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HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
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Mandates of 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 torture and other cruel, inhuman or degrading treatment or punishment; and the Special Rapporteur on extrajudicial, summary or arbitrary executions

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; Independent Expert on minority issues; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and Special Rapporteur on extrajudicial, summary or arbitrary executions pursuant to Human Rights Council resolutions 22/23, 16/6, 16/23, and 17/5.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the **ongoing executions in the Islamic Republic of Iran in contravention of international human rights law, including the recent execution of 16 individuals belonging to the Baloch community, as well as of Messrs. Reza Esmaili, Habibollah Golparipour (or Gholpari-poor) and Shirkoo (or Sherko) Moarefi, who were members of the Kurdish minority.**

Messrs. Habibollah Golparipour (or Gholpari-poor) and Shirkoo (or Sherko) Moarefi were the subject of previous joint urgent appeals to your Excellency's Government, dated 26 March 2012 and, respectively, 13 October 2009 and 26 May 2011. We thank your Excellency's Government for the reply of 11 June 2012, providing inter alia information on the case of Mr. Habibollah Golparipour (or Gholpari-poor). A reply from your Excellency's Government is still awaited on the communications sent on the case of Mr. Shirkoo (or Sherko) Moarefi.

According to the new information received:

On 26 October 2013, 16 individuals belonging to the Baloch community were executed in the city of Zahedan. As allegedly stated in public by the public prosecutor, the executions were reportedly carried out "in response" to the killings of 14 border guards on 25 October 2013, following an alleged attack by an armed group along the border with Pakistan. There is no reported indication that those executed were involved in the incident, as all 16 individuals had previously been tried, convicted and sentenced to death years before the incident took place.

Allegedly, the representatives of the judiciary provided no explanation on the level of involvement of those executed in the incident occurred on 25 October 2013.

On 27 October 2013, the head of Sistan-Baluchistan's judiciary revealed the names of those executed the day before. Reportedly, eight of the 16 individuals had been sentenced to death under charges of "enmity against God" (Moharebeh) and "corruption on earth" (ifsad fil-arz) for their alleged membership in the armed group Jundullah. Their names, as publicly announced were: Mr. **Nazar Mullazahi**, Mr. **Mehrollah Raigi Maherniya**, Mr. **Abdul Wahab Rigi**, Mr. **Habibollah Raiginejad Shoraki**, Mr. **Saeed Naroyi**, Mr. **Hamid Wakalat**, Mr. **Soleiman Miayi**, and Mr. **Ahmad Behrami Zahi**.

The other eight individuals had reportedly been sentenced to death for drug-related offences. Their names were publicly announced as: Mr. **Azam Gorgaij**, Mr. **Dawood Mir Baloch Zahi**, Mr. **Hasan Rezai**, Mr. **Habib Totazahi**, Mr. **Nasser Shabakhsh**, Mr. **Ahmad Dehmorda**, Mr. **Hossein Barahowi** and Mr. **Najibullah Bahadori**.

It is further reported that on the same day of 26 October 2013, Mr. **Habibollah Golparipour (or Gholpari-poor)** and Mr. **Reza Esmaili**, both members of the Kurdish minority in the Islamic Republic of Iran, were also executed.

In the case of Mr. Golparipour (or Gholpari-poor), allegations and concerns of his sentence to death in violation of international human rights law were already outlined in the Joint Urgent Appeal dated 26 March 2012. In that communication, it was reported that the defendant was sentenced to death for the alleged offence of "enmity against God" (Moharebeh), following allegations of torture and unfair trial.

According to the new information received, Mr. Golparipour (or Gholpari-poor) denied the accusations against him in a letter to the Supreme leader and two audio recordings, in which he provided details of psychological and physical torture during his initial detention in Orumiyeh and Mahabad, and several due process violations during his interrogation and trial. It is again reported that the allegations of torture against Mr. Golparipour (or Gholpari-poor) have not been investigated by the Iranian authorities.

A few weeks before the execution, family members of Mr. Golparipour (or Gholpari-poor) reportedly requested the review of his case, in the context of the amendments made to the Islamic Penal Code. It is however alleged that the death penalty was carried out against Mr. Golparipour (or Gholpari-poor) before the Supreme Court could rule on this request.

Mr. Golparipour (or Gholpari-poor) was reportedly executed without prior warning. No prior notice of his execution was provided to his lawyer or his family, and after the execution, authorities refused to hand over his body. It is further alleged that Mr. Golparipour (or Gholpari-poor) was transferred to solitary confinement the day before his execution.

With regard to the case of Mr. Reza Esmaili, it is alleged that he had been sentenced to death and executed under accusations of membership with the armed group PJAK (Party for Free Life of Kurdistan).

On 4 November 2013, Mr. **Shirkoo (or Sherko) Moarefi**, a 33-year old Kurdish political and civil activist from Baneh, was also reportedly executed. Information and concerns in the case of Mr. Moarefi's sentence to death for alleged crimes which are not considered as most serious under international law, were already shared with your Excellency's Government in previous communications. The new information received indicates that Mr. Moarefi's death sentence was carried out with no prior notice to his lawyer, who allegedly learned of his client's execution from news websites.

