

10. Therefore, in the absence of any argumentation by the Government to the contrary, the Working Group cannot but conclude that Mr. Pourzand was prosecuted against and convicted to a prison term because of his convictions and the expression of his opinion.

11. In the light of the foregoing, the Working Group expresses the following opinion:

The detention of Syamak Pourzand, being in contravention of Article 19 of the Universal Declaration on Human Rights and of Article 19 of the International Covenant on Civil and Political Rights, is arbitrary and falls within category II of the categories applicable to the consideration of cases submitted to the Working Group.

12. Consequent upon this Opinion the Working Group requests the Government of the Islamic Republic of Iran to take the necessary steps to remedy the situation of Syamak Pourzand in order to bring it into conformity with the provisions and principles incorporated in the Universal Declaration on Human Rights and in the International Covenant on Civil and Political Rights to which the Islamic Republic of Iran is a Party.

Adopted on 9 May 2003

**NATIONS UNIES**  
HAUT COMMISSARIAT AUX DROITS DE L'HOMME



**UNITED NATIONS**  
HIGH COMMISSIONER FOR HUMAN RIGHTS



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Le 11 Juillet 2003

Docteur Lahidji,

Je me permets de m'adresser à vous suite à la 36ème session du Groupe de travail sur la détention arbitraire pendant laquelle le Groupe de Travail a adopté plusieurs Opinions sur des cas de détention qu'il avait reçus. Le Groupe de Travail a décidé notamment de transmettre ses Opinions, après les avoir envoyées aux Gouvernements concernés, aux sources d'information qui lui avaient communiqué ces cas.

Suite à cette décision, veuillez trouver ci-joint l'Avis No. 8/2003 (République islamique d'Iran) sur un cas que la Ligue pour la Défense des Droits de l'homme en Iran a présenté. Cette Opinion sera aussi reflétée dans le prochain rapport que le Groupe de travail présentera à la Commission des droits de l'homme.

Je vous prie d'agréer, Docteur Lahidji, l'assurance de ma considération très distinguée.

A handwritten signature in black ink, appearing to read 'Miguel de la Lama'.

Miguel de la Lama  
Secrétaire

Groupe de travail sur la détention arbitraire

Ci-joint: Avis N° 8/2003 (République islamique d'Iran)

Docteur Abdol-Karim Lahidji  
Président  
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OPINION No. 8/2003 (Islamic Republic of Iran)

Communication addressed to the Government on 14 February 2002

Concerning Mr Syamak Pourzand

The State has ratified the International Covenant on Civil and Political Rights

1. The Working Group on Arbitrary Detention was established by resolution 1991/42 of the Commission on Human Rights. The mandate of the Working Group was clarified by resolution 1997/50, and extended by resolution 2003/31. Acting in accordance with its methods of work, the Working Group sent to the Government the above-mentioned communication.
2. The Working Group conveys its appreciation to the Government for having provided the requested information.
3. The Working Group regards deprivation of liberty as arbitrary in the following cases:
  - (i) When it manifestly cannot be justified on any legal basis (such as continued detention after the sentence has been served or despite an applicable amnesty act (category I);
  - (ii) When the deprivation of liberty is the result of a judgement or sentence for the exercise of the rights and freedoms proclaimed in articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and also, in respect of States parties, in articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights (category II);
  - (iii) When the complete or partial non-observance of the international standards relating to a fair trial set forth in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned is of such gravity as to confer on the deprivation of liberty, of whatever kind, an arbitrary character (category III).
4. In the light of the allegations made, the Working Group welcomes the co-operation of the Government. The Working Group transmitted the reply provided by the Government to the source, which made comments on it. The Working Group believes that it is in a position to render an opinion on the facts and circumstances of the case, in the context of the allegations made and the response of the Government thereto.
5. According to the information submitted by the source, Symak Pourzand, aged 72, is a journalist and manager of the *Majmue-ye Farhangi-ye Honari-ye Tehran* (the Tehran Cultural Centre) and is married to Ms. Mehranguiz Kar, a lawyer. Mr Pourzand was arrested on 24 November 2001, at Ms. Mahin Pourzand's (his sister) place of residence in Teheran by

four militiamen who took him with no warrant or explanation. On 7 December 2001, Ms. Pourzand was allegedly requested to take him a change of clothes. Mr Syamak Pourzand was, at the time when the communication was submitted, and is currently detained on the orders of the Islamic Revolutionary Court of Tehran.

6. On 12 or 13 January 2002, Ms. Pourzand was permitted to meet with Mr. Pourzand at the *Edare-ye Amaken*, or Bureau of Premises, also known as the Committee for Propagation of Virtue and Prohibition of Vice, for a meeting that lasted 10 minutes. His wife, who is on medical treatment in the United States, and his sister, in Teheran, have reportedly filed complaints to police and judicial authorities, and have written to the Presidency of the Republic, to no avail.

7. The Government provided the Working Group with the following information: Mr. Pourzand was arrested following a complaint submitted by Ms. Venus Farimer, who claimed having been abused and victim of sexual harassment by him, and was charged with several offences: Infraction against the moral et abuses according to articles 637 and 639 of the Penal Code; propaganda against the Islamic Republic of Iran (article 500 of the Penal Code); spying against the Iranian State (articles 501 and 505 of the Penal Code) and undermining State security (Penal Code, article 512).

8. On 22 November 2001, the General Court of Tehran ordered the arrest of the denounced. On 24 November 2001, he was presented before the court. On the same date, the court ordered the preliminary investigations and returned the file to the police ordering it to do additional investigations. Later, the court ordered the release of the accused on bail. Not having been able to furnish the caution, Mr. Pourzand was kept in preventive detention and sent to a prison under the authority of the Organization of Prisons. On 27 May 2002, Mr. Pourzand was transferred to Evin prison in Tehran. Once the investigations were finished, Mr. Pourzand' trial started and several audiences took place in presence of the accused and of his defense lawyer. The court was able to verify the veracity and well founded of the accusations and, on 13 April 2002, issued its verdict N° 10. Mr. Pourzand was found guilty of having committed the above-mentioned offences and was condemned to 11 years imprisonment, term which should take into account the time already spent in prison; to pay a fine of one million Rials and to suffer 80 lashes. Mr. Pourzand did appeal against the sentence. On 21 May 2002, the Tehran Appeal Court confirmed the judgment.

9. The Working Group deplors that the Government has failed to provide it with the text of the penal legislation applicable in the cases against Mr. Pourzand, despite the invitation to do so by its Chairman/Rapporteur in his letter of 14 February 2002. Neither was the judgment of 13 April 2002 of the General Court of Teheran convicting Syamak Pourzand submitted. The Working Group notes that the text of the criminal law provisions, which was not produced, and only referred to by the Government in very general terms, has served as a basis of the conviction of Mr. Pourzand. The reference to "propaganda" against the Islamic Republic of Iran gives rise to serious doubts about the real nature and the motivation of the charges brought against him. It should be bearing in mind that, according to information available to the Group, Mr. Pourzand, practising the profession of journalist and being manager of the Teheran Cultural Centre, has a reputation of being politically critical towards the Government.