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

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**HIGH COMMISSIONER FOR HUMAN RIGHTS**

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

**Mandates of the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Special Rapporteur on violence against women, its causes and consequences; and the Working Group on the issue of discrimination against women in law and in practice.**

REFERENCE: AL G/SO 214 (56-23) Iran (2011-16) G/SO 214 (33-27) G/SO 214 (53-24) G/SO 214 (89-15)  
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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on freedom of religion or belief; Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Special Rapporteur on violence against women, its causes and consequences; and Chairperson-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice pursuant to Human Rights Council resolution 22/20, 22/23, 17/5, 16/23, 16/7, and 15/23.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the revised Islamic Penal Code (IPC), which has been approved by both the Majlis (Parliament) and the Guardian Council in May and subsequently signed on 1 June 2013 by the President of the Islamic Republic of Iran. The revised IPC provides inter alia for the use of the death penalty for a series of non-violent acts, retains stoning as punishment and also incorporates diverse corporal punishments inter alia, amputation, flogging and crucifixion.

The reported concerns regarding the provisions of the revised IPC are summarized in four parts: first, the imposition of the death penalty for non-violent crimes that do not meet the threshold of the "most serious crimes" standards under international human rights law as well as the definition of Moharebeh (enmity against God) and Fisad-fil-Arz (corruption on earth) under the revised IPC; second, stoning as punishment; third, discrimination against women and religious minorities; and fourth, the imposition of death sentences against juvenile offenders.

According to information received:

*1. Provisions on the imposition of the death penalty for offences that do not meet the threshold of the “most serious crimes” standards under international human rights law*

Article 262 of the revised IPC stipulates that “any person that insults the Prophet of Islam or other Great Prophets shall be considered as Sabb-al-Nabi and punished by hanging. However, if the blasphemy is committed out of ignorance, negligence, oversight, anger, being drunk, hear says or without attention to the meaning of the sentences, it will not be considered Sabb-al-Nabi. In this situation, the person will be sentenced up to 74 lashes.”

Article 234 provides that sodomy is a Hud crime and is punishable by the death penalty or flogging. In cases where the alleged offender is married or the act of committing the crime involves rape and force, this offence is punishable by the death penalty. In the other cases, it is punishable by 100 lashes. However, in cases where the alleged offender is non-Muslim and the reported victim is Muslim, it is provided that the crime is punishable by execution by hanging.

With regard to the alleged crime of Moharebeh, Article 279 defines the offence of Moharebeh (enmity against God) in the following terms: “To draw weapon on the life, property or chastity of people or to cause terror as it creates the atmosphere of insecurity.” Article 281 further expands the definition by adding traffickers, thieves and bandits that resort to weapons and disturbs public and road security. Article 282 establishes the sanctions that can be imposed on those guilty of Moharebeh: execution, crucifixion, amputation of the right hand and left foot, and exile. According to article 283, a judge can impose any of the aforementioned penalties.

It is further reported that Article 286 defines Fisad-fil-Arz (corruption on earth) as a crime against national and international security of the State, spreading lies, disruption of the economic system of the State, destruction and terror, establishing or managing prostitution or corruption centres which cause severe disruption to public order, insecurity and damages to public and private property and people, use of toxic or other dangerous substances. The sentence provided for offences of Fisad-fil-Arz is execution by hanging.

In accordance with Article 278, the person found guilty of theft should be punished by amputation of the four fingers of his /her right hand in cases of the first commission of this crime. In cases of repetition of the crime, the amputation of the left leg should be imposed as punishment. On the third instance of commission of this offence, the convict will be sentenced to life imprisonment. On the fourth instance of commission of the crime, it is stipulated that the individual is sentenced to the death penalty, even if the crime occurs in prison.

*2. Provisions on stoning as punishment*

Article 225 of the revised IPC prescribes “stoning” as a punishment for people convicted of adultery. The article explicitly provides that “punishment for adultery is

Rajam (stoning). If the possibility of carrying out the stoning verdict does not exist, the sentencing judge may order execution by hanging pending final approval of the Chief Justice. Otherwise, the convicts will be subjected to 100 lashes”. However, details about the method of execution by stoning are omitted. Additionally, the revised IPC prescribes 100 lashes for unmarried persons convicted of adultery. Punishment by stoning does not appear to be mandatory. However its incorporation and hence the fact of enabling judges to issue sentences with such a punishment raises serious concerns.

### *3. Concerns regarding provisions discriminating against women and religious minorities*

The provisions of the revised IPC reportedly appear to discriminate against women and non-Muslim Iranians. For instance, it is reported that a woman’s testimony in a court of law is still regarded as half that of a man’s, as well as woman’s life is valued as half that of a man’s.

Furthermore, Article 550 stipulates that Diya (blood money) for women constitutes half that of a man.

Article 554 provides that Diya for religious minorities that are recognized by the Constitution be determined at the same value as the Diya for Muslims. This article however excludes religions that are not recognized by the Constitution.

