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In the name of God

**The Islamic Republic of Iran's response to the draft of the Special Rapporteur' report on the situation of human rights in the Islamic Republic of Iran to the 25th session of the Human Rights Council**

## A. General Comments and Observations

1. The Islamic Republic of Iran welcomes the relative change in the approach of the Rapporteur' report and references made to some of the positive steps taken by Iran to fulfill its obligations and its intent to constructively cooperate with international bodies. In this context, it is hoped and expected that the Rapporteur will take a more balanced and inclusive approach in reflecting the human rights achievements of the Islamic Republic of Iran to the pertinent UN bodies.

2. In his report, the Rapporteur has made some inaccurate judgments about the rule of law in the Islamic Republic of Iran. This probably relates to his incognizance of the process of drafting, passing, publication and enactment of laws in Iran and the Rapporteur neither has a correct impression of the workings, duties and organizational structure of the Judiciary. For instance, according to existing laws and regulations, arbitrary arrests cannot be carried out in the Country. And when hearing complaints lodged by members of the public, judicial offices completely and uncompromisingly abide by the rule of law and possible victims can easily secure damages by lodging complaints.

3. Inclusion of generalities and broad statistics in the draft report's introduction and whole content is contrary to rules of resolution 5/2 in particular paragraph (a) of article 6 of the Code of Conduct for the mandate holders of the Human Rights Council which clearly stipulates the mandate holders should "Always seek to establish the facts, based on objective, reliable information emanating from relevant credible sources, that they have duly cross-checked to the best extent possible."

4. In the context of further cooperation with the UN human rights apparatus, and to help correct the Rapporteur' approach, as well as ensuring that the report is founded on substantiated information; the Islamic Republic of Iran's Missions in New York and Geneva have had several meetings with Mr. Shaheed, the Special Rapporteur . With these in mind, we do not think the Rapporteur' visit to a few European countries to collect information on the situation of human rights in Iran is the correct methodology for the compilation of the report. Reasonably mere reliance on unfounded claims made by a handful of individuals does not add positive proof to the report, nor make it convincible. Rather, it demonstrates a lack of strict verification process of the collected information.

5. Finally, the Islamic Republic of Iran was given very little time to respond to the draft report. Obviously a detailed response to the draft report and its tens of pages of voluminous annexes was not possible in such a short time. In keeping up with paragraph (d) of article 8 of the Code of Conduct for mandate holders of the Human Rights Council, the Rapporteur should have given enough time for the formulation of comments about the allegations contained in the draft report.

## B. Specific Issues

### Legal developments

#### I. Draft Citizenship Rights Charter,

6. The Rapporteur has tried to be cognizant of legal developments inside the Country. However, by failing to appreciate that the above-mentioned charter is only a "draft" at the moment, hastens to express comments that are better suited for a finalized instrument of law. Similarly, references by the Rapporteur to the will of the Government of the Islamic Republic of Iran to work towards revision, recognition, announcement, expansion and implementation of citizenship rights for all citizens could have been more balanced. Also, consideration by relevant officials to the issue of citizenship rights – one that is based on human dignity and values, as described by the Sharia – should have been included in his comments as well. Clearly the proposed charter is a draft document that has been prepared for submission to the nation and all relevant governmental and non-governmental organizations and stakeholders including civil society, scholars and intellectuals so as to collect their inputs to compose later a more comprehensive text. Therefore, the present document is not yet finalized and shall be treated accordingly.

7. The Rapporteur refers to a recently approved, but yet to be enacted document, as the new "Criminal Procedure Law" and by using phrases such as "the new law also maintains some key shortcomings" or "the new law continues to provide for the detention of individuals throughout an initial investigation phase" etc. implies that it is deficient. To help clarify the matter, we point out that the "Criminal Procedure Bill" was passed – with a number of amendments and in accordance with article 85 of the Constitution - by the Islamic Parliament of Iran's Legal and Judicial Commission in its 26 November 2013 session. The Bill was later addressed and debated by the Guardian Council on 15 January 2014 and the Islamic Parliament of Iran has been duly informed of the views of the Council – in the context of Sharia and legal corrections.

In view of the above, we fully expect the Rapporteur not to prejudge the bill -- which is yet to be finalized -- and remove his critical assessment from the draft report.

**II. Political Offences Bill,**

8. Although the Rapporteur acknowledges that the Islamic Parliament of Iran is still considering the "Political Offences Bill", nevertheless, he hurries to make references to articles 1 and 2 of the bill to claim that additional constraints will be put on freedom of expression, association and assembly. In principle, criticizing an inchoate document that is still under preliminary consideration by members of the Parliament and experts does not correspond to the mandate entrusted to the Rapporteur.

**III.Right to liberty and security of persons,**

9. The Rapporteur has selectively referenced to a number of reports of the UN human rights bodies including the 2003 report filed by the Working Group on Arbitrary Detention. It would have been more appropriate to include references about the "very positive" cooperation shown during visits and the full cooperation of Iranian officials with the Working Group. References could have also been made to the Group's ability to conduct its tasks – including field visits and interviews -- in complete "transparency" and "without any obstruction". Or that in different meeting, Iranian officials transparently answered all questions and provided every facility to the Working Group to complete its task. It is also worth mentioning that

despite the technical and legal deficiencies of the report compiled by the Working Group on Arbitrary Detention, the Islamic Republic of Iran actively and constructively cooperated with it.

