

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

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

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

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

**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 the independence of judges and lawyers.**

REFERENCE: AL G/SO 214 (3-3-16) Iran (2011-16) G/SO 214 (33-27)  
IRN 28/2012

5 December 2012

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; Special Rapporteur on extrajudicial, summary or arbitrary executions; and the Special Rapporteur on the independence of judges and lawyers pursuant to Human Rights Council resolution 19/12, 17/5, and 17/2.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning **ongoing executions in the Islamic Republic of Iran for drug-related crimes**.

According to information received:

At least 32 persons, including six in public, were executed for drug-related offences in the period from 7 to 20 November 2012. Of the 32 persons, 16 were executed on 7 November 2012. They include Mr. Hamid Gholamy, who was convicted of a drug-related offence in June 2011. It is alleged that he was executed for an offence, for which he was acquitted three months earlier due to lack of evidence. He was reportedly executed at a time when he was still awaiting clemency. Furthermore, Mr. Gholamy was allegedly tortured and ill-treated while held in detention.

Concerns also remain that over 350 persons are believed to have been executed since the beginning of this year. The vast majority of them were convicted of drug-related offences, which are not considered as most serious crimes under international human rights law. Furthermore, the executions often occurred following proceedings that did not comply with international human rights law

standards on fair trial and due process guarantees. A large number of individuals are reportedly on the death row, and face the risk of imminent execution.

While we do not wish to prejudge the accuracy of these allegations, we would like to remind your Excellency's Government that sentences to death following proceedings which did not comply with international human rights law, and for non-serious crimes such as drug-related offences, have been the subject of extensive communications to your Excellency's Government. We wish to draw to your Excellency's Government's attention that the *en masse* execution of individuals for crimes that do not conform to 'most serious' standards under international law, or after unfair trials, is inconsistent with international human rights law standards.

We call upon your Excellency's Government to commute without delay the death sentences imposed against persons charged with crimes that do not qualify as the most serious crimes under international human rights law, or after unfair proceedings. We also call upon your Excellency's Government to prevent any planned executions until a proper clarification of facts and a stringent respect of international human rights law, including guarantees of fair trial and due process, are ensured.

In this context, 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, 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).

We wish to further refer to the United Nations Safeguards Protecting the Rights of those Facing the Death Penalty, approved by the Economic and Social Council resolution 1984/50 of 25 May 1984. 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 8 also stipulates that "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". By consequence, only full respect for stringent fair trial and due process

guarantees distinguishes capital punishment as possibly permitted under international law from a summary execution, which by definition violates human rights standards.

Furthermore, we would like to refer your Excellency's Government to article 14 of the International Covenant on Civil and Political Rights, which states: “(1) All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. [...] (3) 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; (c) To be tried without undue delay; (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it; (e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him; [...] (g) Not to be compelled to testify against himself or to confess to guilt.”

In this context, we would also 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.”

In addition, we would like to refer your Excellency's Government to the Bangalore Principles of Judicial Conduct, adopted in The Hague in 2002 (E/CN.4/2003/65), and in particular principle 5, which states: “Ensuring equality of treatment to all before the courts is essential to the due performance of the judicial office.”

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 above summary accurate?
2. Please provide details on the names and identity of the individuals executed in November 2012 and indicate if Mr. Hamid Gholamy was one

of them. Please also indicate the criminal charges for which they were imposed the death sentence. Please provide further detailed information on each stage of the judicial proceedings in their cases and specify how they comply with the international human rights law standards regarding fair trial and due process guarantees.

3. Please provide information on how the imposition of the death sentence for drug-related offences is compatible with international human rights standards contained, *inter alia*, in the ICCPR.

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.

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

Gabriela Knaul  
Special Rapporteur on the independence of judges and lawyers