student groups' right to free speech, the Iranian regime charged Dadkhah of having "worked with" various anti-government groups because he offered his legal services free of charge. In 2009, the regime accused Dadkhah of possessing anti-government literature. In July 2011, the regime accused Dadkhah of trying to overthrow the government using soft revolutionary tactics, in part for his role as the spokesperson for the Center for Defenders of Human rights. As a result of this charge, an Iranian court sentenced him to 9 years of imprisonment, a 10 year ban from teaching, a 10 year ban from practicing law, a \$1,900 fine, and 5 lashes or a \$450 fine. Mr. Dadkhah has not begun to serve this sentence, but fears that if the authorities issue a warrant for his arrest to enforce the sentence no other lawyer will take Pastor Youcef's case.

LEGAL ANALYSIS

Pastor Youcef's conviction and death sentence are inconsistent with the Iranian Constitution and the nation's obligations under international law. Imposing the death penalty for changing religion blatantly violates one of the most fundamental of all human rights. The right to freedom of religion is enshrined in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, which Iran has pledged to uphold. Moreover, this fundamental right is enshrined in Iran's Constitution. Article 13 of the Iranian Constitution recognizes Christianity as an official religion and that Christians are, "within the limits of the law, free to perform their religious rites and ceremonies, and to act according to their own canon in matters of personal affairs and religious education." Article 14 states that "the government . . . and all Muslims are duty-bound to treat non-Muslims in conformity with ethical norms and the principles of Islamic justice and equity, and to respect their human rights." Finally, Article 23 of the Iranian Constitution provides that the "investigation of individuals' beliefs is forbidden, and no one may be molested or taken to task simply for holding a certain belief." Pastor Youcef's conviction and pending execution, as the White House said, "demonstrate[s] the Iranian authorities' utter disregard for religious freedom, and highlight[s] Iran's continuing violation of the universal rights of its citizens."¹²

CONCLUSION

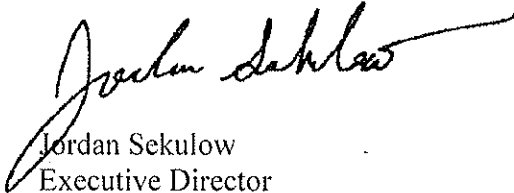
This death sentence has tremendous implications for all Christians and religious minorities in Iran, and is yet another indicator of the regime's disregard for basic human rights and freedoms. "The government of Iran continues to engage in systematic, ongoing, and egregious violations of religious freedom, including prolonged detention, torture, and executions based primarily or entirely upon the religion of the accused."¹³ Before another innocent man

<http://www.unhcr.org/refworld/docid/4dbe5fa71e.html> (reporting sharp rise in executions in the beginning of 2011).

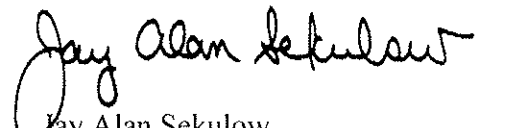
¹² U.S. White House, Office of the Press Secretary, Release (29 Sept. 11), <http://www.whitehouse.gov/the-press-office/2011/09/29/statement-press-secretary-conviction-pastor-youcef-nadarkhani>.

¹³ U.S. Comm'n on International Religious Freedom Annual Report 6 (2011), <http://www.uscirf.gov/reports-and-briefs/annual-report/3594-2011-annual-report.html>.

loses his life, we urge you to take a stand against Iran's violation of human rights. We urge you to call upon the Iranian government and demand the immediate and unconditional release of Pastor Youcef. We also urge you to immediately undertake a fact-finding mission into Iran requesting an in-person investigation into this case with access to both Pastor Youcef and his lawyer, Mohammad Ali Dadkhah. Finally, we urge you to press the Organization of Islamic Cooperation to publically denounce this case and other violations of human rights in Iran.