Article 310 states that “qisas (retribution in kind) shall be delivered only if the victim comes from the same religion as the perpetrator”. However, in cases where the victim is a Muslim, the fact that the believed murderer is a non-Muslim does not prevent the qisas.

### *4. Provisions regarding the death sentences against juvenile offenders*

Article 147 sets the age of criminal responsibility to 9 years old for girls and 15 years old for boys.

Article 91 of the revised IPC stipulates that juveniles under 18 years old, who commit offences under the category of Hudud and Qisas, should not be sentenced to death, if the court decides, through forensic evidence, that the offender did not have the adequate mental maturity and the ability to reason.

While we do not wish to prejudge the accuracy of these allegations, we wish to express concern that the revised Islamic Penal Code contains provisions that are in contravention of international human rights law. We wish to express particular concern that the revised IPC provides for the imposition of the death penalty against juvenile offenders, as well as for crimes which are not considered as most serious crime under international human rights law. Further concern is expressed that the revised IPC retains stoning as punishment and discriminates against women and religious minorities.

In this context, we would like to draw the attention of your Excellency's Government that in paragraph 1 of its Resolution 16/23, the Human Rights Council "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."

With regard to stoning and hanging as methods of execution we would like to bring to the attention of your Excellency's Government that in its resolution 1996/15, paragraph 7, the Economic and Social Council urged States to effectively apply the Standard Minimum Rules for the Treatment of Prisoners in order to keep to a minimum the suffering of prisoners under sentence of death and to avoid any exacerbation of such suffering.

In this context, we would like to bring to the attention of your Excellency's Government that in his interim report (A/67/279), the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment observes that stoning as a method of execution violates the prohibition of torture and cruel, inhuman and degrading treatment or punishment. In particular, in paragraph 31 of his report the Special Rapporteur concludes that "the jurisprudence of regional human rights bodies and national judiciaries leaves no doubt that death by stoning constitutes torture and is, beyond dispute, a violation of the prohibition of cruel, inhuman and degrading treatment. In *Jabari v. Turkey* (2000), the European Court of Human Rights held that death by stoning was a violation of the prohibition on torture and that the possibility of being stoned to death would make deportation of the complainant to the Islamic Republic of Iran contrary to article 3 of the European Convention. At the United Nations, in its resolutions 2003/67, para. 4 (i); 2004/67, para. 4 (i); and 2005/59, paragraph 7(i), the Commission on Human Rights described persistently the execution by stoning as a particularly cruel or inhuman means of execution.

Furthermore, in paragraph 33 of his report, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment argues that hanging as a method of execution may violate the prohibition of torture and cruel, inhuman and degrading treatment. In regard, the United Nations High Commissioner for Human Rights has suggested that hanging, as a matter of law, is contrary to article 7 of the Covenant. In 2007, the High Commissioner submitted an *amicus curiae* application to the Iraqi Supreme Criminal Tribunal because of the real risk that the method of execution would itself amount to inhuman or degrading treatment or punishment. Acknowledging that the prohibition of cruel, inhuman and degrading treatment was a core provision of international human rights law, the High Commissioner found that the executions (by hanging), were so flawed as to amount, in their implementation, to cruel, inhuman and degrading punishment.

With regard to flogging, crucifixion and limb amputation, as the methods of punishment, we would like to draw the attention of your Excellency's Government to

paragraph 7a of Resolution 8/8 of the Human Rights Council reminded Governments that corporal punishment, including of children, can amount to cruel, inhuman or degrading punishment or even to torture. We would also like to draw your Government's attention to the report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to the 60th session of the General Assembly, in which the Special Rapporteur, with reference to the jurisprudence of UN treaty bodies, concluded that any form of corporal punishment is contrary to the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. The Special Rapporteur also noted that States cannot invoke provisions of domestic law to justify violations of their human rights obligations under international law, including the prohibition of corporal punishment and called upon States to abolish all forms of judicial and administrative corporal punishment without delay (A/60/316, para.28). Both the Human Rights Committee and the Committee against Torture have called for the abolition of judicial corporal punishment. In paragraph 5 of General Comment No. 20 (1992), the Human Rights Committee stated that the prohibition of torture and ill-treatment must extend to corporal punishment, including excessive chastisement ordered as punishment for a crime of as an educative or disciplinary measure.

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), ratified by the Islamic Republic of Iran on 24 June 1975. 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. 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 Sabb-al-Nabi, Hud, Moharebeh, Fisad-fil-Arz or repeated theft do not meet the threshold of "most serious crimes" under international human rights law. By consequence, any death sentence imposed for such crimes, as well as any legal provision providing for the death penalty for such crimes, are in contravention of international human rights law.

Furthermore, we would like to draw your Excellency's Government's attention to the fact that any judgments, in any instances, imposing the death sentence and executions of juvenile offenders are incompatible with the international legal obligations undertaken by your Excellency's Government under various instruments. Article 37(a) of the Convention on the Rights of the Child (CRC), that the Government of the Islamic Republic of Iran ratified on 13 July 1994, expressly provides that capital punishment shall not be imposed for offences committed by persons below eighteen years of age. In addition, article 6(5) of the ICCPR provides that the death penalty shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.

