

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

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

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

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

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

REFERENCE: UA G/SO 218/2 G/SO 214 (3-3-16) Iran (2011-16) Minorities (2005-4) G/SO 214 (33-27) G/SO 214 (53-24)  
IRN 5/2014

31 March 2014

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; Special Rapporteur on extrajudicial, summary or arbitrary executions; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 24/7, 17/2, 22/23, 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 the imminent execution of two individuals Mr. **Ali Chebeishat** and Mr. **Sayed Khaled Mousawi**.

According to the information received:

In September 2013, Mr. Ali Chebeishat and Mr. Sayed Khaled Mousawi, both members of the Ahwazi Arab minority community in the Islamic Republic of Iran and members of the Shush Cultural Institute, were sentenced to death by the Ahwaz Revolutionary Court on charges of Moharebeh (enmity against God) for their alleged roles in the explosions of a gas pipeline and a train transporting oil in October 2012. A third man, Mr. **Salman Chayani** was sentenced to 25 years in prison, in the city of Yazd, under similar charges.

Arrested on 10 November 2012, near the city of Shush in Khuzestan Province, Messrs. Chebeishat, Mousavi and Chayani were allegedly held incommunicado for seven months and were subjected to severe torture. They were reportedly denied access to lawyer and were forced to confess to the crime. In particular, Mr. Chebeishat was allegedly severely beaten and psychologically tortured for months

while he was detained without charges, to the point that he required medical care outside his place of detention for broken ribs. It was also reported that the forms of torture and ill-treatment that he was subjected to, included the use of explosive firecrackers at close range. Moreover, his sons, who had briefly been arrested as well, were allegedly also tortured within hearing distance from Mr. Chebeishat, in order to compel the defendant to confess.

In November 2013, televised confessions of Messrs. Chebeishat, Mousawi and Chayani, allegedly recorded in the summer of 2013 prior to the trial itself, were broadcasted. In the video, where they allegedly confessed in front of family members, they admitted to having taken part in 20 alleged operations without any further details. Until their sentencing in September 2013, Iranian media reportedly described the gas pipeline explosion as an accident. The explosion reportedly did not lead to any deaths.

On the evening of 18 March 2014, family members of both Mr. Chebeishat and Mr. Mousawi were reportedly informed by prison and/or intelligence officials that they had been transferred from Dezfoul Prison to an undisclosed location, in preparation for their executions.

Without making a judgment as to the accuracy of the information made available to us, we would like to express our concerns regarding the high risk of imminent execution and the imposition of the death penalty on Messrs. Ali Chebeishat and Sayed Khaled Mousawi, after proceedings which did not comply with international human rights standards, including the “most serious crimes” provision and the right to a fair trial and due process guarantees. We are also concerned about the allegations of torture and confession extracted under duress from all the three defendants.

In view of the irreversibility of the punishment of the death penalty, we urge your Excellency’s Government to take all steps necessary to prevent the execution of Messrs. Ali Chebeishat and Sayed Khaled Mousawi, which, if carried out, would be inconsistent with acceptable standards of international human rights law. We call upon your Excellency’s Government not to execute them and to commute without delay the death sentences imposed against them.

In this context, we wish to refer to article 6(1) of the International Covenant on Civil and Political Rights (ICCPR) that the Islamic Republic of Iran ratified on 24 June 1975, stipulating that “Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life”. Although international law does not prohibit the death penalty, it nonetheless provides that it must be regarded as an exception to the fundamental right to life, and must as such be applied in the most restrictive manner.

We would like to respectfully remind your Excellency’s Government 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 ICCPR.

In interpreting article 6(2) of the Covenant, the United Nations Human Rights Committee has consistently rejected the imposition of a death sentence for offences that do not result in the loss of life, finding only cases involving murder not to raise concerns under the most serious crimes provision. By consequence, it is a breach of international human rights law to impose the death penalty for alleged offences of Moharebeh that do not involve the crime of murder.

