

**NATIONS UNIES**  
**HAUT COMMISSARIAT DES NATIONS UNIES**  
**AUX DROITS DE L'HOMME**

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

**Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 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; 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 218/2 G/SO 214 (67-17) G/SO 214 (3-3-16) Iran (2011-16) Minorities (2005-4) G/SO 214 (33-27) G/SO 214 (53-24)  
IRN 14/2013

26 August 2013

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 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; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 15/18, 16/4, 17/2, 22/23, 16/6, 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 risk of imminent execution of Messrs. **Hashem Sha'bani Amouri** and **Hadi Rashedi**, as well as the cases of Messrs. **Mohammad Ali Amouri**, **Sayed Jaber Alboshoka** and **Sayed Mokhtar Alboshoka**.

We draw the attention of your Excellency's Government to our previous communications relating to the said persons of 31 July 2012 and 25 January 2013. Responses to these communications are still awaited from your Excellency's Government.

According to the information received:

Messrs. Hashem Sha'bani (Shaabani) Amouri and Hadi Rashidi (Rashedi), members of the Ahwazi Arab community, allegedly face a very high risk of execution, after their transfer, in the middle of July 2013 and on 8 August 2013 respectively, from Karoon Prison, in the city of Ahwaz, to an unknown location. It

is alleged that the transfer of both defendants may have been undertaken with the aim of executing them in the near future.

It is recalled that Messrs. Sha'bani Amouri and Rashidi are originary from Ramshir, Khuzestan province, and are both members of the Arab cultural organization Al-Hewar. Mr. Rashidi reportedly holds a Master of Science in Chemistry, and worked as a high school teacher. Mr. Amouri reportedly worked as a fisheries engineer and editor in chief of Altaras, a student publication at the Isfahan University of Technology.

Both defendants were allegedly arrested in February 2011. In July 2012, both men were reportedly sentenced to death by Branch 2 of the Ahwaz Revolutionary Court, on charges of "enmity against God" (Moharebeh), corruption on earth (ifsad fil-arz), and acting against national security, in violation of their right to fair trial, due process guarantees, equality before the law, and not to be subjected to torture or cruel, inhuman or degrading treatment or punishment. Three other men, Messrs. Mohammad Ali Amouri, Seyed Jaber Alboshoka (al-Boushokeh) and Seyed Mokhtar Alboshoka (al-Boushokeh), also members of the Ahwazi Arab minority and Al-Hewar organization, were also sentenced to death for the same alleged crimes. All five death sentences were reportedly upheld by Branch 32 of the Iranian Supreme Court in January 2013.

It is further reported that Messrs. Sha'bani Amouri and Rashidi have been subject to torture and forced confessions. In this regard, video footages were broadcast on the National Press Television, where both defendants presented alleged confessions, reportedly extracted under severe physical and mental torture. Mr. Rashidi allegedly confessed to shooting at buildings of security personnel and Government officials in Khalafabad. Messrs. Sha'bani Amouri and Rashidi were allegedly denied access to a lawyer and their families for the first nine months of their detention.

Furthermore, Mr. Rashidi reportedly suffers from heart disease, for which reason he was exempt from military service. As a result of being beaten while in detention, he allegedly developed a serious digestive disorder, and suffers from a fractured hip and considerable mental stress.

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 communications that the execution of Messrs. Mohammad Ali Amouri, Seyed Jaber Alboshoka, Seyed 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 communications, 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 reiterate our urge to 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 letters, "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", "efsad-e fel arz" and "acting against national security" are not considered as most serious crime under international human rights law, and therefore cannot be punished by death.

Furthermore, 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".

Without expressing at this stage an opinion on the facts of the case and on whether the detention of the abovementioned persons is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of their liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (UDHR) and articles 9 and 14 of the ICCPR.

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 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 also recall that paragraph 7c of Human Rights Council Resolution 16/23 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, and calls upon States to consider extending that prohibition to statements made as a result of cruel, inhuman or degrading treatment or punishment, recognizing that adequate corroboration of statements, including confessions, used as evidence in any proceedings constitutes one safeguard for the prevention of torture and other cruel, inhuman or degrading treatment or punishment.”

Furthermore, we would like to refer your Excellency's Government to the Guidelines on the Role of Prosecutors, 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, and in particular guideline 16, which states: “When prosecutors come into possession of evidence against suspects that they know or believe on reasonable grounds was obtained through recourse to unlawful methods, which constitute a grave violation of the suspect's human rights, especially involving torture or cruel, inhuman or degrading treatment or punishment, or other abuses of human rights, they shall refuse to use such evidence against anyone other than those who used such methods, or inform the Court accordingly, and shall take all necessary steps to ensure that those responsible for using such methods are brought to justice.”

In this connection, we would like to refer your Excellency's Government to article 14(3) of the ICCPR, 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 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.”

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.”

We also 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 states 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 practise their own religion, or to use their own language”. In addition, 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.” 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.”

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency’s Government not to execute the said individuals and safeguard their rights 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.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned 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.

Given the seriousness of the allegations, we would like to inform your Excellency's Government that we are considering issuing a press release on the issues contained herein in the near future.

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

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