Jordan Sekulow
Executive Director
American Center for Law and Justice



Jay Alan Sekulow
President/Chief Counsel
European Centre for Law and Justice
American Center for Law and Justice

کتابخانه ۲۷ ۲۲۸۶

دانشگاه ۲۱۲

تاریخ ثبت: ۱۳۹۰/۳/۲۲



پسته ۱۱۱۱

تعمیدکننده: شورای عالی کشور

تعمیدکننده: شورای عالی کشور

تعمیدکننده: شورای عالی کشور شماره ۰۰۰۹۸۰ / ۸۹/۶/۳۱ صادره از شعبه ۱۱ دادگاه تعمیدکننده استان گیلان (کتابخانه)

تاریخ ابلاغ دادنامه به تعمیدکننده: ۸۹/۶/۱۹ تاریخ وصول دادخواست تعمیدکننده: ۸۹/۶/۱۳

مرجع رسیدگی: شعبه ۲۷ دیوان عالی کشور

شعبه شعبه آقایان: مرتضی قاضی وکیل - علیزاده وکیل مستشار

خلاصه پرونده

که آقای یوسف ندرختی فرزند پیرام ۳۲ ساله متأهل اهل رشت متهم است به انکار نبوت پیامبر عظیم الشان اسلام (صلی الله علیه و آله) و در نتیجه ارتداد خطری از مکتب مقدس اسلام پس از قبول آن توسط وی بعد از رسیدن به سن بلوغ تا ۱۹ سالگی با این توضیح که متهم از پدر و مادر مسلمان در سال ۱۳۵۶ متولد می شود و حسب تحقیقات مقدماتی و بازپرسی پس از رسیدن به سن بلوغ شرعی اسلام را پذیرفته و به دستورات آن عمل نموده و در سن ۱۹ سالگی یعنی سال ۷۵ - از فطرت اسلام ارتداد حاصل و به دین مسیحیت گرایش پیدا نموده و رسماً مسیحیت را پذیرفته و به کسرات در تحقیقات مقدماتی و جلسات بازپرسی متکرر نبوت پیامبر اسلام و حاکمیت دین مقدس اسلام شده و با تشکیل جلسات تبشیری و دعوت دیگران به مسیحیت و کلیسای خانگی و انجام غسل - ویران اعتقادات خود ، ارتداد خود را اعلام نموده و دادگاه با تشکیل جلسات با حضور نماینده دادستان و

رونوشت بر اصل است

دفتر شعبه ۲۷ دیوان عالی کشور

در تاریخ ۱۳۹۰/۳/۲۲

کتابخانه ۲۷ ۲۲۸۶

دانش ۲۱۲

تاریخ ثبت ۱۳۹۰/۲/۲۲



متهم و وکلای متهم هر چند در این جلسات مطالب مختلفی گفته اما در عین اصل پذیرش مسیحیت را قبول دارد ... و دادگاه با عنایت به اظهارات متهم در تحقیقات متعدد و پنحوی حتی در جلسه دادگاه و مسئله ۸ از تحریر الوسیله حضرت امام قدس سره و فتاوی اسلام از جمله مقام معظم رهبری و آیه الله العظمی مکارم شیرازی و دیگر اعلام در دادنامه شماره $\frac{۰۰۰۹۸۰}{۸۹/۲/۲۱}$ متهم را به مجازات اعدام بطریق حلق آویز محکوم نموده است و رای صادره مورد اعتراض ، وکلای متهم واقع و به دیوانعالی کشور ارسال و به این شعبه ارجاع گردیده است.

چکیت شعبه در تاریخ فوق بالا ذکر تشکیل پس از قرائت گزارش آقای فاضل عاشق معتمد و اوراق پرونده (و ملاحظه احترام وکلای متهم) مشاوره نموده چنین رای می دهند

برستی

رای = هر چند محکوم علیه آقای یوسف ندرخانی معترف به خروج قلبی و عملی از دین مقدس اسلام و عقیده مند شدن به مسیحیت و تبلیغ در این مسیر و خروج الیرادی دیگر از اسلام و ورود در مسیحیت بر اثر تبلیغات وی و اتخاذ سمت شبانی کلیسا و اصرار به مسیحیت و عدم اعتقاد به خاتمیت و نبوت حضرت محمد صلی اله علیه و آله و انکار امامت ائمه علیهم السلام و عدم اعتقاد به حقیقت مجموعه آیات قرآن بوده و محتویات پرونده نیز مؤید مراتب فوق می باشد لکن در رابطه با تحقق

رونده شعبه در این اصل است

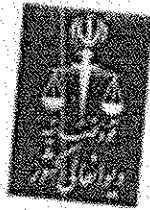
دفتر شعبه

در تاریخ ...

