

**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 promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; 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 Independent Expert on minority issues; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; 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 214 (67-17) Assembly & Association (2010-1) G/SO 214 (3-3-16) Iran (2011-16) Minorities (2005-4) G/SO 214 (33-27) Terrorism (2005-4) G/SO 214 (53-24)  
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25 January 2013

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; Independent Expert on minority issues; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 16/4, 15/21, 17/2, 19/12, 16/6, 17/5, 15/15, 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 **alleged imminent execution of five members of the Ahwazi Arab minority in the Islamic Republic of Iran – Messrs. Mohammad Ali Amouri, Sayed Jaber Alboshoka, Sayed Mokhtar Alboshoka, Hashem Sha'bani Amouri, and Hadi Rashidi (or Rashedi), who are reportedly at risk of imminent execution in the Islamic Republic of Iran.**

We draw the attention of your Excellency's Government to our previous communication relating to the said persons of 31 July 2012. A reply to this communication is still awaited from your Excellency's Government.

According to the information received:

The families of the five men, Mr. Mohammad Ali Amouri, Mr. Sayed Jaber Alboshoka and his brother Mr. Sayed Mokhtar Alboshoka, and teachers Mr.

Hashem Sha'bani Amouri, and Mr. Hadi Rashidi (or Rashedi) were informed on 9 January 2013 that their death sentences, imposed on 7 July 2012 by Branch 2 of the Ahwaz Revolutionary Court, have been upheld by Branch 32 of the Supreme Court. The verdict has reportedly been sent to the Office for the Implementation of Sentences and the sentence could therefore be carried out at any time.

The men were reportedly convicted of charges including “enmity against God and corruption on earth”, “gathering and colluding against State security” and “spreading propaganda against the system”. The men were previously held in Karoun Prison in the city of Ahvaz, Khuzestan province, and were allegedly denied access to a lawyer and their families for the first nine months of their detention. It is reported that they have now been moved from this facility on 18 January 2013 and that their current location is unknown. It is furthermore alleged that all five men have been tortured or otherwise ill-treated in detention.

The men were arrested in their homes in spring 2011 in advance of the sixth anniversary of widespread protests by Ahwazi Arabs in April 2005. Mr. Mohammad Ali Amouri was reportedly tortured during his first seven months of detention. Mr. Hadi Rashidi was hospitalized after his arrest, allegedly as a result of torture or other ill-treatment, and is said to be in poor health. Sayed Jaber Alboshoka's jaw and teeth were allegedly broken during his detention and Sayed Mokhtar Alboshoka has allegedly experienced depression and memory loss as a result of torture or other ill-treatment. It is further alleged that boiling water was poured on Mr. Hashem Sha'bani Amouri.

Information received alleges that those convicted were detained and tried on the basis of their activities connected to their status as belonging to the Ahwazi Arab minority in Iran. The five men are reportedly members or co-founders of the cultural institute of Al-Hiwar, an organization which organized events in the Arabic language including conferences, educational and art classes, and poetry recital gatherings in Ramshir, south-western Iran. Many of Al-Hiwar's members have reportedly been arrested since the institute was banned in May 2005.

Without making a judgment as to the accuracy of the information made available to us, we would like to reiterate our concerns as expressed in the previous communication that the execution of Messrs. Mohammad Ali Amouri, Sayed Jaber Alboshoka, Sayed Mokhtar Alboshoka, Hashem Sha'bani Amouri, and Hadi Rashidi (or Rashedi) would constitute a violation of international human rights law. As mentioned in the previous communication, we are concerned that the death penalty may be imminently imposed against the said persons on charges of crimes that are not considered as most serious crimes under international human rights law, and following a trial which did not comply with international human rights law provisions regarding fair trial and due process. We are also concerned about the information that the said persons have been reportedly subjected to torture or ill-treatment. Finally, we are concerned that the charges against these persons may be related to the exercise of their rights to freedom of opinion and expression, peaceful assembly and association.

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. Mohammad Ali Amouri, Sayed Jaber Alboshoka, Sayed Mokhtar Alboshoka, Hashem Sha'bani Amouri, and Hadi Rashidi (or Rashedi), 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 Messrs. Mohammad Ali Amouri, Sayed Jaber Alboshoka, Sayed Mokhtar Alboshoka, Hashem Sha'bani Amouri, and Hadi Rashidi (or Rashedi), and to commute without delay the death sentences imposed against them.

As stated in our previous letter of 31 July 2012, we would like to respectfully reiterate to 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 International Covenant on Civil and Political Rights (ICCPR), that the Islamic Republic of Iran ratified on 24 June 1975. 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. Offences such as "moharebeh" and "efsad-e fel arz" do not meet the threshold of "most serious crimes".