10. As the Rapporteur has stated in his draft report, according to the Constitution of the Islamic Republic of Iran, arbitrary detention is prohibited and the fate of the accused individual has to be determined within a maximum of 24 hours. Furthermore, to fully observe the letter of the "Criminal Prosecution Code" and other relevant laws, the Islamic Republic of Iran has incorporated a number of sanctions into the 2004 law on "Respecting Legitimate Freedoms and Protection of Citizens' Rights". Additionally, to help with the implementation of paragraph 15 of the above law, a central supervisory board -- headed by the Chief of the Judiciary – has been established. Article 2 of the "Administrative Guideline" for Paragraph 15 of the said law has also foreseen provincial supervisory boards so as to provide easier access to the complaints of the public. It would be helpful for the Rapporteur to closely study all paragraphs of the aforementioned law to ensure that his statements are not limited to general, unsubstantiated and disjointed references.

11. In accordance with the law on "Respecting Legitimate Freedoms and Protection of Citizens' Rights", supervisory boards-aside from working to redress methods so that they correspond to regulations when discovering violations of law, or receiving any such reports, are also required to approach competent authorities to investigate and prosecute offenders. Obviously, if violation of law is established, the guilty offenders will be punished accordingly. Similarly, when it is determined that a crime has occurred, the culprit will be condemned to proportionate legal punishment. A prime example would be the Kahrizak dossier, in which those who were accused of mistreatment with detainees were punished and appropriate punishments, ranging from prison terms to compensation of damages, were levied against convicted criminals. Needless to say, every effort was made to compensate victims for incurred damages and the guilty offenders were dismissed from government service.

## IV. Human rights defenders

12. Firstly, it was better if the Rapporteur had explained his understanding of the term "human rights defenders". Does he believe that individuals who are members of terrorist groups and are known to be engaged in terrorist activities or collaborate with such groups to disturb public order and violate the basic rights of citizens, can be referred to as human rights defenders? For that matter, does the use of such words correspond to international norms? The Rapporteur should avoid using the term "human rights defenders" to defend members of terrorist organizations. Secondly, the use of statistics and figures provided by unreliable sources, or the use of ambiguous references, tarnish the authenticity of the report. Thirdly, the Islamic Republic of Iran does not prosecute or punish individuals on charges of being defenders of human rights. Fourthly, the Rapporteur has not been careful in his use of terminology that is used in indictments. For example, he equates Moharebeh to enmity with God. In actual fact, according to the law, Moharebeh describes a terrorist crime in which "a person brandishes or points a weapon at members of the public to kill, frighten or coerce them". This criminal culpability has been exclusively devised to help with public order and security and to protect the public from gun-related crimes and does not have anything to do with waging war with God.

13. In the Islamic Republic of Iran, like other countries, all social activities that require establishment of political parties or associations must follow the law on "Political Parties" or "Guilds' Act". Therefore, prior to such activities, Islamic associations or established religious minorities are required first securing a permit from the "Article 10" Commission" which is the national focal point in charge. The Defenders of Human Rights Center was an illegal organization as its founding members, despite their intimate knowledge of law (most were professional attorneys) had established the Center without obtaining a permit from legal authorities (Ministry of Interior) and continued their illegal activities. With this in mind, one would expect the Rapporteur not to endorse the activities of such illegal centers.

14. We again stress the essence of refraining from the inclusion of generalities and broad statistics in the draft report's introduction. We maintain that such practice is contrary to the rules of resolution 5/2. Paragraph (a) of article 6 of the Code of Conduct for mandate holders of the Human Rights Council stating that they must "Always seek to establish the facts, based on ***objective, reliable information*** emanating from relevant ***credible sources***, that they have duly cross-checked to the best extent possible."

**V. Journalists and bloggers,**

15. Statistics and figures mentioned in the draft report are not regretfully based on reliable sources. Secondly, professions such as journalism do not provide immunity from prosecution to those who engage in criminal activities. The legislator relative to procedure for adjudication of criminal cases in general and revolutionary courts (1999) - has devised appropriate regulations for the imprisonment of criminals.

**VI. Religious Minorities,**

16. Statistics and figures mentioned in the draft report are not based on reliable sources. In accordance with article 23 of the Constitution, investigation of individuals' beliefs is forbidden and no one may be rebuked or harassed for his or her beliefs. Therefore, a particular belief does not constitute a reason for penal prosecution and judicial action is the sole consequence of violation of law and no Iranian citizen is an exception to this overall rule. Numerous articles in the Constitution – including the above article 23 and article 32 – detail the rights and fundamental freedoms of all Iranian citizens and nationals which are equally enjoyed by all - irrespective of their ethnicity, race, language or the like.

17. According to article 38 of the Constitution, all forms of torture are prohibited. Under article 578 of the "Islamic Penal Code", if an agent mistreats or physically abuses the accused to force him/her into a confession, and similarly under article 587 of the Code, if an agent tortures or physically abuses arrested individuals, he or she will be brought before the law and would be punished accordingly. Also, in accordance with paragraphs 9 and 10 of the law on "Respecting Legitimate Freedoms and Protection of Citizens' Rights, torture may not be used to obtain confessions. Aside from the fact that such confessions are void of Sharia or legal merits, agents who resort to such unlawful methods during the course of their investigations and interrogation will be, in accordance with the law, severely dealt with. Individuals will only be kept in solitary confinement on rare occasions and on the sole ruling of the presiding judge and only during judicial investigations to prevent collusion with their accomplices. Following an over-hull of the prison guard system, the respective detention place has now changed into solitary suites.

18. In the judicial system of the Islamic Republic of Iran, individuals who are judicially prosecuted have the right to access their judicial dossier and prepare a defense. The judge for his/her part is required to hear the accused' last defense before completing the trial and only then issue his/her verdict and to determine punishment. It goes without saying that criminals are not classified by religion. In the Islamic Republic of Iran trials are conducted fairly and indiscriminately, with the accused given access to an attorney. Contrary to the Rapporteur' claim that compared to Muslims, members of religious minorities are punished more harshly for certain crimes; we stress that in the context of "the Islamic Penal Code", no other punishment will be meted out on the culprits except what the legislator has formulated as punishment for a particular crime. Therefore the term "harsher punishments" corresponds neither to the letter of the law nor existing practice.

**VII. Baha'is,**

19. Firstly, allegations in paragraph 34 do not correspond to the footnote reference. As such, inclusion of allegations that have no reliable source contravenes Paragraph (a) of article 6 of the Code of Conduct for mandate holders of the Human Rights Council. Furthermore, paragraph (d) of article 9 of the same document clearly states that allegations must be based on "reliable knowledge". Regardless, as has been repeatedly stated, along with religious minorities, the citizenship rights of followers of different sects – including the Baha'i – are completely respected.

20. Participation of Baha'i in social and educational activities or organizing of Baha'i ceremonies does not entail legal prosecution. Additionally, in accordance with article 23 of the Constitution, investigation of an individual' beliefs is forbidden and no one may be rebuked or harassed for his or her beliefs. Thus, subscription to a particular belief does not constitute grounds for penal prosecution and judicial action is administered against an individual as a response to his unlawful conduct; with no Iranian citizen being an exception to this general rule.

21. The Islamic Republic of Iran respects the rights of its citizens. In principle, Baha'i citizens are not an exception to this general rule. The judicial system of the Islamic Republic of Iran makes no predispositions before investigating causes and completing the various stages of a fair trial. Moreover, judges are required to remain impartial and unbiased when hearing legal cases.

**VIII. Christians,**

22. Apparently, in paragraph 36 of the draft report, the Rapporteur has mistakenly used "persecution". The statistics and figures mentioned in paragraph 36 are not based on reliable sources. With this mind, the Rapporteur must omit the word "persecution" from the paragraph in question

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23. The allegation made in the last sentence of paragraph 37 of the draft, merely reflects the Rapporteur' unrealistic impression which serves to wrongfully accuse Iranian officials. The Rapporteur must not level such accusations against individuals.

24. Legal competency of any judicial authority – including courts of revolution or general penal courts – is set down by the legislator. Based on the classification of the committed crimes, legal cases are referred to and are tried by different specialized courts and are duly heard on their merits. Therefore, from this aspect, no discrimination, whatsoever, is made between Christians and other citizens of Iran. It must be pointed out that acts, for which the legislator has not foreseen punishment, cannot be legally prosecuted. With this in mind, the allegation appearing at the end of paragraph 38 has no merit.

25. Official recognition of Christianity by the Constitution does not translate into judicial immunity for Christians. Paragraph 14 of article 3 and the opening statement of article 20 of the Constitution clearly state that all citizens are equal before the law.

**IX. Dervish and Sunni Muslims,**

26. The use of "judicial harassment" is wrong and contradictory. The judicial power is the protector of individual and social rights and serves but to realize justice. Therefore, accusing the judicial system of "harassment" fundamentally violates the rules of paragraph 3 of article 4 of the Code of Conduct for mandate holders of the Human Rights Council which states that "mandate holders shall carry out their mandate while fully respecting the national legislation and regulations of the country wherein they are exercising their mission".

27. Paragraph 14 of article 3 and the opening statement of article 20 of the Constitution clearly state that all citizens are equal before the law. Consequently, allegation about the Dervishes, without naming any sources and disregarding present realities, is unacceptable. Dervishes are citizens of the Islamic Republic of Iran and are therefore protected by the Constitution and relevant laws that are currently in effect.

28. The allegation in paragraph 40 of the draft, on Sunni Muslims, is totally baseless and unfounded. On what basis is the Rapporteur claiming that "numerous" arrests have been reported, with the majority being imams and Sunni leaders? Presuming he has received written allegations, in accordance with paragraph (d) of article 9 of the Code of Conduct for mandate holders of the Human Rights Council, the Rapporteur must choose such information from reliable and credible sources.

**X. Ethnic minorities,**

29. The Special Rapporteur, without naming any credible source or sources, has reported on the violation of the rights of minorities and has made some vague claims so as to draw specific conclusions. The use of incorrect statistics, vague language and baseless allegations has adversely synergized to make the report uneven and unreliable.

30. We point out that in the Islamic Republic of Iran, because of the concern for the protection of ideological, cultural and ethical concerns values and merits, ethnic minorities are not subject to any discrimination and their rights is respected in its constitutional entirety. Similarly, in accordance with article 19 of the Constitution, the people of Iran, regardless of their ethnic or tribal background, enjoy equal rights and color, race, language and the like do not bestow any privilege on them. However, like other democratic systems of government, reciprocal to legal freedoms and rights, citizens are obliged to respect the laws of the land. Additionally, article 20 of the Constitution states "all members of the nation, men and women, are equally protected by the law and are accorded their full human, political, economic, social and cultural rights, in accordance with Islamic constraints". With the above in mind, no individual is prosecuted or punished simply for his or her affiliation to an ethnic group.

31. The Rapporteur must explain his interpretation of "human rights defenders", "civic and cultural activist", "ethnic and political activist", "cultural institute", "political and cultural activists" and "labor and cultural activists". Does the Rapporteur consider individuals who hide behind such labels so as to work towards secession or engage in terrorist activity and sabotage and violate the rights of citizens in the provinces of Khuzestan, Eastern Azerbaijan, Sistan and Baluchistan and Kurdistan as human rights defenders? Needless to say, the use of such terminology to describe the above individuals does not correspond to the legal principles governing international human rights norms and standards. With these in mind, it is necessary for the Rapporteur to refrain from using the above terms to describe members of terrorist and cessation organizations.

32. Expression of concern by the Rapporteur in paragraph 42 of the draft has no basis. Firstly, the Alhawar cultural institute was set up around cessations goals. Secondly, the 5 Ahwazi individuals mentioned in the said paragraph were members of the *Al-moghavema Al-ShabiyaLe-tahrir Al-ahwaz* (popular resistance for freedom of Ahwaz) terrorist group which has been set up to engage in sabotage and terrorist acts. The following information, on the past activity of the group, will hopefully be informative to the Rapporteur:

- Bloody bombings of public buildings and thoroughfares in 2005.

- Firing of guns at houses of ordinary citizens.

-Attempts to assassinate ordinary citizens and foment unrest and insecurity in the province of Khuzestan.

-Explosion of oil wells, pipelines and installations.

-Bomb blast and sabotage of railroads and highways.

-Destruction of public property.

-Recruitment of children and adolescents (under the age of 18) for membership in the aforementioned terrorist group.

-Organization of a military wing to engage in terrorist acts.

**XI. Treatment of persons deprived of liberty,**

33. To manifest its will to engage and cooperate with international organizations, the Islamic Republic of Iran actively participated in its first UPR and accepted 123 recommendations. In October 2014, it will present its second report to the 20th UPR meeting.

34. Statistics and figures of paragraph 49 are not based on credible sources. Additionally, paragraphs 51 through 54 cover unsubstantiated allegations made by interviewees and reported by the Rapporteur without any reliable verification.

35. Respect for the rights of prisoners, from the point of view of the Constitution is a human rights matter -- that is founded on Islamic sources. In this context, one of the most important principles is stated in article 32 which discusses the prohibition of the illegal arrest and seizure of persons, article 39 discusses the prohibition of all affronts to the dignity and repute of arrested persons. In addition there are 10 other articles that discuss the treatment of accused or condemned persons and prisoners. Also, "the Islamic Penal Code" contains 6 articles on the rights of prisoners, the accused and detainees awaiting trial. These include article 159 which prohibits denial of personal freedom or article 574 which criminalizes obstruction, by prison wardens, of pleas by prisoners for justice, as well as article 578 on the prohibition of obtaining confessions by duress or torture and mistreatment of accused persons. In addition, the law on "Respecting Legitimate Freedoms and Protection of Citizens' Rights" is the guarantor of the rights of prisoners.

36. The following points outline the rights of prisoners in accordance with the rules of the state prisons, rehabilitation and security measures organization – which have incorporated international rules and basic principles of international human rights law :

-Essential gear and utensils for inmates (article 70-71 of the Rules).

-Daily programs for inmates – without discrimination and exceptions (article 74 of the Rules).

-Television privileges – especially educational programs (article 74 of the Rules).

-Availability of Prison commissaries (article 87 of the Rules).

-Optional nature of Prison uniforms – providing otherwise determined by the prisons organization (article 90 of the Rules).

-Provision of essential hygiene items to female inmates (article 91 of the Rules).

-3 daily meals; morning, noon and night (article 93 of the Rules).

-Monthly medical checkups for all inmates (article 102 of the Rules).

- Shower kits and availability of showers (article 107 of the Rules).

-Payment of wages for participation in prison work programs (articles 129 and 130 of the Rules).

-Availability of authorized magazines and newspapers (article 146 of the Rules).

-Freedom to perform compulsory religious rituals (article 149 of the Rules).

-Availability of sports and exercise equipment (article 151 of the Rules).

-Art and Cultural programs (articles 153 and 154 of the Rules).

-Access to marriage and divorce services or conclusion of deeds (article 166 of the Rules).

-Visitation (articles 180 and 197 of the Rules).

-Permission -- and availability of services -- to send items by post (article 198 through 212 of the Rules).

-Prison furlough (article 213 through 229 of the Rules).

**XII. The right to a fair trial,**

37. In paragraph 55 of his draft report, the Rapporteur has again selectively referenced the 2003 report by the working group on arbitrary detention for which clarifications have been provided in paragraph 9.

38. In answer to paragraph 56 of the draft report; aside from the participation of a delegation from the Islamic Republic of Iran -- and presentation of comprehensive responses – in the 2011 meeting of the Human Rights Committee, we again point out that the necessary mechanisms guaranteeing the independence and impartiality of the judiciary have been foreseen in domestic laws and that supervisory organs continuously work to ensure the independence and impartiality of the judiciary power.

**XII. Independence of judges,**

39. In response to paragraph 57, the Rapporteur must recognize that the competency of judicial authorities is defined by procedural law. This definition divides expertise between civil lawsuits and criminal proceedings. In article 5 of the 2002 law on "the Establishment of General and Revolutionary Courts", the legislator calls for the establishment of revolutionary courts in provincial capitals and regions -- as deemed necessary by the chief of the judiciary – to work under the auspices and administration of the judiciary and to deal with specialized and exclusive crimes, as foreseen by law. Therefore, revolutionary courts, similar to general courts, are founded in accordance with the rules of penal prosecution. Additionally, verdicts issued by revolutionary courts – similar to general courts – are overseen and may be repealed by the appeal process that initially involves the provincial appellate court and at higher level the Supreme Court.

40. In response to paragraph 58 of the draft, we state that the legislators of the Constitution have defined the duties and prerogatives of the Chief of the judiciary in article 158. These include the employment and appointment of impartial judges and their, dismissal, deployment, definition of professional capacity and promotion in accordance with the law (Judgeship employment code). According to article 164 of the Constitution, judges cannot be temporarily or permanently dismissed from the bench without trial and establishment of criminality – or infractions that constitute cause for dismissal. Similarly, they cannot be transferred, or their titles shall not be changed, without their consent. The only possible exception would be a decision taken by the Chief of judiciary, after consulting the head of the Supreme Court and the Prosecutor General, to serve the higher interests of the society. The periodic transfer of judges is conducted in accordance with rules and regulations that are set by the law. With the above in mind, the allegation that the job security of judges is dependent on the personal whims of the Chief of judiciary is false and is an indication of the Rapporteur' lack of knowledge of domestic laws of the State. Furthermore, the claim that the Chief of judiciary is not elected by the people is also without merit. In accordance with article 107 of the Constitution, the Leader is chosen by members of the Council of Experts, who in turn are elected by the people. Subsequently, and in accordance with article 110 of the Constitution, the Chief of judiciary is chosen by the Leader. Thus, the Chief is indirectly chosen through the will of the people. In paragraphs 58 and 59, the Rapporteur has disregarded paragraphs 3 and 4 -- on the need to respect the state's domestic laws -- of the Code of Conduct for mandate holders of the Human Rights Council (resolution 5/2).

41. The allegation in paragraph 62 is not legally sound. On the one hand the legislator in article 15 of the rules for penal prosecution, describes judicial agents thusly"judicial agents are agents that -- under the direction and supervision of judicial authorities -- take action to discover crime, conduct preliminary interrogations, preserve evidence of crime, prevent the accused from fleeing or hiding, serve papers and implement judicial decisions in accordance with the law". On the other hand, paragraph (b) of article 205 of the Fifth Development Plan states "prevention and control of corruption and disturbance of economic security, organized anti-security crime, terrorist acts and soft security threats fall among the duties of the Ministry of Intelligence, in its capacity as agent of the judiciary". Therefore, when dealing with certain crimes, agents of the Ministry of Intelligence serve as agents of the judiciary and that is why their reports are admissible.

**XIV. Independence of lawyers,**

42. In paragraph 63 of his draft report, the Rapporteur has again selectively referenced the 2003 report by the Working Group on Arbitrary Detention -- for which clarifications have been provided in paragraph 9.

43. It is obvious that an attorney cannot act outside his/her legal competence. Surely the Rapporteur agrees that when an attorney violates the boundaries of a duty that has been entrusted to him/her by law and engages in acts that run contrary to his/her standing as an attorney, he/she should be prosecuted and if his/her actions can be described as criminal, after the issuance of a ruling of criminality and an indictment, in accordance with lawful regulations and the court's verdict, may be punished. With these in mind, allegations mentioned in paragraph 63 through 69 are refuted.

**XV. Trial proceedings**

**Access to legal counsel and impartial tribunal,**

44. According to article 35 of the Constitution, in all courts, litigants have the right to employ the services of an attorney. If they cannot, one will be provided for them. Article 185 of the "Penal Prosecution Rules" also states that in all penal matters, litigants can choose and introduce their lawyer or lawyers. The time of the trial will be announced to the accused, plaintiff, private claimant and their defense lawyers. Additionally, article 186 of the same rules, states that the accused can ask the court to appoint a lawyer. If the court decides that the accused does not have the means to employ an attorney, one will be chosen for him/her from the same judicial district or from the nearest neighboring district (in such instances and to facilitate judicial assistance for the accused, who does not have the financial means, the legislator has tasked the Ministry of Justice to pay the appointed attorney's fees from its own

budget). Also, paragraph 1 of article 186 of the rules of penal prosecution states that in major crimes, if the accused does not choose an attorney, one will be appointed for him by the court.

45. Articles 112 and 130 of the rules of penal prosecution include various passages on the protection of the rights of the accused, so as to enable them to be informed of the full extent of the charges placed against them and to defend themselves by employing – in a timely fashion -- the services of an attorney at law. In article 575 of "the Islamic Penal Code", the legislator has condemned judges who ignore this rule to dismissal bans of judicial service and five-year ban on government employment. In view of the above, the Rapporteur was not expected to use baseless comments as the foundation of his draft report and deprive it of credibility.

**XVI. Capital punishment,**

46. In principle, the very existence of capital punishment for most serious crimes does not contradict the right to life. For the person who has been condemned to execution, by taking a life has irreversibly harmed the family of his/her victim. Similarly, in certain other instances of most serious major crimes, the guilty party has seriously disrupted public order and security.

47. Inclusion of statistics and figures that are borrowed from unreliable sources, or the use of vague terms, tarnish the authenticity of the report.

48. In the Islamic Republic of Iran, all citizens – regardless of their ethnic background – enjoy equal rights and race, language and the like do not provide status. Therefore, no one is sought and punished simply for belonging to a specific ethnic group. With this in mind, reference by the Rapporteur to the ethnicity of perpetrators of serious crimes is puzzling and suggestive of his possible prejudice. Therefore, the Rapporteur must explain his unwarranted and unjustifiable use of the term "fabricated ethnic classifications". Does the Rapporteur believe members of terrorist organizations who engage in terrorist acts or collaborate with similar groups to disrupt public order and violate the basic rights of citizens should go unpunished?

49. Expression of the so-called concern over the increase in the number of executions – with emphasis on drug-related crimes – is misplaced. The Special Rapporteur was expected to fully keep in sight the region's geographical characteristics and subsequent factors behind the increase in the production of narcotics -- as one of the most serious instances of crime that has come to threaten the lives of multitudes of Iranian citizens, regional neighbors and even the youth of European countries.

**50.** The Islamic Republic of Iran, in keeping with the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances -- especially the preamble of the Convention -- feels a responsibility to resolutely continue its fight against international and organized drug crimes. Additionally and in principle, the Rapporteur must not interfere in the modality of the Islamic Republic of Iran's collaboration with UNODC. The approach of the Rapporteur fundamentally contradicts the rules of article 7 of the Code of Conduct for mandate holders of the Human Rights Council; stipulating mandate-holders should "ensure that their recommendations do not exceed their mandate or the mandate of the Council itself".

**51.** Capital punishment for the most serious crimes is a legal punishment that has been endorsed by international instruments namely the ICCPR. In the Islamic Republic of Iran, capital punishment is only meted out for the most serious crimes. Such crimes are tried with extreme care and in the presence of the representative of the prosecutor, the accused and his attorney. Similarly, verdicts are issued after the organization of adequate court sessions. In such tribunals, attorneys must be present for the court to be officially in session. Subsequently, sessions in which an attorney is not present, will be deemed ineffective and lacking legal foundation and their decision and verdict open to reversal by the Supreme Court.

**52.** Expression of concern by the Rapporteur, in paragraphs 81 and 82 of the Draft, is unfounded. The four Iranian citizens mentioned in paragraph 82 have committed terrorist crimes. For the information of the Rapporteur, a number of their terrorist activities have been mentioned below:

-Armed assault on police station.

-Killing (martyrdom) of 3 members of the public.

-Fomenting insecurity, fear and panic in the region.

53. Expression of so called concern over the increase in the number of executions without due attention to the nature of crimes committed and their social implications is unfair and unrealistic. Definitions of the most serious crimes that carry the death sentence are dependent on the social, security, and geographical location of a country. In addition, drug smuggling is considered a capital offense in many countries. For the Islamic Republic of Iran, which is adjacent to one of the world's largest heroin and opium production and transit routes, such sentencing is very natural. Additionally, each year the Islamic Republic of Iran seizes considerable amounts of narcotics from international smuggling rings. Also to date, many thousands of Iranian border guards have been martyred or injured in this fight.

54. An increase in the number of drug addicts inside the country has translated into deeply felt misery for them and their families. Every day, a considerable number of addicts die from overdose, with others becoming insane or contracting incurable diseases or even dying from tissue degeneration. The issue of drugs and the fight against smugglers that incessantly smuggle large amounts of drugs -- and by doing so endanger the security of the society -- is of the highest priority for the country.

55. The Islamic Republic of Iran believes that the production and distribution of drugs represents a major threat to children, adolescents and young people around the world, and considering its extremely painful repercussions, is a prime example of the most serious crimes against humanity. In cases involving capital punishment for persons convicted of highly serious drug crimes, observance of legal guidelines and fair trial are of primary importance. In the Islamic Republic of Iran, these considerations are accorded indiscriminately to Iranian nationals and aliens. Criminals, who have been convicted of lighter offenses, are grouped with addicts to undergo rehabilitation – in one of many rehabilitation facilities -- and return to the society.

56. We again repeat that not all drug offenders are given the death sentence. On the contrary, in most instances these criminals are given cash fines and in some instances, prison terms. Capital punishment is exclusively meted out to those who commit very serious drug related crimes (armed smuggling of narcotics, assassination and kidnapping).

57. To prevent addiction and to fight drug smuggling, the amended "Drug Control Law" has established a committee chaired by the President and attended by the Prosecutor General, Minister of Interior, Minister of Intelligence, Minister of Health, Minister of Education, head of the National Radio and Television network, Chief of Police, head of Tehran Revolutionary Court, head of the Prisons organization, Commander of Basij and Minister of Culture and Islamic Guidance. This in itself is telling of the pressing need felt by the Islamic Republic of Iran to counter serious drug related crimes.

58. Footnote 83 which claims that the MFA is the formal partner for UNODC is not correct. On the contrary, the Iranian Drug Control Headquarter is indeed the formal partner for UNODC which signed joint cooperation program for the period of 2011 with the said organization.

59. Taking into account Iran's cooperation with the UNODC, the last sentence in paragraph 88, is counterproductive. According to statistics provided by the UNODC more than 80 percent of drug detection is carried out in Iran, therefore, cooperation with Iran, as a front runner in the international fight against drugs trafficking emanating from Afghanistan, is of crucial importance for UNODC.

60. In response to the allegation at the beginning of paragraph 80 of the Report, we stress that if the crime committed by criminals is so horrendous that it disrupts public order and outrages the public**;** to sooth public sentiment, deter similar criminality -- and upon the request of the victim's family (*owners of the spilt blood*) -- the culprit will be publicly executed.

61. As for capital punishment for consumption of alcoholic beverages, since no such sentence has ever been carried out in the Islamic Republic of Iran, its inclusion in the Draft will mislead public opinion. For that reason, the Rapporteur must omit the above reference.

62. With regard to the terrorist crime of *Moharebeh,* as mentioned in paragraph 80 of the Draft, we once again point out that *Moharebeh* has been wrongly translated as "enmity with God". In fact, *Moharebeh* describes a terrorist crime in which "a person brandishes or points a weapon at members of the public to kill, frighten and coerce them". This criminal culpability has been exclusively devised to help with public order and security and to protect the public from gun-related crimes and does not have anything to do with waging war with God. Inclusion of *Moharebeh* – with the above incorrect definition – in the introduction of the Report, despite provision of adequate explanations on previous occasions, is unacceptable. As such, we strongly demand that it is not repeated and any such usage is altogether omitted from the Draft.

63. The Rapporteur must not include one-sided topics that have been provided by certain unreliable sources -- and are open to biased and unfair interpretations -- and when composing his finalized report must pay due attention to rules of the Code of Conduct for mandate holders of the Human Rights Council (resolution 5/2).

**XVII. Socioeconomic rights,**

**Right to education,**

64. In accordance with article 20 of the Constitution, all members of the nation are equally protected by law. On this basis, all strata of society are given equal access to the laws stipulated by the legislator. Similarly, there is no distinction between university students and other members of society in enjoyment of above laws. At the same time, like other members of society, they are obliged to respect laws and regulations of the land. In the eyes of the legislator, there is no distinction between university students and others, and all must respect the country's existing laws and regulations. On this basis, any possible steps taken in scientific and educational settings correspond to existing laws and regulations of universities. On the other hand, deterrent action taken against individuals outside university settings, regardless of their social standing, will be commensurate with their breaking of social norms

and unruly conduct. Criminal action by any individual, irrespective of his/her social and educational standing, constitutes grounds for prosecution. Therefore, university students are not immune from investigation of their conduct that is in conflict with the law.

65. According to article 19 of the ICCPR, freedom of speech and belief are dependent on respect for the rights and reputation of others – also preservation of security and public order or morality. Since science and ethics are held in high regard in university and research settings and to protect the general rights of university students, the Islamic Republic of Iran's university student discipline regulation assigns certain responsibilities to university students -- both inside and outside academic settings – and requires them to refrain from conduct that is contrary to their dignity as university students. The preliminary disciplinary committee and the university appeals committee serve as guarantors for the implementation of the above regulations. These committees investigate cases of delinquency as well as educational and administrative misconduct by legal and real entities that are disruptive to university programs and issue disciplinary verdicts.

