



Witness Statement of Ali Mahin Torabi

Name: Ali Mahin Torabi
Place of Birth: Tehran, Iran
Date of Birth: May 7, 1986
Occupation:

Interviewing Organization: Iran Human Rights Documentation Center (IHRDC)

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Interviewer: IHRDC Staff

This statement was prepared pursuant to an interview with Ali Mahin Torabi. It was approved by Ali Mahin Torabi on September 9, 2011. There are 26 paragraphs in the statement.

Statement

Background

1. My name is Ali Mahin Torabi and I was born in Tehran in 1986. In 2003, at age 16, due to involvement in a group fight, resulting in the death of one of my schoolmates by the name of Mazdak Khodadadian, I was arrested. At the Investigation Bureau in Hesarak, Karaj, I was coerced into taking responsibility for three stab wounds, where only one was found. Since other witnesses were also under-age, influenced by the insinuation of the head of the Investigation branch, they also verified three stab wounds. I was involved with the courts for many years, and at different stages I received the sentence of *Qisas* [retribution], without acknowledging that I was merely a 16 year-old youth. Finally, I had one last review, and after a prolonged process, the court vacated the sentence of *Qisas*, and after 7 years, 7 months, and 11 days, in mid July 2010, I was released from prison on bail. Later, however, the Supreme Court rejected the ruling and thus my case is again under review.

The Incident

2. The incident happened on 3 February 2003 in front of our school, Bani-hashemi Vocational School, located at Nuhumeh Sharqi [E. 9th] Avenue, Gohardasht, Karaj. I was 16 at the time. When the incident occurred, the first thing I did, given that everyone had fled, was to stop a car in order to take the victim to the hospital, but unfortunately what I heard was, 'Whoever has done this should take him to the hospital!' and thus the drivers refused to transfer the victim to the hospital. I then went to the school office and asked for help in transferring the victim to the hospital, so one of the teachers brought his car for transferring him. Subsequently, the police came, arrested and handcuffed me and took me away in their car to Division 15 in Gohardasht, located on 8th Ave.

At the Police Station

3. I was not treated badly at the police station. I was told that the victim was fine and in stable condition. They said that he was operated on and would be released within a day or two, and that the wound(s) was not serious. At the same time that the officials were telling me that the victim was fine, they asked me to write a statement about the incident from the beginning; which I did. I explained how the incident happened; who pushed him; which individuals had knives, and so on. I was then told by the authorities that I would be sent to the judge the next day for a decision. I spent the night at the station, not knowing what was going on. At the station, I was first taken to the general room, but because I was harassed by other detainees, they moved me to a room where the guards slept. I was under so much stress that I could not sleep.

The First Court

4. Early next morning, I was taken in handcuffs to a branch of the Public Court in Karaj. However, when the head of the Branch saw me crying, he said, given that I was under 18, he did not have jurisdiction to review my file and the case would be sent to the juvenile court. My case was therefore transferred to the juvenile section of Branch 33 of the Public Court in Karaj (currently branch 122), presided over by Justice Loghman Kiapasha, who is now the legal deputy of the Judiciary and the head of Arbitration Division in Karaj. When I arrived there I saw that the family of the victim was present. The judge asked me if I was Ali, and I said yes. After that he did not let me speak. Every time I wanted to explain something, he ordered me to be quiet and said that I would be going “somewhere” where I could talk. He then issued an order for me to be taken to the investigation police. At 11 a.m., I was taken by the same guard to Branch 4 of the Investigation Bureau in Hesarak, Karaj, special division for murder, armed robbery, and kidnapping, headed by Lieutenant Hooshmand Sharifi.