Furthermore, regarding the information on denial of access of the defendants to their lawyers and families, as well as on the lack of transparency of the judicial proceedings and on the evidence used, we would like to refer to the United Nations Safeguards Protecting the Rights of those Facing the Death Penalty. In particular, Safeguard 5 provides that "Capital punishment may only be carried out pursuant to a final judgment 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, 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." Safeguard 4 further states 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".

In that context, we would further like to draw the attention of your Excellency's Government to the report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (A/63/223, paragraph 43), in which the Special Rapporteur emphasizes that "any trial for terrorism offences which could lead to the imposition of the death penalty, as well as all stages before the trial and the consideration of appeals on matter of fact and law after the trial, must rigourously comply with all aspects of a fair trial."

In this context, we would also like to refer your Excellency's Government to article 14(3) of the International Covenant on Civil and Political Rights, 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 defense and to communicate with counsel of his own choosing."

In its General Comment No. 32, the Human Rights Committee further indicated that: “‘Adequate facilities’ must include access to documents and other evidence; this access must include all materials that the prosecution plans to offer in court against the accused or that are exculpatory.”

In that context, the Special Rapporteur on the promotion and protection of human rights while countering terrorism notes in his report (A/63/223, para. 45 (g)) that “[a]ny delay or exclusion of legal representation on security grounds must not be permanent, must not prejudice the ability of the person to answer the case”.

In addition, we would 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 at 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 principle 6, which states: “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.”

Moreover, we would like to refer 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. In particular, we would like to highlight 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.”; and principle 21, which states: “It is the duty of the competent authorities to ensure lawyers access to appropriate information, files and documents in their possession or control in sufficient time to enable lawyers to provide effective legal assistance to their clients. Such access should be provided at the earliest appropriate time.”

Furthermore, 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 Government's attention to paragraph 6b of Human Rights Council Resolution 8/8, which urges States “To take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment promptly and impartially examined by the

competent national authority, to hold those who encourage, order, tolerate or perpetrate acts of torture responsible, to have them brought to justice and severely punished, including the officials in charge of the place of detention where the prohibited act is found to have been committed, and to take note in this respect of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Principles) as a useful tool in efforts to combat torture;”.

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 ICCPR.

In his report on the protection of human rights and fundamental freedoms while countering terrorism (A/63/223, para. 31), the Special Rapporteur on the promotion and protection of human rights while countering terrorism notes that article 14(3)(g) of the International Covenant on Civil and Political Rights is also invoked where “methods violating the provisions of article 7 (torture and any other inhumane treatment) are used in order to compel a person to confess or testify.” In that report, the Special Rapporteur further stresses that the practical implementation of article 14 (3)(g) of the Covenant is dependent on safeguards and procedural rules that ban in law and practice statements made involuntarily (A/63/223, para. 32).

We draw the attention of your Excellency’s Government to international standards relevant to the protection and promotion of the rights of minorities. Article 27 of the ICCPR establishes that “In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.” The 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities requires under Article 1.1 that “States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity.” Article 2.4 states that “Persons belonging to minorities have the right to establish and maintain their own associations.” Article 2.5 requires that “Persons belonging to minorities have the right to establish and maintain, without any discrimination, free and peaceful contacts with other members of their group...” In addition, Article 4.1 of the Declaration establishes that: “States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law.”

We would also like to refer to article 21 of the ICCPR, which provides that “[t]he right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interest of national security of public safety,

public order (ordre public), the protection of public health or morals of the protection of the rights and freedoms of others.

Similarly, we would like to recall article 22 of the ICCPR, which provides that “[e]veryone shall have the right to freedom of association with others...”.

In this connection, we would like to refer to Human Rights Council resolution 21/16, and in particular operative paragraph 1 that “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

We would also like to appeal to your Excellency’s Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the ICCPR, which provides that “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”

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 said 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 indicate the specific crimes that the five persons mentioned have been found guilty of and the legal basis of the death sentence 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.
3. Please provide detailed information on each stage of the judicial proceedings and indicate how they comply with the requirement and guarantees of a fair trial and due process 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, the Basic Principles on the Independence of the Judiciary and the Basic Principles on the Role of Lawyers.

4. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to the allegations of torture or ill-treatment in these cases. If no inquiries have taken place, or if they have been inconclusive, please explain why.

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.

We urge also your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the said 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.

We wish to also inform you that a Press Release relating to this issue will be circulated to the media today, a copy of which will be provided to you in advance of its public distribution.

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

Frank La Rue  
Special Rapporteur on the promotion and protection of the right to freedom of  
opinion and expression

Maina Kiai  
Special Rapporteur on the rights to freedom of peaceful assembly and of  
association

Gabriela Knäul  
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

IZSÁK Rita  
Independent Expert on minority issues

Christof Heyns  
Special Rapporteur on extrajudicial, summary or arbitrary executions

Ben Emmerson  
Special Rapporteur on the promotion and protection of human rights and  
fundamental freedoms while countering terrorism

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