66. In the Islamic Republic of Iran there are no restrictions on the political, cultural and social activity of university students. On the contrary, they are encouraged to participate in such activities. If a student is banned from continuing his/her university studies on orders of competent disciplinary authorities, universities – in keeping with their scientific and educational mission and in difference to the station of science, professors and students -- will work to help the offending student return to his/her studies once he/she pledges to respect the rules and regulations. We further point out that repeated visits by different Presidents of the Islamic Republic of Iran -- and other high ranking state officials -- to universities in the past 3 decades is an indication of the important station of universities and students.

67. Inclusion of generalities and vague statistics in paragraph 92 of the Draft Report are contrary to rules of resolution 5/2. Correspondingly, Paragraph (a) of article 6 of the Code of Conduct for mandate holders of the Human Rights Council (resolution 5/2) clearly states " Always seek to establish the facts, based on **objective, reliable information** emanating from relevant credible sources, that they have duly cross-checked to the best extent possible."

**XVIII. Sanctions,**

68. Admittedly, imposed sanctions, irrespective of their causes tend to adversely affect the basic rights of the citizens of a given country. From this perspective, no sanction is legal or justifiable. As all such sanctions will fundamentally contradict international human rights norms and standards. For imposition of unilateral sanctions, the Rapporteur must condemn certain countries as violators of the human rights of Iranian citizens. And by doing so, the Rapporteur must express his principled position on biased and politically motivated sanctions that run contrary to basic international laws and the articles and spirit of the UN Charter.

69. Unfortunately, when discussing the sanctions in his Draft Report, the Rapporteur has failed to describe their full repercussions on the life of the innocent citizens and has equally failed to mention the role that sponsors of such sanctions play in the blatant violation of the economic, social and cultural rights of Iranian citizens.

70. The position of the Rapporteur on the unjustifiable sanctions and their negative implications for the life of Iranian citizens is unfair and seeks some clarifications. In this context, we draw the attention of the Rapporteur to the numerous accepted UN resolutions and standards that have condemned unilateral sanctions for their negative human rights implications.

71. Although the Rapporteur, in his Draft Report, has welcomed the recent agreement between the Islamic Republic of Iran and 5+ on so-called nuclear issue, however nowhere in the present and previous Reports has he mentioned the need for action by international mechanisms to lift the anti-human rights sanctions. We strongly demand that the Rapporteur pays closer attention to the issue of sanctions and its ramifications for the basic rights of citizens and incorporate the concerns of the Islamic Republic of Iran – as mentioned in previous paragraphs and past responses.

**XIX. Conclusions and recommendations,**

72. The conclusions of the Special Rapporteur are provided based on an untrustworthy and unprofessional draft that contains various false or unreliable allegations. It also ignores the

basic rules of resolution 5/2 on the Code of Conduct for mandate holders of the Human Rights Council, which any Rapporteur is obliged to respect, and as such is legally unsound. for the reason that:

a) The meaning of phrases used in paragraph 94 does not correspond to the same as used in paragraphs 95, 96 and 97. In paragraph 94 the Special Rapporteur points out that "the Islamic Republic of Iran possesses the basic tools necessary to observe its international human rights obligations" and goes on to state "principles and regulations stipulated by these law, if consistently implemented, could contribute to securing fundamental human rights". However, in paragraph 95 of the Draft he weakens the statement he has made in the previous paragraph. Such contradictory remarks are in conflict with the rules of paragraph (e) of article 3 of resolution 5/2 on the need for honesty and impartiality and paragraph 3 of article 4 on the need for respect for the national legislation and regulations of the country wherein they are exercising their mission.

b) Recommendations of the Rapporteur in paragraph 98 are respectively responded in paragraphs (9-12), (38-46), (45-46), (18), (44-46) and (47-62) of this document.

c) Recommendation of the Rapporteur in paragraph 99 is documented and discussed in paragraph 51of this document.

C. **Final observations and observations**

73. The Islamic Republic of Iran expects the Rapporteur to:

- Fairly and evenly report Iran's human rights advances.

- Correct his misjudgment about the rule of law in the country

- Provide it with sufficient time to respond to the Draft Report.
- Contact regularly Missions of the Islamic Republic of Iran to the UN to obtain accurate information.

- Fully observe and abide by the Code of Conduct for mandate holders of the Human Rights Council (resolution 5/2).

- Pay due attention to the issue of cultural diversity and its important role in promotion and protection of human rights

- Chose a correct methodology for the composition of the Report, including:

    - Abstain from using manufactured (fabricated) ethnic divisions.

    - Avoid making reference to and the inclusion of vague and general and unreliable statistics and figures.

    - Abstain from interfering in Iran's interaction with other UN mechanisms.

    - Comprehensively pay attention to the human rights implications of the sanctions.

    - Avoid collection and inclusion of lengthy and baseless topics as footnotes and annexes.

- Omit the following terms from the Draft Report:
    - Persecution (paragraph 36).
    - Judicial Harassment (paragraph 39).
    - Regime (paragraph 35).
    - *Moharebeh.*

In conclusion, we point out that the present document is the Islamic Republic of Iran's response to the text of the Draft Report and that the Report's annexes have not been addressed since they contain a voluminous amount of vague, unsubstantiated and false allegations that are far beyond the mandate of the Special Rapporteur.