Investigation Bureau

5. As I was brought in handcuffed to the Investigation Bureau, in front of my parents, Lt. Hooshmand Sharifi, who was in charge of my file, began shouting profanities at me, telling me to go back there and wait, because he was going to take care of the “guests!” first. I was 16 and did not at all understand what he was trying to say. He then forced my parent to leave, and then took me to the backroom. The room had a metal bed that I sat on. He told me that he would come back in a minute to “look after me!” I was crying. He returned and pushed me into a corner where there was a metal closet and began kicking me with his heavy boots. He then called a few other guards to assist him. He had not even taken any information from me at that point. Their first stage of hospitality was to create fear and terror.
6. I was then taken, in the same handcuffs, to the solitary section in Hesarak Investigation and shoved in a 2x3 meter room. It was a very dark room across the hall from a washroom. Lt. Sharifi twice sent someone to take me to him in the middle of the night. He said, “Many have come here, have given birth, and gone. Compared to them you’re nothing!” He then used two sets of handcuffs to lock my hands to the bed rod and my feet to the foot of the bed to restrict my movements. He then proceeded to lash me with what he said was a helicopter belt. I was in so much pain that I could not even see anything. He said, “I am beating you to bring pain to your body so that you can sleep well and talk like a chattering bird in the morning.” He then asked me a number of questions about the incident and my role in it. Whatever I said, he reacted by saying, “Stop this bullshit, you know very well this is all a bunch of nonsense.” He slapped and beat me so much that I said, “You tell me what you want me to write and I’ll write it!”

7. He then transferred me to the general section, in a 12 square meter room occupied by about 20 inmates, where we had to sleep on our sides in a row. Their charges varied from pick pocketing, aggression and adultery to murder. There were all kinds of offenders there. All the detainees were recent arrests and were going through the preliminary investigation process. No one was handcuffed and foot-braced like me. I was there for 28 days. Sometimes in the middle of the night the guards would wake us up announcing that the Lieutenant has come. Then, in the cold of the winter, they would pour water on the ground to deprive us of sleep. Also, there was a duct on the ceiling, supposedly to circulate the air, it was broken and allowed cold air into the room. I was the youngest of the detainees. There was one other person who was a year or two my senior. He was charged with killing his father, but was later acquitted.
8. During the 28 days, every time I was taken for interrogation Lt. Sharifi tore up my true answers, claiming they were lies. He said, "Write what I tell you!" During the interrogations, they would seat me on an old metal chair under which was a picnic-type gas stove. Every five minutes they would turn up the flame, to the point that as a result of burning heat, my cotton pants would stick to my body. I told him to just stop the flame and I would tell him anything he wanted to hear. He also had a hose filled with metal bits that he from time to time targeted under my feet, causing blisters.
9. All the interrogations were conducted by Lt. Sharifi and another man whose name I did not know. One night, at 2:00 after midnight, they called me from the detention centre and said that Lt. Sharifi wanted to see me. When I was taken to him, Lt. Sharifi asked me to undress. They opened my foot brace so that I could take off my pants. He then took me to the yard, in the middle of February. It was snowing but he handcuffed me to the flag pole and tied my feet to the pole so that I could not move. He then ordered one of his guards to bring a bucket of water. The guard brought the water, whispered an apology to me and said that he had no choice, and then poured the water on me. Lt. Sharifi then lashed me. Another day, the Lieutenant brought my co-accused, Ezzatollah Oroozzadeh (a.k.a. Millad), and as he was peeling oranges, said to me, "This is what I call a man, look at his statement!"
10. When I was initially taken to the Investigation Bureau, for the first 20 days I was not allowed visitation or even a phone call. Therefore, I did not see my family during that period. After 20 days, the officer in charge of my file, i.e., Lt. Hooshmand Sharifi, called me and said, "I know you were not involved in this incident, I can help you out. If you go to jail, you will have to pay a lot of money and your youth will be wasted in prison. I will give you visitation time and you tell your father to bring 7 million Tomans (US \$7,000), which I will then distribute among those who are investigating your case, so to wash you out of the case and let you free, and go about your life." He told me not to speak to anyone about this.
11. I called my father and asked him to come and visit me. I told him that they have asked for 7 million Tomans in order to change my charge to "manslaughter." My father almost lost it and