The Committee on the Rights of the Child has observed in its General Comment No. 10 on children's rights in juvenile justice that "Article 37 (a) of CRC reaffirms the internationally accepted standard (see for example article 6 (5) of ICCPR) that the death penalty cannot be imposed for a crime committed by a person who at that time was under eighteen years of age. It means that a death penalty may not be imposed for a crime committed by a person under eighteen regardless of his/her age at the time of the trial or sentencing or of the execution of the sanction."

We would like to bring to your Excellency's Government's attention paragraph 48 of the General Comment 34, in which the Human Rights Committee observes that "prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant, except in the specific circumstances envisaged in article 20, paragraph 2, of the Covenant. Such prohibitions must also comply with the strict requirements of article 19, paragraph 3, as well as such articles as 2, 5, 17, 18 and 26. Thus, for instance, it would be impermissible for any such laws to discriminate in favour of or against one or certain religions or belief systems, or their adherents over another, or religious believers over non-believers. Nor would it be permissible for such prohibitions to be used to prevent or punish criticism of religious leaders or commentary on religious doctrine and tenets of faith."

With regard to the discriminatory provisions of IPC, we would like to draw the attention of your Excellency's Government to article 2(1) of ICCPR "Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." Furthermore, article 26 of ICCPR provides that "all persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

Also we would like to draw your Excellency's Government's attention to the Human Rights Council's Resolution 16/18 "Combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief" (A/HRC/RES/16/18), which was adopted by consensus. In its paragraph 6(d), the Human Rights Council calls upon all States "to make a strong effort to counter religious profiling, which is understood to be the invidious use of religion as a criterion in conducting questionings, searches and other law enforcement investigative procedures."

Furthermore, in paragraph 8 of its recent Resolution 22/20, the Human Rights Council (A/HRC/RES/22/20) "urges States to step up their efforts to promote and protect freedom of thought, conscience and religion or belief, and to this end: (a) to ensure that their constitutional and legislative systems provide adequate and effective guarantees of

freedom of thought, conscience and religion or belief to all, without distinction, by, inter alia, the provision of access to justice and effective remedies in cases where the right to freedom of thought, conscience and religion or belief, or the right to freely practise one's religion, including the right to change one's religion or belief, is violated; (m) to prevent any distinction, exclusion, restriction or preference based on religion or belief that impairs the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis, and to detect signs of intolerance that may lead to discrimination based on religion or belief.”

We would like to bring your Excellency's Government's attention to the Convention on the Elimination of All Forms of Discrimination against Women and article 2: States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake: (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle; (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women; (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination; (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation; (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise; (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women; (g) To repeal all national penal provisions which constitute discrimination against women.

On the long-term, we would also encourage your Excellency's Government to engage in a comprehensive review of the provisions of the IPC with a view to removing all provisions that discriminate against, or have a discriminatory impact on women, including those regarding adultery. We also like to take this opportunity to inform your Excellency's Government that we consider that the offence of adultery, though it may constitute a matrimonial offence, should not be regarded as a criminal offence punishable by death, stoning or imprisonment. It is our view that criminalization of sexual relations between consenting adults should be regarded as an interference with the privacy of the individuals concerned in violation of article 17 of the ICCPR which provide that “no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, not to unlawful attacks on his honour and reputation”. Furthermore, such review should render domestic legislation in conformity with the norms of the ICCPR, including its article 6 (2) on the imposition of the death penalty. We further encourage your Excellency's Government to consider becoming a State party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

We would like to bring to your Excellency's Government's attention article 4 (c & d) of the United Nations Declaration on the Elimination of Violence against Women, which notes the responsibility of States to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons. To this end, States should develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence. Women who are subjected to violence should be provided with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm that they have suffered. States should, moreover, also inform women of their rights in seeking redress through such mechanisms.

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:

1. Are the facts alleged in the summary of the case accurate?
2. Please inform whether any legal analysis has been undertaken in the Islamic Republic of Iran to examine the compatibility of the revised IPC with international human rights law, in particular those with regard to the imposition of the death penalty in countries which have not yet abolished the capital punishment. Please provide details, and if available results, of such an analysis.
3. Please explain how the aforementioned legal provisions of the revised IPC are compatible with international human rights law standards regarding the imposition of the death penalty for most serious crimes, namely for intentional killing only, as well as the prohibition of the capital punishment against juvenile offenders.
4. Please explain in details how articles 550, 554 and 310 of the revised IPC are compatible with international human rights law standards, which prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
5. Please explain in details how the aforementioned provisions, which prescribe flogging, crucifixion and limb amputation, as the methods of punishment, as well as stoning and hanging as the methods of execution, are compatible with international human rights law standards, which prohibit torture and other cruel, inhuman or degrading treatment or punishment.

We would appreciate a response within sixty days. Your Excellency's Government's response will be made available in a report to the Human Rights Council for its consideration.

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

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