Furthermore, only full respect for stringent fair trial and due process guarantees distinguishes capital punishment as permissible under international law from a summary execution, which by definition violates international human rights law standards. Article 5 of the United Nations Safeguards Protecting the Rights of those Facing the Death Penalty provides that capital punishment may only be carried out pursuant to a final judgment rendered by a competent court 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 ICCPR. Safeguard 4 further stipulates 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”.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of the abovementioned persons is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of their liberty and to fair 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 ICCPR.

Concerning the alleged broadcast of “confessions” on TV prior to the beginning of the trial, we would like to refer your Excellency's Government to article 14(2) of the ICCPR, which states: “Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.” Moreover, article 14(3)(g) of the Covenant clearly states that: “In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (g) Not to be compelled to testify against himself or to confess guilt.”

Regarding the allegations of torture and other ill-treatment, 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.”

Regarding allegations that confessions were extracted under torture and subsequently used during proceedings, we would like to recall that paragraph 7c of Human Rights Council Resolution 16/23 urges States “To ensure that no statement established to have been made as a result of torture is invoked as evidence in any

proceedings, except against a person accused of torture as evidence that the statement was made, and calls upon States to consider extending that prohibition to statements made as a result of cruel, inhuman or degrading treatment or punishment, recognizing that adequate corroboration of statements, including confessions, used as evidence in any proceedings constitutes one safeguard for the prevention of torture and other cruel, inhuman or degrading treatment or punishment

In this context, we would also like to refer your Excellency's Government to the Guidelines on the Role of Prosecutors, 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 guideline 16, which states: "When prosecutors come into possession of evidence against suspects that they know or believe on reasonable grounds was obtained through recourse to unlawful methods, which constitute a grave violation of the suspect's human rights, especially involving torture or cruel, inhuman or degrading treatment or punishment, or other abuses of human rights, they shall refuse to use such evidence against anyone other than those who used such methods, or inform the Court accordingly, and shall take all necessary steps to ensure that those responsible for using such methods are brought to justice."

Regarding the allegation that the above mentioned persons did not have access to a lawyer, we would like to refer your Excellency's Government to article 14(3) of the ICCPR, which states: "In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing; (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it."

The right to be assisted by a lawyer is also set forth in 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, in particular in the following principles:

- Principle 1, which states: "All persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings";
- Principle 5, which states: "Governments shall ensure that all persons are immediately informed by the competent authority of their right to be assisted by a lawyer of their own choice upon arrest or detention or when charged with a criminal offence.";
- Principle 7, which states: "Governments shall further ensure that all persons arrested or detained, with or without criminal charge, shall have prompt access to a lawyer, and in any case not later than forty-eight hours from the time of arrest or detention."; and

- Principle 8, which states: “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.”

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency’s Government to safeguard the rights of the above-mentioned persons in compliance with the above 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 provide information concerning the legal grounds for the arrest and detention of the aforementioned individuals and how these measures are compatible with international norms and standards.
3. Please indicate the specific crime that Messrs. Ali Chebeishat and Sayed Khaled Mousawi have been found guilty of and the legal basis of the death sentences imposed against them. Please indicate how this is compatible with international human rights law, specifically with the requirement in article 6(2) of the ICCPR that only the crime of intentional killing may be punishable by death.
4. Please provide detailed information on each stage of the judicial proceedings in all three cases, and indicate how they comply with the requirement and guarantees of a fair trial and due process as enshrined inter alia in article 14 of the ICCPR. Please provide details on the evidence used to convict and sentence Messrs. Ali Chebeishat and Sayed Khaled Mousawi to death.
5. Please provide details, and where available the results, of any inquiries, medical examination, and judicial or other inquiries carried out in relation to the allegations of torture and ill-treatment against all three defendants.

We undertake to ensure that your Excellency’s Government’s response will be available in the report we will submit to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned persons are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the

alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

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

Mads Andenas  
Chair-Rapporteur of the Working Group on Arbitrary Detention

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Gabriela Knaul  
Special Rapporteur on the independence of judges and lawyers

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

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