said, "Never in my life have I succumbed to bribing! They want to test you. You are not guilty, and I will get a lawyer for you to see to your acquittal. If I pay this money, it would mean that you had committed this murder." My father did not pay this money. But my co-accused, Millad, did. He told me that after we get transferred to the Correctional Facilities, his family will pay the 7 million Toman and that the deal was done. My co-accused and I had been transferred to the Investigation Bureau together, but he was released shortly after we were transferred to the Correctional Facilities. Their maltreatment of me began when we were transferred to the Investigation Bureau. At the Investigation Bureau, they wrote that according to eyewitnesses, I stabbed the victim three times.

12. When Lt. Sharifi did not get the money from me, he said, "No problem. Maybe you did not have the means, but I want to help you. We will take you to the crime location. You and I will reconstruct the scene here in my office tonight and rehearse it, so that tomorrow in front of the judge and the prosecutor, and the media and public observers, you can re-enact it." He then gave me a pen to use instead of the knife and said, "Show me what you did that day." I tried to explain to him, but he would not accept it. In any event, we rehearsed the incident once at the Investigation Bureau according to the wishes of Lt. Sharifi.
13. The next day, in the presence of the judge, we went to the crime location. There were people and special guards, and they filmed the re-enactment. The judge asked the kids if they had seen me stabbing Mazdak Khodadadian, the victim! Only certain kids, who benefited from such tales, said that I had inflicted three stab wounds. The re-enactment was done near the end of my detention, i.e., on day 27, at the Investigation Bureau.
14. At Branch 33 of the Public Court designated for youth crimes, presided over by Justice Loghman Kiapasha, every time I wanted to speak, the judge said that I had a lawyer and that when necessary my lawyer could speak on my behalf. Every time my lawyer wanted to speak, the judge said that it was not yet time for him to speak, and at that stage what mattered were the views of the Investigation Bureau. The judge told my lawyer, "After I render my decision, you can write up your statement of defense and put it in the file."

Transfer to the Correctional Facilities

15. After 28 days of detention at the Investigation Bureau in Hesarak, Karaj, on 4 March 2003, I was transferred to the correctional facility in Shahr-e Ziba in Tehran. Justice Kiapasha made a ruling that upon my arrival at the correctional facility I should be sent to solitary confinement for a month so I would forget what I believed to be true. I spent the first month in solitary confinement. Conditions at the correctional facility were good and we were treated well. I was the editor of an internal monthly journal.

Preliminary Court Order

16. The court decision was issued on 30 October 2003 by Justice Lughman Kiapasha of Branch 33 of the Public Courts in Karaj designated for youth crimes (now Branch 122) and it was given to me at the correctional facility. According to the preliminary court order, I was sentenced to 10 years imprisonment and *Qisas*. Even though the court's decision stated that the victim's mother had declared forgiveness and only asked for blood money, the court ordered for *Qisas* after 10 years of imprisonment, in order to uphold public interest. It provided, however, that should the victim's father pay the blood money to the victim's mother, the ruling would be performed.
17. I appealed the decision and the case was sent to the Supreme Court. On 8 June 2004, Branch 27 of the Supreme Court in Qom, presided over by Mohammad Reza Boroujerdi and his deputy Malek Azhdarsharifi, removed the 10 year imprisonment sentence but upheld the judgment of *Qisas*.
18. On 17 April 2005, the case was sent to Branch 13 of the Central Office for Reviewing Supreme Court Decisions, which rendered its decision on my case on 20 April 2005. The court order was confusing and contained a number of handwritten changes. It upheld the *Qisas*, claiming that the decision was rendered based on the judge's "knowledge of the crime." The knife they found on me was not bloody, but they claimed that blood does not remain on steel. Later on, the knife, as the exhibit in my file, disappeared and no one followed up on it.