Persons belonging to the Baloch community and the Kurdish community constitute minorities in the Islamic Republic of Iran. Additional information and reports received by OHCHR and Special Procedures mandate holders alleged that persons belonging to these communities experience discrimination and a range of civil and political and economic, social and cultural human rights violations.

While we do not wish to prejudge the accuracy of these allegations, we wish to express concern that the death penalty may have been imposed and carried out against the aforementioned individuals in contravention of international human rights law, without compliance with the most serious crimes provision and the standards of fair trial and due process guarantees. We would like to reiterate also our previous concerns as outlined in the previous communications sent to your Excellency's Government on the cases of Messrs. Habibollah Golparipour (or Gholpari-poor) and Shirkoo (or Sherko) Moarefi, in particular of Mr. Golparipour's execution after serious allegations of torture.

Particular concern is also expressed regarding allegations that charges brought against the aforementioned individuals and their subsequent execution, were based in part or in whole on their belonging to the Baloch and Kurdish minority communities and not on the grounds of their having been found to have committed any offence following trial procedures that reportedly did not conform to international standards of fair trial and due process.

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 these cases. We would like to remind your Excellency's Government that, although the death penalty is not prohibited under international law, it has long been regarded as an extreme exception to the fundamental right to life. Article 6(2) of the International Covenant on Civil and Political Rights (ICCPR), that the Government of the Islamic Republic of Iran ratified on 24 June 1975, provides that "in countries which have not abolished the death penalty", the "sentence of death may be imposed only for the most serious crimes". 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, finding only cases involving murder not to raise concerns under the most serious crimes provision. In his report to the General Assembly, the Special Rapporteur on extrajudicial, summary or arbitrary executions reiterated that drug-related offences do not

constitute “most serious crimes” under international human rights law (A/67/275 para 57). Alleged offences under charges of “enmity against God” (Moharebeh) and “corruption on earth” (ifsad fil-arz) do not constitute either “most serious crimes” under international human rights law.

Capital punishment may be imposed only following a trial that complied with fair trial and due process safeguards, as provided in articles 6(2) and 14 of the ICCPR. Furthermore, 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, 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 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”. According to Safeguard 8, capital punishment shall not be carried out pending any appeal or other recourse procedure or other proceeding relating to pardon or commutation of the sentence. Only full respect for stringent fair trial and due process guarantees distinguishes capital punishment as possibly permitted under international law from a summary execution.

The provisions stated above apply also to the respect of due process guarantees in post-conviction proceedings, which need to be conducted in full transparency. In this regard, we would like to bring to the attention of your Excellency’s Government the report submitted to the Human Rights Council by the Special Rapporteur on extrajudicial, summary or arbitrary executions on “Transparency and the imposition of the death penalty” (E/CN.4/2006/53/Add.3), which observed that “due process rights and other safeguards on the right to life remain even after a person has been convicted of a crime and sentenced to death”. “Refusing to provide convicted persons and family members advance notice of the date and time of execution is a clear human rights violation”. In the report to the 67th session of the General Assembly (A/67/275), the Special Rapporteur on extrajudicial, summary or arbitrary executions holds that a State that fails to be transparent in its death sentences in line with article 14 of the ICCPR risks also violating article 6 of the ICCPR. He therefore recommends that States “ensure transparency regarding individual cases of capital prosecution, death sentences and executions, including access to information by prisoners, their family members and the public”.

In this context and with respect to the allegations according to which Mr. Golparipour was subjected to severe psychological and physical torture during his initial detention in Orumiyeh and Mahabad, we would like to draw your Government’s attention to paragraph 1 of Human Rights Council Resolution 8/8 which “Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all Governments to implement fully the prohibition of torture and other cruel, inhuman or degrading treatment or punishment.”

Furthermore, with respect to the allegation according to which Mr. Golparipour’s complaint concerning torture allegations have not been investigated, we would 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 draw the attention of your Excellency's Government to international standards relevant to the protection and promotion of the rights of minorities. 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 4.1 of the Declaration requires 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."

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 cases accurate?
2. Please provide information concerning the legal grounds for the execution of the aforementioned individuals and how their execution was compatible with international human rights norms and standards.
3. Please provide details on the criminal charges for which the defendants were imposed the death sentence and on how compliance with the most serious crimes provision under international human rights law was ensured.
4. Please provide detailed information on each stage of the judicial proceedings against all defendants, and indicate how they complied with the requirement and guarantees of a fair trial and due process, as enshrined inter alia in article 14 of the ICCPR. Please also specify how full transparency was ensured at every stage of the proceedings, including in the post-conviction proceedings in the cases of Messrs. Habibollah Golparipour (or Gholpari-poor) and Shirkoo (or Sherko) Moarefi.
5. Please provide information on the measures undertaken to ensure that any statements on confessions obtained under torture is excluded from judicial proceedings. Please provide details, and where available the results, of any inquiries, medical examination, and judicial or other inquiries carried out in relation to allegations of torture in case of Mr. Habibollah Golparipour (or Gholpari-poor).

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.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that, 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.

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

IZSÁK Rita
Independent Expert on minority issues

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

Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions