

**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 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.

REFERENCE: AL Iran (2011-16) Minorities (2005-4) G/SO 214 (33-27) G/SO 214 (53-24)
IRN 3/2012

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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; 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 pursuant to General Assembly resolution 60/251 and to Human Rights Council resolution 16/9, 16/6, 17/5, and 16/23.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning **the torture and subsequent death in detention of Mr. Nasser Derafshan Alboshokeh and Mr. Mohammad al-Kaabi.**

According to information received:

Mr. Nasser Derafshan Alboshokeh, aged 19, and Mr. Mohammad al-Kaabi, aged 34, both members of the Ahwazi Arab minority, died in custody at a Ministry of Intelligence detention facility in Ahvaz and Shush. Mr. Alboshokeh was reportedly arrested by security forces on 26 January 2012 and his family was informed about his death on 30 January 2012. During his detention, Mr. Alboshokeh was neither permitted contact with his family nor granted access to any legal representation. Local authorities have reportedly refused to allow burial and warned the family members to keep the memorial service private as a condition of the funeral to take place.

Mr. Kaabi was reportedly arrested on 21 January 2012 for unknown reasons in Shush and taken to a detention facility run by the Ministry of Intelligence. He reportedly died after being tortured in the detention facility and his family was

informed of his death on 2 February 2012. Local authorities have reportedly buried the remains and warned his family to abstain from conducting public mourning services.

While we do not wish to prejudge the accuracy of the information provided to us, we would like to bring to the attention of your Excellency's Government our concerns relating to the torture and ensuing death in detention of Mr. Albolshokeh and Mr. Kaabi.

We would further like to recall the relevant international human rights obligations that your Excellency's Government has undertaken. The International Covenant on Civil and Political Rights (ratified on 24 June 1975), provides that every individual has the right to life and security of the person, that this right shall be protected by law, and that no person shall be arbitrarily deprived of his or her life (article 6). When the State detains an individual, it is held to a heightened level of diligence in protecting that individual's rights. When an individual dies as a consequence of injuries sustained while in State custody, there is a presumption of State responsibility. In this respect we would like to recall the conclusion of the Human Rights Committee in a custodial death case (*Dermi Barbatov v. Uruguay*, communication no. 84/1981 (21/10/1982), paragraph 9.2): "While the Committee cannot arrive at a definite conclusion as to whether Hugo Dermi committed suicide, was driven to suicide or was killed by others while in custody; yet, the inescapable conclusion is that in all the circumstances the Uruguayan authorities either by act or by omission were responsible for not taking adequate measures to protect his life, as required by article 6 (1) of the Covenant."

In order to overcome the presumption of State responsibility for a death resulting from injuries sustained in custody, there must be a "thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances" (principle 9 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions). This principle was recently reiterated by the Human Rights Council at its 17th Session in Resolution 15/7 on the "Mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions" (OP 4), stating that all States have "to conduct exhaustive and impartial investigations into all suspected cases of extrajudicial, summary or arbitrary executions". The Council added that this obligation includes the obligation "to identify and bring to justice those responsible, ... to grant adequate compensation within a reasonable time to the victims or their families and to adopt all necessary measures, including legal and judicial measures, in order to bring an end to impunity and prevent the recurrence of such executions

Furthermore, we 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 require 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 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.”

We urge your Excellency’s Government to take all necessary measures to guarantee that accountability of any person guilty of the alleged violations is ensured. We also request that your Government adopts effective measures to prevent the recurrence of these acts.

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 case accurate?
2. Have complaints been lodged on behalf of Mr Alboshokeh and Mr Kaabi?
3. Please specify the legal basis for the arrest, detention and subsequent death in detention of Mr Alboshokeh, and Mr Kaabi. Please indicate how these are compatible with international norms, specifically with those contained, inter alia, in the International Covenant on Civil and Political Rights.
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 these cases. 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. If no inquiries have taken place, or if they have been inconclusive, please explain why.
5. Please indicate whether compensation has been provided to the families of the victims.

We would appreciate a response within sixty days. We undertake to ensure that your Excellency’s Government’s response to each of these questions is accurately reflected in the reports we will submit to the Human Rights Council for its consideration.

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

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Republic of Iran

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