کتابخانه ۲۷ ۲۱۸۶

تاریخ ۲۱۲

تاریخ ثبت: ۱۳۹۰/۲/۲۲



شماره ۳

ارتداد احراز مسلمان بودن وی بعد از بلوغ و اظهار اسلام و رفتار عملی در راستای تعلیمات اسلام

لازم می باشد و در این راستا هیچ گونه تحقیقی از مطلعین محلی و آشنایان و بستگان و مسلمانانی که

سابقاً با وی معاشرت داشته اند نشده است. دادرسی ناقص می باشد بدیهی است بر اساس فتاوی

فقهی عظام از جمله حضرت امام ره در تحریر الوسیله - کتاب الحدود - القول فی الارتداد مسئله ۱:

... و کذا ولد المسلم اذا بلغ و اختسار الکفر قبل اظهار الاسلام فالظاهر عدم اجراء حکم المرتد فطریاً

علیهما بل یستایان و الا یقتلان : لازم است نسبت به اظهار اسلام تحقیق گردد و در صورت اثبات

عدم اظهار اسلام استتاه شود و در صورت اثبات اظهار اسلام یا با انتفاء آن و عدم توبه حکم به اعدام

صادر گردد لذا مستنداً به شق ۲ بند ب ماده ۲۶۵ قانون آئین دادرسی کیفری دادنامه تجدیدنظر خواسته

شماره ۸۹/۶/۳۱ صادره از شعبه ۱۱ دادگاه کیفری استان گیلان نقض پرونده جهت رسیدگی مجدد

بهمان شعبه ارجاع می گردد. اح

مرتضی قاضی (رئیس)

رونوشت برای اصل است
دفتر شعبه بیست و یکم و نظامی و امنیتی کشور
شماره ۵/۲۷۰/۱۰۰۰

مرتضی قاضی (رئیس)

[UNOFFICIAL TRANSLATION]

In the name of God
To the lawyers of the accused (defendant)
To the local court
To the state court of Gilan Section 11

December 5, 2010

Issued by section 27 Supreme Court Judge Morteza Fazel and Azizoallah Razaghi

Mr. Youcef Nadarkhani, son of Byrom, 32 years old, married, born in Rasht in the state of Gilan is convicted of turning his back on Islam, the greatest religion the prophesy of Mohammad at the age of 19.

He has often participated in Christian worship and organized home church services, evangelizing and has been baptized and baptized others, converting Muslims to Christianity. He has been accused of breaking Islamic Law that from puberty (15 years according to Islamic law) until the age of 19 the year 1996, he was raised a Muslim in a Muslim home. During court trials, he denied the prophecy of Mohammad and the authority of Islam. He has stated that he is a Christian and no longer Muslim.

During many sessions in court with the presence of his attorney and a judge, he has been sentenced to execution by hanging according to article 8 of Tahrir –olvasileh. His sentence was appealed by his attorney and sent to the supreme court.

The Supreme Courts Response

In the name of God
June 12, 2011

This sopena states;

We know that Mr. Nadarkhani has confessed that in his heart and in his actions he has denied being Muslim and converted to Christianity and has advertised and encouraged other Muslims to convert to Christianity. And because of advertising and pastoring a church repeatedly professed his Christian faith and denied the prophet Mohammad and the 12th Imam and denied the entire Koran and truth of the Koran.

His case was forwarded to the supreme court (Judge Fazeli) and

According to Part 2 of article 265 of the Islamic Republic Criminal Law, this case received by and must be returned the state court of Gilan Section 11, and further investigated to prove that from puberty (15 years) to 19 he was not Muslim by his acquaintances, relatives, local elders, and Muslims he frequented. He must repent his Christian faith if this is the case. No research has been done to prove this, if it can be proved that he was a practicing Muslim as an adult and has not repented, the execution will be carried out.

Signed by Morteza Fazeli and Azizollah Razaghi