

**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 freedom of religion or belief; the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; and the Special Rapporteur on extrajudicial, summary or arbitrary executions**

**UNITED NATIONS**  
**OFFICE OF THE UNITED NATIONS**  
**HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE**  
**HUMAN RIGHTS COUNCIL**

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IRN 17/2012

13 July 2012

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on freedom of religion or belief; Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; and Special Rapporteur on extrajudicial, summary or arbitrary executions pursuant to Human Rights Council resolutions 14/11, 19/12, and 17/5.

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. **Yunes Aghayan** in the Islamic Republic of Iran. This case was already the subject of a joint urgent appeal we sent on 28 April 2009 (IRN 13/2009), to which we regret that we have yet to receive a reply from your Excellency's Government.

Mr. Aghayan, a follower of the Ahl-e Haqq (Yarsan/Yari) faith in the village of Uch-Tepe was arrested around November 2004 for his participation in clashes between the police and Ahl-e Haqq followers in September 2004. The clashes were allegedly triggered by the refusal of Ahl-e Haqq followers to take down religious slogans at the entrance to their cattle farm in Uch Tepe, West Azerbaijan Province. Mr. Aghayan was tried before Branch 2 of the Mahabad Revolutionary Court on charges of "*mohareb*" ("enmity against God") on the basis of "armed resistance against the Islamic Republic of Iran" and sentenced to death. His sentence was upheld by the Supreme Court in April 2005.

According to additional information received:

On 20 June 2012, Mr. Aghayan was reportedly transferred from Orumiye Prison to Mahabad Police Headquarters, suggesting that his execution may be imminent. The Mahabad Prosecutor stated that he was unaware of the reasons for Mr. Aghayan's abrupt transfer to Mahabad Police Headquarters where he was

allegedly kept until 9:00 p.m. in a cell. It is reported that a Mahabad police official ordered Mr. Aghayan's transfer to Karaj for court proceedings after that.

On 21 June 2012, Mr. Aghayan appeared at Karaj General and Revolutionary Courts. As the judge at the Special Crimes Unit of the Karaj Courts was unaware of the reasons for his transfer, the judge refused to authorize his transfer to one of the prisons in Karaj and Mr. Aghayan was sent back to Mahabad Prison.

Allegedly on Saturday, 23 June 2012, the Head of Mahabad Prison Sentence Enforcement Unit stated that they are awaiting orders from the Supreme Court, and if Mr. Aghayan's sentence is finalized, the execution will take place in the coming days. Reportedly, Mr. Aghayan's father was permitted to meet with him briefly on 28 June 2012.

Concerns are expressed that Mr. Yunes Aghayan's execution could be carried out in violation of death penalty safeguards, notably on the basis of charges which do not amount to the "most serious crimes". Concerns are also expressed that the charges brought against him may be related to the legitimate exercise of his right to freedom of religion or belief, especially as a member of religious minorities.

While we do not wish to prejudge the accuracy of these allegations, we wish to appeal to your Excellency's Government to seek clarification on the information drawn to our attention and share our concerns in relation to present circumstances in light of the applicable international human rights norms and standards.

As raised in a number of communications sent to your Excellency's Government, in countries which have not abolished the death penalty, capital punishment may be imposed only for the most serious crimes in accordance with article 6(1) of the International Covenant on Civil and Political Rights, which the Islamic Republic of Iran ratified on 24 June 1975. In interpreting the most serious crime provision, the Human Rights Committee and other United Nations bodies held that it requires an intention to kill which resulted in a loss of life (A/HRC/4/20, para. 53; CCPR/C/79/Add.25, para. 25). Yet, in the present case, Mr. Yunes Aghayan has not been found guilty of a crime which resulted in a loss of life. We are also extremely concerned that the death sentence continues to be handed down in the Islamic Republic of Iran for crimes that do not meet the "most serious crimes" threshold, including on the charge of "*mohareb*" for which we have inquired about the definition in several communications to your Excellency's Government. We reiterate that convicting an individual of such a charge further violates the principle of legality which requires States, under article 6(2) – as implied by the expression "in accordance with the law" – and article 15 of the ICCPR, to define precisely and in a foreseeable manner all criminal offences in their domestic legislation for reasons related to legal certainty.

Furthermore, we would like to appeal to your Excellency's Government to ensure the right to freedom of religion or belief in accordance with article 18 of the Universal Declaration on Human Rights (UDHR) and articles 18 of the ICCPR.

We would also like to refer to the 1981 Declaration of the General Assembly Art. 1 which states that "[E]veryone shall have the right to freedom of thought, conscience

and religion. This right shall include freedom to have a religion or whatever belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.”

Besides, we would like to bring to your attention the Human Rights Committee general comment 22, para. 4 that specifically pointed out that “[T]he freedom to manifest religion or belief in worship, observance, practice and teaching encompasses a broad range of acts. The concept of worship extends to ritual and ceremonial acts giving direct expression to belief, as well as various practices integral to such acts [...].”

We would also like to recall the Commission on Human Rights resolution 2005/40 (paragraph 4 (f)) and Human Rights Council 6/37 (paragraph 9 (i)) that urges States to ensure that on account of religion or belief “no one within their jurisdiction is deprived of the right to life, liberty, or security of person, [...] subjected to torture or arbitrary arrest or detention [...] and to bring to justice all perpetrators of violations of these rights.”

With regard to the allegation that Mr. Aghayan’s father was only permitted to briefly meet with him once, we wish to remind your Excellency’s Government that a detained or imprisoned person shall have the right to be visited and to correspond with members of his or her family in accordance with Principle 19 of the United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by General Assembly resolution 43/173 of 9 December 1988 and Rule 37 of the Standard Minimum Rules for the Treatment of Prisoners, adopted by Economic and Social Council resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.

In view of the urgency of the matter, we urge your Excellency’s Government **to refrain from executing Mr. Aghayan**. We would appreciate a response on the initial steps taken by your Excellency’s Government 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 my 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 case accurate?
2. Has a complaint been lodged with regard to the forementioned incident?
3. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries which may have been carried out in relation to this case. Kindly indicate the reasons why Mr. Aghayan has been transferred to Mahabad Prison.
4. Please provide information concerning the legal grounds for the arrest, charges and the imposition of the death penalty against Mr. Aghayan, and explain how these measures are compatible with aforementioned international norms and standards.

5. Please indicate whether and to what extent Mr. Aghayan was able to receive visits from his family. Please also specify the legislation and measures taken to ensure that families are informed of the execution date, time and venue of death row inmates.

6. Please provide information on the measures taken to ensure the freedom of religion or belief and the rights of the religious minorities are protected.

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 again urge your Excellency's Government to take all necessary measures to prevent the execution of Mr. Aghayan, which would, on the facts available to us, clearly violate applicable international human rights law. We further urge your Excellency's Government to guarantee that the rights and freedoms of the above mentioned person are respected. 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.

Heiner Bielefeldt  
Special Rapporteur on freedom of religion or belief

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