



### **Witness Statement of Ahmad Hamid**

**Name:** Ahmad Hamid  
**Place of Birth:** Ahvaz, Iran  
**Date of Birth:** 1975  
**Occupation:** Attorney

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**Interviewing Organization:** Iran Human Rights Documentation Center (IHRDC)

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**Interviewer:** IHRDC Staff

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The views and opinions of the witness expressed herein do not necessarily reflect those of the Iran Human Rights Documentation Center.

## Statement

### Background

1. My name is Ahmad Hamid. I was born in 1975 in Ahvaz. I worked as an attorney from 2002 to 2007. In the last two years of this period I was involved in the cases of individuals arrested in relation to the protests, or *Intifazeh* in Ahvaz.<sup>1</sup>
2. I was not politically active after graduation. I studied the law in Ahvaz during the reform era.<sup>2</sup> Students and youth were excited and active those days and I was somewhat politically active. I participated in some meetings but I was not considered a political activist. After graduation I started working as an attorney, and I was busy with regular business like other attorneys. Then the 2005 *Intifazeh* occurred. Many people were arrested that year and I represented some of them in court.

### The April 2005 *Intifazeh* and Prosecutions of Protestors

3. In 2005, towards the end of President Khatami's [second] term, an official document was leaked. This document contained [controversial] provisions. Even if the leak was fraudulent, people saw that its provisions were being implemented. In fact, it was even being implemented more thoroughly than the document suggested. Unfortunately many actions were taken against these people [the Ahwazi Arab population] during the reform era, which the people really did not expect. People believed that the document [was real] even though Mr. Abtahi, the Vice President for Legal and Parliamentary Affairs, did not accept [its authenticity] and stated that it was a fraudulent document.
4. The information I have received indicates that the letter was written before 2005 and was leaked long before [being made public], but that it was kept private.
5. On April 15, 2005, a peaceful demonstration took place but unfortunately it was suppressed, like other protests. Many people were arrested or killed when they attacked the protesters. Several people were charged, and a special procurator's branch was set up to prosecute these crimes. These cases were handled through a special process, which created a tense, opaque, police-state atmosphere. Nobody knew what was going on. Many people came to my office and said that their children had left their homes several months ago and had not returned, or that they were arrested and no information was available about them.

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<sup>1</sup> Literally "shaking off", this term is used throughout the Arab world to refer to mass protests. This phrase is usually associated with the period between 1979 and 2005, during which 98% of all the protests to which the word is referred took place in the Reform era."

6. There are no detailed statistics available, but hundreds were arrested. Perhaps tens of people were killed in different areas of Ahvaz such as Hamidieh, Kut Abdullah, Hay al-Thawra, the Malashieh neighborhood, and other places in the city.
7. A special procurator's office was opened in the Ministry of Justice [to investigate these cases], but the real work was taking place in the Ministry of Intelligence (MOI) secret prisons. Whenever we went [to that office] to follow up on our cases, we did not see anybody [in charge]. The procurator was Mr. Hasan Kaka. He had a clerk named Mr. Nasser. They occasionally showed up in the courthouse, but they conducted most of their business at MOI secret detention centers. They questioned the detained individuals there in the detention centers.

### **Difficulties Faced in Defending Political Prisoners**

8. Unfortunately these kinds of cases do not follow the regular judicial process and the Code of Criminal Procedure. They took the defendants to a small room in the basement of the MOI detention facility. They questioned the defendants there while they were blindfolded. There was no clear arraignment and the presence of defense attorneys was not permitted. While it is correct that according to Iranian law an attorney cannot get involved in the prosecution's investigation, he or she can be present.<sup>3</sup> A defendant has the right to have his or her attorney present and observe the process to see whether the defendant's rights are being upheld or not. Defendants were not allowed to meet with their lawyers before their trials. In some special cases when they allowed an attorney to meet with the defendant, the meeting took place a day or two before the trial and in the presence of security officers.
9. They never allowed me to enter the MOI detention facility. But in prisons<sup>4</sup> they permitted the defendants to meet with their attorneys for 5 to 10 minutes in the presence of security officers.
10. When the investigation phase was over, a case was brought to court. The court handled more than twenty cases in three days. This means that the court reviewed the

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<sup>3</sup> Article 128 of the Criminal Code of Procedure for Public and Revolutionary Courts states, "Article 128 – The accused can have one person as his or her lawyer. After the investigations are finished and without interfering with the investigations, the lawyer can present documents to the judge to help discover the truth and defend his or her client or to enforce the law. The statements of the lawyer shall be recorded in the minutes.

Note – In confidential cases, or if the presence of individuals not accused of the crime causes corruption according to the judge, and further, in cases of crimes against the security of the country; the court can only permit the presence of the lawyer in the examining stage. (Amendment dated 06-07-2003)

<sup>4</sup> The distinction between prisons and detention centers here is that the former are legal under Iranian law and are operated by the Prisons Organization, which is under the supervision of the judiciary. See Section 2.2 of *Rights Disregarded: Prisons in the Islamic Republic of Iran*, available at: <http://www.iranhrdc.org/english/publications/reports/100000574-rights-disregarded-prisons-in-the-islamic-republic-of-iran.html>.

results of the investigation and listened to the defendants' and attorneys' defenses in the course of three days. The court issued the sentences on the fourth day.

11. The procurator issued the indictment and then, through the prosecutor's office, the court received the indictment. The court heard the defense arguments for half an hour. It is interesting to note that the last day of the trial was Thursday. Friday is the weekend in Iran. On Saturday they called us and told us to go to the court to receive the verdict.
12. My case was the most critical one and it had 19 defendants. Charges were "acting against national security", *muharibih*, and sowing corruption on earth through acting against national security, bombing, and causing public disturbances.<sup>5 6</sup> There was no evidence against the defendants except the confessions extracted at the MOI. According to their statements, which were repeated in the court, all of them had been tortured. They had been severely tortured, and they were videotaped and forced to confess.
13. The only evidence upon which the judge issued his verdict was the defendants' confessions recorded at the MOI detention center. For instance, during the trial three or four defendants said that they did not do it [participate in the bombings], and that these [confessions] were made as a result of physical and psychological torture they were subjected to at the MOI. They said they had made those confessions, and that out of their own volition and with complete freedom, they were declaring that they had not done anything and that [their confessions] were false. One of these defendants was sent back to the MOI, and after two days he had a special trial. [In the new trial] they said that when he was back to his cell, he felt guilty because he had lied to the court and he asked [the agents] to take him back to court so that he would be able to confess. This means he was tortured severely in the MOI until he said that he regretted [retracting his confession] and that he wanted to confess again.
14. According to Article 38 of the Constitution of the Islamic Republic of Iran (IRI) torture is forbidden.<sup>7</sup> Physical abuse of a person is a crime, and the judge should refer the case to the prosecutor's office to investigate if torture has actually taken place. But usually courts do not follow this procedure. How can defendants provide any

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<sup>5</sup> The Islamic Penal Code in effect at the time defined *muharibih* as drawing a weapon on the life, property or chastity of people or to cause terror as it creates the atmosphere of insecurity.

<sup>6</sup> The 19-defendant case to which the witness refers was related to a series of bombings that took place in the city of Ahvaz in the months following the *intifazeh*. Several Ahwazi Arabs were tried for complicity in the bombings in a number of multiple-defendant cases, and some defendants were convicted and executed. See Section 1.7 of IHRDC report "A Framework of Violence: Repression of the Arab Ethnic Minority in the Islamic Republic of Iran" at <http://www.iranhrdc.org/english/publications/reports/1000000528-a-framework-of-violence-repression-of-the-arab-ethnic-minority-in-the-islamic-republic-of-iran.html>. As the witness demonstrates, fair trial standards were routinely violated in these cases.

<sup>7</sup> This Article declares, "All forms of torture for the purpose of extracting confession or acquiring information are forbidden. Compulsion of individuals to testify, confess, or take an oath is not permissible; and any testimony, confession, or oath obtained under duress is devoid of value and credence. Violation of this article is liable to punishment in accordance with the law."

evidence anyway? He has been tortured in a solitary cell, and the MOI does not allow anyone to witness torture. He should be sent to the medical examiner's office to see whether torture has taken place or not. But instead they kill a person, bury him, and they state that he died [of natural causes].

15. According to Iranian law, one way to prove *muharibih* is through a confession which should take place in court. The confessor should be of sound mind, should have reached the age of majority, and most importantly, must possess free will. This means that he must confess out of free will and with a sound mind. If there is no confession, two witnesses are needed to prove the charge. None of these existed. *Hadd* crimes are dismissed upon the slightest doubt.<sup>8</sup> *Muharibih* is a *hadd* crime, and, as such, it should have been dismissed.
16. Unfortunately all such verdicts were issued in particular branches [of the Revolutionary Courts]; usually presided over by young judges, who do not have a lot of legal experience and are affiliated with the Basij and the MOI, are appointed to these branches. They issue these verdicts, and, on appeal, they send these cases to a particular branch of the Supreme Court, which usually affirms the trial court's decisions. The number of instances in which the Supreme Court reduces the sentence or remands for further investigation is very low. I even heard from my colleagues that the Supreme Court had increased the sentences in some cases. For instance a life sentence was increased to a death sentence, or a 10-year sentence was increased to a 15-year or a 20-year sentence.
17. At that time convicted individuals could appeal to the Discernment Branch [of the Supreme Court] within 20 days after they were notified of the final decision. The Discernment Branches, which were branches in the Supreme Court, are no longer a part of the legal system. But in those days even final decisions were appealable at those branches, and the Discernment Branches would rule whether the decision was correct or not.
18. Many lawyers believe that the handling of these cases by the Revolutionary Courts is illegal. But the authorities base their reasoning on a Supreme Court unification case opinion, which states that offenses which threaten security should be tried by the Revolutionary Courts. This ruling encompasses cases all over Iran. When the General Board of the Supreme Court issues a unification case, that opinion is considered to be law of the land. But many lawyers believe this is against the law. Unfortunately Revolutionary Court cases are handled by young and inexperienced judges who have been appointed by the MOI.

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<sup>8</sup> One category of crime and punishment as prescribed by *Shari'a* is called *hadd*. In plural, these punishments are called *hodud*, and they comprise a separate class of punishments from other *Shari'a* punishments or those that originate in the civil law. *Hodud* punishments are fixed and the judge cannot change or mitigate these punishments.

19. In cases of defendants who did not commit a crime and must be released, or at least be released on bail, the judges respond to our request that they act based on the MOI report, and they tell us to read the MOI report to see what the MOI has recommended.
20. When the MOI completes a case file, it typically writes a report and makes a recommendation. [But] that recommendation is actually an order. It cannot be copied, but we can read it in the case file. They usually write that so and so is a long-time separatist, has always supported them, has engaged in separatist activity, encourages these acts and incites the public. When the MOI wants someone to be executed, they recommend the “maximum penalty under the law,” and when they want someone to be imprisoned they say a “judicial action” is appropriate. This means that the judge cannot let a person go free if there is such a recommendation, even though there might be no evidence against the defendant in the case file.

### **Judicial Irregularities in Death Penalty Cases**

21. I represented two individuals who were sentenced to death. After the Supreme Court affirmed their sentences, I appealed to the Discernment Branches so that this branch would conclude that the decision was wrong, or to reduce the sentence, or to remand the case back to the trial court for further investigation.
22. It was a Thursday when the trial ended. The following Saturday we were told that the sentences had been handed down. When did the judge have the time to examine the case file and deliberate over it? The trial was superficial. No attorney in Iran can affect such cases. Everything is done by the security apparatus. The trial was the MOI’s trial. The MOI was videotaping the defendants, the attorneys and the trial proceedings. They made us pledge [to remain silent] by saying, “If you publicize [any news], provide information to anyone, give an interview, or do anything, you will face consequences.”
23. When we are notified about a verdict issued by the Revolutionary Court, unfortunately the decisions are not stamped. The court decision is a typed document, which they can deny. I sent that sentence to the Discernment Branch. After a month or two I received a warning from the Discernment Branch, stating that the file was incomplete. The decision did not bear the stamp the trial court. We went to court, but they stated that they would not stamp the court, and that we should proceed with what we had. They added that if the Discernment Branch wanted they could inquire from us [about the validity of the verdict]. This was a problem that we could not solve. The case was still at the Discernment Branch when my two clients were executed. The results of the [appeal to the] Discernment Branch was not clear yet.

24. They were held at the MOI [detention center] until the day of execution. That day they were taken to the execution container at the Karun Prison. They were executed at dawn in the presence of security officials. It should be noted that according to Article 14 of the code governing executions in Iran, the defendant's attorney and his or her family should be notified 48 hours before the execution is to take place. At that point the attorney can ask the Supreme Leader to pardon the convicted person, and he or she must not be executed till a response comes from the Supreme Leader. Unfortunately they carry out executions without notifying the attorneys or the families.
25. After the Supreme Court affirmed the sentence and the case went to the judiciary's enforcement office, they carried it out the execution. I heard that my client was executed. I went to the judge who was in charge of the prison's affairs and asked for a meeting with my client. The judge's permission was required. When he saw my letter he asked the name of my client. I gave him my client's name and he checked a list and then he responded that my client had been executed. I said that it is not possible because I should have been informed if that was going to happen. The judge told me that my client had been executed and that he was present at the time of his execution. I asked him if he was the judge who supervised the implementation of the sentence and he responded that he was, and that he had been present during the execution. I asked how they could carry out an execution without notifying the attorney or the family, and I stated that this practice was in violation of Iranian law. This was a ratified law, and it must be observed. He said that he had seen a warning sent to the attorney in the case file.
26. Under Iranian law a *muharib* is a person who takes up arms and disturbs public peace. A *muharib* could be punished in one of four different ways. One of them is execution, and that is the sentence they usually receive. The Islamic Penal Code states that groups which use weapons with the intention to overthrow the government are *muharib* and their members will be sentenced as *muharibs*. The way they [the authorities] process these cases is that they make people confess and then typically charge them with using weapons to overthrow the Islamic Republic and terrorize the public. They state that they are doing this to disturb the peace and, therefore, they are *muharibs* who must be sentenced to death.
27. As long as a fair trial does not take place and confessions are not taken in a transparent manner, these sentences cannot be considered as valid. We complained that according to Iranian law a crime punishable by death, stoning or crucifixion should be tried by the provincial court in the presence of three experienced judges. In cases involving political prisoners, a jury trial must take place.
28. The judges [of death penalty cases in the Revolutionary Courts] have a certain expiration date. A particular judge will be appointed to a particular branch and they

assign him two or three cases. He sentences 10 to 15 people to death and after that he will be transferred to another province so that he would not face any threats. They will appoint another young judge so that he can issue new death sentences. Then that judge will also be transferred to some other place. This may be due to the judge's fear. A judge who hands down such heavy-handed sentences should be afraid that the people or the family of the convicted individuals could take revenge against him. I have never seen a judge who stays after sentencing defendants to death. All are transferred to new towns.

### **Role of Prison Judges**

29. [There are separate] judges whose roles are to oversee the prison, who determine who is allowed to meet the prisoner and make determinations regarding the prisoners' eligibility for furlough. The prison judge is generally in charge of the judicial affairs of prisoners. Sometimes the prison judge is the enforcement judge as well.<sup>9</sup> The judge I spoke with was named Mr. Ahmadi, and I believe that now he has a post in the Ahvaz Department of Justice office. I asked him to show me the warning that they had sent me. I said that he was claiming that he had seen the warning in the case file, and I requested him to take that out of the case file and show it to me. "I did not receive it. When did you send it?" I asked. He responded that they did not care and that it was the responsibility of the bureau of notifications, and that maybe I did not receive it. I responded that the notification should be legal and that I should sign official papers when I am receiving it or it should be sent to my office or dropped into my mailbox!

### **Implementation of Death Sentences**

30. Unfortunately they execute a defendant and bury him in a remote place. This is completely against Iranian law and human decency. Even if a person is guilty and is to be executed the body should be returned to his or her family. The body should be buried in accordance with Iranian law and [the convict's] religious law. They bury the bodies in a remote place. Not only do they cover the body with soil, but they also place concrete and iron on top of it. After a week, when [the concrete] has dried and no one is able to excavate the grave and take the body out, they take a family member [like a brother] and inform him that they have executed his brother and they have buried him there. They also tell them that they do not have the right to hold a memorial service or to take the body out. In all the cases they executed a client they did not notify the attorney. If someone protests he or she will be put in jail.

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<sup>9</sup> The enforcement judge is the judge who oversees the implementation of a sentence.



31. Usually they bury the body in a remote area and then they inform family members. This is against both the civil law and the religious law. It creates too much hatred. I told the judge that if they truly are good Muslims, they should let the family have the body. He said that no one came for the body. I mentioned that when they secretly execute someone, how is it possible for anyone to know that he has been executed and come after it? I also told him that he was responsible for informing the family so that they can receive the body.
32. Even those who were informed were not given the bodies when they went to receive them. No one received a body in Ahvaz after 2005. Three brothers and their friend were executed in June 2012. Their [fourth] brother heard the news and when he went to ask the authorities, he was imprisoned. Violation of human rights clearly takes place in Iran, and I believe these violations are more acute in a place like Ahvaz.

### **Court-Appointed Defense Attorneys**

33. Cases involving national security crimes are tried in the Revolutionary Court. In those days [cases were referred to] Branch 3 of the Ahvaz Revolutionary Court. A young man named Sha'bani was the judge. When cases were referred to these branches lawyers did not have access to the case files. Many defendants could not afford an attorney. According to Iranian law when a defendant who is charged with a crime that is punishable by death, stoning or crucifixion, the defendant should have a lawyer. They usually have court-appointed lawyers. The judge would call any lawyer he desired and asked him or her to accept the case as a court-appointed attorney.
34. Some of the court-appointed attorneys are excellent attorneys and they defend their clients within the legal framework. However, some of them, because they do not receive much money, and because political cases are very sensitive, do not get themselves involved in a political fight. They only file a rudimentary defense brief.
35. According to the law, court or the Ministry of Justice should write a letter to the bar association. Then the bar association should give the case to an attorney [based on a system in which attorneys take turns]. Under the law governing the legal profession attorneys must take two to three cases as court-appointed attorneys.

### **Prosecution and Execution of Ghasem Salamat and Ali Motayarinejad**

36. My client's family approached me. They told me that their child was arrested, and that they did not have any news about him. After a prolonged inquiry I found out that he was charged with national security crimes, and that he was already indicted. His trial

was scheduled to take place in three to four days. His name was Ali Motayerinejad. He was executed.

37. When I spoke with the judge and the special procurator, he told me that they had completed the investigation and sent the case file to court, and the trial would probably take place within a few days. They told me that I could go the court and take the case. When I went to court they told me that I could not represent him because a lawyer had already been appointed. I told them that I am the attorney retained by his family, and when there is a retained attorney a court-appointed attorney may not handle the case, and the court must accept the retained attorney. That judge did not accept what I said. I spoke with the deputy to the head of the Ministry of Justice [office in Ahvaz]. He called that judge and told him that he was bound by the law to accept me. He also told me that I have a lot of work to do because we only had two days until the trial, and the case file was 3000 pages. He told me that if I wanted to take the case I should read the file day and night so that I may be able to read a portion of it. I said I was ok with it.

38. We did not have access to the complete case file. They picked 100 to 200 pages out of the 3000 pages [of the case file] and they gave that to us. They [the authorities at the prosecutor's office] said that these were the parts related to my client's case, but we knew that there were things in the file that they did not want us to know. After I read the case file I asked for a meeting with my client, but it was denied because he was detained at the MOI detention center. A day before the trial he was brought to the prison. He was accompanied by security officials. I am an Arab, and so was he. I spoke with him in Arabic. An Arab officer was present at our meeting so that we could not say anything in Arabic that they would not understand. My client stated that he could not talk in the presence of that person, and I asked him to leave us alone and stand by the door. But he said that he was ordered to be there and write down anything we said to each other. This was completely illegal. The trial was held shortly, and the sentences were handed down and carried out soon afterwards. As I mentioned before they did not inform me [that the sentences had been handed down]. I heard about it, and when I inquired they told me that they had executed them. I had another client who was also executed. His name was Ghasem Salamat.

39. I can remember all of the defendants of that case:

- I. Ali Motayerinejad, who was [also] my client.
- II. Abdullah Ka'bi
- III. Malek Banitamim
- IV. Abdulamir Farajullah Ka'b
- V. Mohammad Ka'bi
- VI. Khaziri
- VII. Majed Alboghbeish
- VIII. Alireza Asakereh

- IX. Ghasem Salamat
- X. Abdulreza Sanavati

These ten individuals were executed in 2006 and 2007.

40. These ten people were arrested during the demonstrations or one or two month afterwards. For months no one had any information about them. Ali Motayerinejad's brother approached me and said that his brother had been missing for a few months. He said that he believed that he was involved in protests at Kure Ma'shour (Mahshahr) and he was arrested there. This is a neighborhood in Ma'shour or Mahshahr.

### **Forced Confessions and the Case of Ramezan Navaseri**

41. I had another client named Ramezan Navaseri, who was arrested six month after the rest. He was forced to confess at the MOI, but I was able to see him. He said, "None of the things I confessed to were true. But they tortured me in a way that I was forced to say these things. And if they send me in there again I will repeat these things. But I will deny them in front of the judge. If I get the chance, I will speak with the judge freely and I will deny everything." He did that and said that everything was a pure lie and none of it was true. The prosecutor's assistant asked me to ask my client to not retract his confessions, and to repeat what he has said in the MOI. I said, "Esteemed assistant prosecutor, he is of right mind and he is an adult, and he is in your presence. He is speaking his mind with ease. He was not free in the MOI, and what he stated there cannot be accepted."
42. His confessions were extracted illegally. Eventually he was found guilty of ***muharibih*** without any legally acceptable evidence. Fortunately, however, he was not executed. He was sentenced to exiled imprisonment in the town of Eqlid [in Fars Province].
43. There was no evidence against him aside from his confession at the MOI, the veracity of which he denied at court. He was close friends with an Ahwazi Arab activist, who lives outside of Iran at the moment. He explained in the court that the activist was the teacher of his children at the school, and that while he friends with that activist, he was not involved with anything he had done. He just met him sometimes at the school. A few days ago I saw that Ahwazi activists had posted some news about my client on Facebook and other websites, indicating that he is not in good health at all.
44. I met one or two of my clients like Ramezan Navasari and Ghasem Serat a few times. They had considerable complaints about their situations and the torture to which they had been subjected. They said that they had been beaten with cables, and they showed their wounds to me. They were placed in small rooms in order to prevent them from

having a comfortable sleep. For instance, they placed them in wet rooms, or rooms that were very cold. They were never at ease. And this was in addition to physical torture.