Transfer to the Rajaie Shahr Prison in Karaj

19. After two and a half years at the correction facility in Tehran, given that I was then over 18, I was transferred to Rajaie Shahr prison in Karaj. At Rajaie Shahr, we were kept in a 5 x 3 sq. meter room. I was held in wings 2, and 4 in Rajaie Shahr. In the first few years we had nothing - no television, no fridge, no carpet - but later on even though we had these amenities through the shop, there were more emotional pressures. I worked in the prison's television department.
20. At that point, Mrs. Fahimeh Haj Mohammad Ali and Mr. Mohammad Mostafa'i were the lawyers on my case. At the same time, there was much pressure due to international interest in my case. My case, therefore, was transferred once again from Branch 13 of the Central Office for Reviewing Supreme Court Decisions to the office of Mr. Shahroudi, then the Head of Judiciary, for review and decision. On 13 October 2005, Mr. Shahroudi's Office reversed the *Qisas* sentence due to my young age at the time of the incident, and determined there was insufficient evidence on motivation to support a conviction of intentional murder. He then referred my case to the Special Investigation and Follow-up Unit of the Judiciary and wrote "The case must be resolved amicably by the Arbitration Council."

21. The Arbitration Council could not reach a resolution, but at the same time the Special Investigation and Follow-up Unit of the Judiciary concluded that the court order against me was not legally valid and must be further reviewed. The authorities then forwarded the file to Branch 74 of the Penal court in the Province of Tehran, headed by Aziz Mohammadi, but the branch did not accept the file, arguing that at the time of the incident the branch had not been established, therefore the case must be reviewed by the youth court. Despite the favorable views of Mr. Omidi who read my file at the youth court, my file was rejected because I was no longer a youth.

The Second Parallel Court

22. Finally, on 8 June 2010, the file was sent to Branch 112 of the Criminal Court in Karaj. That court, based on the report of the Coroner's Office which determined that the victim was killed as a result of one stab wound—an indirect one at that—acquitted me. No one appeared in court again to give evidence.

Release

23. I was released early in July 2010 on bail. Justice Gholami of Branch 112 of the Criminal Court of Karaj ordered that I should be looking into arranging for the payment of blood money in the sum of 70 million Tomans (US \$70,000). For a month, my relatives visited me. I then decided to continue my education, but I was told by the school that I should first do my military service. I went to the Office of Military Services and was told that first I had to submit my final order from the Supreme Court and proof of my absolute acquittal before I could deal with the military service situation. As such, I could neither continue my education nor do my military service. Hence, I went to work.

24. After a while, my lawyer, Mrs. Fahimeh Haj Mohammad Ali, approached the Supreme Court and was told that I should be focusing on arranging for the payment of blood money and that my file would soon be completed and sent to the court. Shortly after Nowruz of 1390 [March 2011], my mother called Branch 112 of the Criminal Court of Karaj and was told that the ruling had been once again changed by Branch 27 of the Supreme Court in Qom. It reinstated the ruling of *Qisas*. Therefore, I would be summoned to court again for the increase in sentencing. Increase in sentencing meant that I would have to remain in jail until the judgment is carried out.

25. In the judgment rendered by Justice Fazel and court advisor, Mr. Razaghi, on 9 February 2011 at Branch 27 of the Supreme Court, they relied on evidence given by witnesses that I had inflicted three stab wounds and that I had been waiting for Mazdak Khodadadian (the

victim) at the school entrance. However, school was over and we were leaving the school premises and I had not been waiting for anyone. None of the witnesses summoned by Branch 112 ever appeared in court, and the evidence provided by the Coroner's Office determined one stab wound, although previously the witnesses gave evidence to three stab wounds.

26. From that point on I was terrified every time our doorbell rang, because I had already spent 7 years, 7 months and 11 days in jail without having committed any crime. After all this, whom, and at what cost, could defend me?!