

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

**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

**Mandates of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; the Working Group on Arbitrary Detention; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

**UNITED NATIONS**  
**OFFICE OF THE UNITED NATIONS**  
**HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE**  
**HUMAN RIGHTS COUNCIL**

REFERENCE: UA G/SO 218/2 G/SO 214 (3-3-16) Iran (2011-16) G/SO 214 (33-27) G/SO 214 (53-24)  
IRN 11/2012

16 May 2012

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on extrajudicial, summary or arbitrary executions; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 16/9, 15/18, 17/2, 17/5, and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding **Behrouz Alakhani**, a 26 year old Kurdish citizen, sentenced to death following a trial which allegedly violated procedural safeguards.

According to the information received:

On 26 January 2009, security forces arrested Mr Alakhani on charges of cooperation with the Party of Free Life of Kurdistan (PJAK) and participation in the murder of the Khoy Prosecutor. He was held incommunicado for 19 months in a detention centre in Orumiyeh, before his transfer to Orumiyeh Central Prison, where he is currently being held. Mr Alakhani reportedly spent the first 19 months of his detention in solitary confinement and was apparently subjected to severe psychological and physical torture and other forms of ill-treatment. During his detention, he was reportedly deprived of access to a lawyer and contacts with family members. His family was able to visit him only after 23 months of his detention. He is currently being held in a ward that houses prisoners convicted for drug offences.

In December 2010, Mr Alakhani was brought before Orumiyeh Revolutionary Court, where he was found guilty of possessing and transporting arms, cooperating with the PJAK and participating in the murder of the Khoy

Prosecutor. The court reportedly sentenced Mr. Alakhani to ten years imprisonment for possessing and transporting arms and to the death penalty on charges of Moharebeh by obtaining weapons in the course of terrorist acts and the participation in the assassination of the prosecutor of Khoy. The trial apparently lasted only about ten minutes, without giving him the opportunity to defend. It is further alleged that the testimony used against the defendant to find him guilty was not sufficiently substantiated. In February 2012, a court-appointed lawyer allegedly appealed against the decision and the case was referred to the Supreme Court, pending final confirmation.

In light of the aforementioned allegations, we wish to draw to the attention of your Excellency's Government the international norms and standards applicable to the present case. The sentencing to death following a trial which did not comply with international human rights law, as well as on charges of Moharebeh, has been the subject of extensive communications to your Excellency's Government.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of the aforementioned person is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee his right not to be deprived arbitrarily of his liberty and to fair trial proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (UDHR) and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR).

With respect to the information that the procedural safeguards in the trial of Mr. Alakhani were not respected, in particular regarding the lack of access to a lawyer and the unsubstantiated character of the testimonies used against the defendant, we would like to draw the attention of your Excellency's Government to the United Nations Safeguards 4 and 5 Guaranteeing Protection of the Rights of those Facing the Death Penalty. They stipulate that capital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts, as well as after a legal process which gives all possible safeguards to ensure a fair trial, at least equal to those contained in article 14 of the International Covenant on Civil and Political Rights, including the right of anyone suspected of or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings.

Furthermore, we would like to reiterate that "in countries which have not abolished the death penalty", the "sentence of death may be imposed only for the most serious crimes" in accordance with Article 6(2) of the International Covenant on Civil and Political Rights (ICCPR), to which the Islamic Republic of Iran is a party. The United Nations Human Rights Committee has consistently interpreted Article 6(2) as excluding the imposition of the death penalty for offences that do not result in the loss of life. Similar conclusion has been reached in a report of the mandate on extrajudicial, arbitrary or summary executions to the Human Rights Council following a thorough and systematic review of the jurisprudence of all of the principal United Nations bodies charged with interpreting the "most serious crimes" provision (A/HRC/4/20, para. 53). Offences such as Moharebeh do not meet the threshold of "most serious crimes".

We would also like to refer your Excellency's Government to the Basic Principles on the Independence of the Judiciary, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Milan from 26 August to 6 September 1985 and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985, and in particular to the Principle 6, which states that “the principle of the independence of the judiciary entitles and requires the judiciary to ensure that judicial proceedings are conducted fairly and that the rights of the parties are respected.”

Furthermore, we would like to draw the attention of your Excellency's Government to the Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, and in particular to the Principle 8, which provides that “all arrested, detained or imprisoned persons shall be provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality. Such consultations may be within sight, but not within the hearing, of law enforcement officials.”

We should also like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the case of Mr. Alakhani. We would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth *inter alia* in the UDHR and the ICCPR.

We would also like to draw your Excellency's Government's attention to paragraph 6 of General Comment 20 of the Human Rights Committee. It states that prolonged solitary confinement of the detained or imprisoned person may amount to acts prohibited by article 7 [on the prohibition of torture and other cruel, inhuman or degrading treatment or punishment] of the International Covenant on Civil and Political Rights (adopted at the 44th session of the Human Rights Committee, 1992). In this regard, we would also like to draw your attention to article 7 of the Basic Principles for the Treatment of Prisoners, which provides that “efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged” (adopted by the General Assembly by resolution 45/111 of 14 December 1990).

In this context, we would like to draw the attention of your Excellency's Government to paragraph 1 of Human Rights Council Resolution 16/23 which “Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.”

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Alakhani are respected and, in the event that your investigations support or suggest the above allegations to be correct, the

accountability of any person responsible for 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 refrain from executing Mr. Alakhani and to safeguard his rights in compliance with the aforementioned 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 summary of the case accurate?
2. Please indicate the specific conduct Mr. Alakhani has been found guilty of and the legal basis for the death sentence imposed against him. Please indicate how this is compatible with international norms, specifically with the requirement in article 6(2) of the ICCPR.
3. Please provide detailed information on each stage of judicial proceedings and indicate how they comply with the requirement and guarantees of a fair trial as enshrined in article 14 of the ICCPR, United Nations Safeguards 4 and 5 Guaranteeing Protection of the Rights of those Facing the Death Penalty and principle 6 of the Basic Principles on the Independence of the Judiciary.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Ahmed Shaheed  
Special Rapporteur on the situation of human rights in the Islamic Republic of Iran

El Hadji Malick Sow  
Chair-Rapporteur of the Working Group on Arbitrary Detention

Gabriela Knaul  
Special Rapporteur on the independence of judges and lawyers

Christof Heyns  
Special Rapporteur on extrajudicial, summary or arbitrary executions

Juan E. Méndez  
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or  
punishment