

Mandates of 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 Iran (2011-16) G/SO 214 (33-27) G/SO 214 (53-24)
IRN 16/2012

6 July 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; 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 19/12, 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 case of the imminent execution of Mr. **Hamid Ghassemi-Shall**, who was the subject of the joint urgent appeal dated 4 May 2012.

While appreciating your Excellency's Government's response, the elements provided therein are not sufficient to fully address our concerns. In particular, we would like to bring two aspects to the attention of your Excellency's Government.

First, in the response provided by your Excellency's Government it is mentioned that "Mr. Shall was charged with collaborating with, and membership in, the MKO terrorist group". The specific crimes Mr. Shall was convicted of are unclear to us. Your Excellency's Government cites Articles 186 and 110 of the Penal Code as a basis for the Court's sentence. We strongly reiterate our position that offences such as *moharebeh* (Article 186) do not meet the threshold of "most serious crimes" under Article 6(2) of the International Covenant on Civil and Political Rights. A similar conclusion applies to sodomy under Article 110 of the Penal Code, which is cited in your Excellency's Government response (see, for example, UN Doc. CCPR/C/79/Add.85, para. 8 (1997) (Sudan)). In the absence of any further explanation regarding the specific acts reproached to Mr. Shall, it is feared that he faces an imminent execution for crimes which did not lead to intentional loss of life (see UN Doc. A/HCR/4/20, para. 53; see also *Chisanga v. Zambia*, UN Doc. CCPR/C/85/D/1132/2002, para. 7.4.).

Second, while your Excellency's Government provides an overview of the legal proceedings, we note with concern that no response was provided in respect of the allegation that Mr. Shall was sentenced to death on the basis of evidence obtained under duress and without legal representation or assistance during the 18 months in pretrial detention. Similarly, the grounds for rejecting Mr. Shall's appeal and clemency petition are unclear in the response provided by your Excellency's Government.

In light of the foregoing, we would appreciate it if your Excellency's Government could provide us with further information regarding the case of Mr. Shall.

We would further like to note with concern the high numbers of executions carried out, despite a circular issued in January 2008 by the Iranian Chief Justice that banned public executions. At least 25 executions have been carried out in public this year. We would also like to recall the joint Press Release issued on 28 June 2012, by the Special Rapporteurs on Iran, summary executions and torture, respectively stating that "Given the lack of transparency in court proceedings, major concerns remain about due process and fairness of trials in cases involving the death penalty in Iran."

We call upon your Excellency's Government not to execute Mr. Shall as such action in the particular circumstances of this case would be in breach of the international obligations of the Islamic Republic of Iran under the International Covenant on Civil and Political Rights. We do wish to express our appreciation to you for engaging with us on this matter in such a direct and open way, and hope we can continue the dialogue. Please do not hesitate to contact us in this regard, we are at your disposal to provide any assistance that you may require.

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

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