

**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 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 214 (3-3-16) Iran (2011-16) G/SO 214 (33-27) G/SO 214 (53-24)  
IRN 8/2012

18 April 2012

Excellency,

We have the honour to address you in our capacity as 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 General Assembly resolution 60/251 and to Human Rights Council resolutions 17/2, 16/9, 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 Mr. **Aref Hamidian**, sentenced to death on charges of drug trafficking, following a trial which reportedly violated procedural safeguards.

According to the information received:

On 17 April 2011, Mr. Aref Hamidian, who belongs to the Ahwazi Arabs community, was arrested by security forces in the city of Ahwaz. He spent six months in a detention facility run by the Ministry of Intelligence in Ahwaz, where he was allegedly tortured and forced to confess to a crime he did not commit. His family had no knowledge of his whereabouts, until he was transferred to Karavan prison in Ahwaz.

Around November 2011, the primary court in Ahwaz sentenced him to death for drug trafficking. The sentence was upheld by both the Appeal Court and the Supreme Court. On 2 April 2012, the family of Mr. Aref received official notification from the Supreme Court informing them of a scheduled public execution of Mr. Aref on 20 April 2012. Mr. Aref was however not informed about his scheduled execution. Mr. Aref denied involvement in drug trafficking

and believes that his arrest was connected to his political and human rights activities.

Furthermore, Mr. Aref, who is an Arab speaker, was not provided an interpreter during his trial conducted in Farsi and also his family was not allowed to be present in the court. He further alleges that no witness or evidence was presented in the court against him. It is further alleged that the family of Mr. Aref was threatened not to speak with any human rights organisations or media.

We are concerned that the execution of Mr. Aref may be carried out, following a trial which violated procedural safeguards and after having been subjected to torture while in custody.

In view of the information received, we call upon your Excellency's Government not to proceed with the execution of Mr. Aref.

In light of the above 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 on charges of drug trafficking and following a trial which did not comply with international human rights law has been the subject of extensive communications to your Excellency's Government.

Without prejudging the accuracy of these allegations, we would like to again stress 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 of the International Covenant on Civil and Political Rights (ICCPR) which the Islamic Republic of Iran ratified on 24 June 1975. In interpreting article 6(2) of the Covenant, the Human Rights Committee has consistently rejected the imposition of a death sentence for offences that do not result in the loss of life. In the Committee's view, drug-related crimes do not meet the threshold of the "most serious crimes" (for example, CCPR/CO/69/KWT, 27 July 2000, para. 8; please also refer to Advance Unedited Version, Concluding Observations of the Human Rights Committee: Islamic Republic of Iran, 3 November 2011, CCPR/C/IRN/CO/3, para. 12).

In accordance with the Safeguards guaranteeing protection of the rights of those facing the death penalty, "[c]apital 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," and "[c]apital punishment may only be carried out pursuant to a final judgement rendered by a competent court after 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..." (Safeguards 4 and 5).

In the case of Mr. Aref, we are concerned that the above safeguards have not been complied with. In light of the allegations of lack of possibility of effective preparation of his defence and absence of any evidence, the allegation of forced confession under torture and the failure by the authorities to provide an interpreter, we wish to recall that in the determination of any criminal charge against him, everyone shall be entitled, according to Article 14(3) ICCPR:

“(a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;

(b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;

(f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;

(g) Not to be compelled to testify against himself or to confess guilt.”

In the event the above allegations are corroborated and, bearing in mind that any miscarriage or failure of justice in the implementation of the death penalty is irreversible and irreparable, we would respectfully request your Excellency’s Government to have Mr. Aref’s case retried in full compliance with international norms enshrined in the right to a fair trial. We would further request your Excellency’s Government to take all necessary steps to avoid executions which would be inconsistent with accepted standards of international human rights law.

Furthermore, we should like to appeal to your Excellency’s Government to seek clarification of the circumstances regarding the case of the person named above. 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 Universal Declaration of Human Rights (UDHR) and the ICCPR.

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 would also like to draw your Excellency’s Government’s attention to article 15 of the Convention against Torture provides that, “Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.” We also recall that paragraph 6c of Human Rights Council resolution 8/8 of 2008 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”. In addition to being a crucial fair trial guarantee, this principle is also an essential aspect of the non-derogable right to physical and mental integrity set forth, *inter alia*, in Article 7 of the International Covenant on Civil and Political Rights.

We would further like to draw your Excellency’s Government’s attention to 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 Excellency’s Government’s attention to my report to the 60th session of the General Assembly, in which the Special Rapporteur on Torture, 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. We 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 (para.28 A/60/316). 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 urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned person 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.

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. Aref and to safeguard the rights of the above-mentioned person 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 above summary of the case accurate?
2. Please indicate the specific conduct Mr. Aref has been found guilty of and the legal basis of 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.

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.

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

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