### **Detention of Political Prisoners in Karun Prison and MOI Detention Centers**

45. They place political prisoners in the same wards as drug offenders, addicts and HIV positive prisoners. Some of them said that they rather go back to the MOI solitary confinement than stay at the Karun Prison's general ward. If a prisoner is held at ward for political prisoners it might be better than the MOI ward. However, they were held at those [general] wards. Particularly Ramezan Navaseri and Ghasem Salamat, whom God may bless his soul, he would complain, "I want to go back to the MOI and stay at the solitary ward rather than being in the Karun Prison." The situation in that ward was horrible. Drugs, various diseases, even AIDS and other communicable diseases and dangerous criminals [made the ward a very difficult place]. When they arrest common criminals, they place [political prisoners] alongside them to humiliate them. This is another kind of psychological torture.
46. Before extracting confessions and issuing the indictment, they keep [political prisoners] in specialized detention centers such as those of the MOI. They keep them until they complete the case file, extract confessions and videotape them. After they are done with extracting information from them and they are convicted, they put some of the prisoners in the general ward until they are executed. Or they exile them. They keep very few political prisoners in Ahvaz. They usually send them to [prisons in] remote towns or exile them. That is where they hold them.

### **Reflections on the Judiciary and the Conditions of the Practice of Law in Iran**

47. I do not believe we can function like real lawyers. Maybe in some civil cases or family disputes and divorces and leasing cases we are able to actually have some effect on the process, but in these types of [national security] cases I believe the presence of a lawyer only helps [the security apparatus]. Under the law, the system requires a lawyer for each case, and an attorney is nominally present, but at the end all of the attorney's defense arguments will not be important and will be rendered null and void with a short statement: "The guilt of the defendant is clear and evident and the attorney's defense arguments have not been valid." The court does not even provide any rationale for rejecting the defense attorney's arguments.
48. I think that in the cases in which I was involved [related to the 2005 protests and the Ahvaz bombings], the verdict had been issued before there was even a trial. The very first day that I walked into the court, the court's chief of staff said, "I think ten people

will be sentenced to death, and that the rest will get 10 to 15 years of imprisonment. You should not try too hard.” And when the verdicts were issued, exactly ten individuals were sentenced to death.

49. The Iranian Constitution states that trials are to held in manner that is open to the public, unless the court decides that there is a public or private interest served by conducting a closed trial. In Iran, however, all trials are closed unless it is expedient to hold a public trial! The exact opposite of many of the articles of the Constitution are being implemented in practice. For example one of the articles of the Constitution states that one is presumed innocent until proven guilty.<sup>10</sup> But in practice the principle is that everybody is guilty and one should prove his or her innocence. Or torture used to extract a confession is banned, but [in reality] torture is allowed for obtaining a confession in Iran! It is used and everyone knows it.
50. The judiciary is completely corrupt. The situation of the Revolutionary Court is a little different. In national security cases the Revolutionary Court deals with the MOI. Usually the Revolutionary Court handles drug offenses too. I know many drug offenders who smuggle drugs by the ton and are not punished. On the other hand some are executed for a few grams. Unfortunately some lawyers have connections and maybe act as intermediaries between a judge and these types of individuals. The lawyers who handle drug cases are very rich and have no problems.
51. In land-taking, corruption, and similar cases the judges have real influence. They receive money and take care of the interests [of those who pay them]. There is no need for a lawyer in Iran’s corrupt judicial system because there is no rule of law, and therefore there is no need to examine laws and legal arguments.
52. In cases of common crimes the situation is a bit better because the government is not involved. Typically there is not a lot of lawlessness in these cases. In other [national security] cases the security apparatus is involved, and the government, which is strong and dominant, is on one side.
53. Currently most judges are inexperienced. Recruited judges are members of the clergy and they are the worst judges in the Iranian judiciary. They have not studied law; they have studied Islamic jurisprudence, which does not have anything to do with the judicial process. This is another problem in Iran’s judiciary.
54. There are human rights violations in common criminal cases too, but they are not to the extent of national security cases.

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<sup>10</sup> Article 37 of the Constitution of the Islamic Republic of Iran states, “Innocence is to be presumed, and no one is to be held guilty of a charge unless his or her guilt has been established by a competent court.”

55. The judges in Ahvaz and other cities, especially the Revolutionary Court judges, are not native to the areas in which they work. Usually judges are inexperienced and they are brought from distant cities. Their verdicts have many legal mistakes. This is a violation of citizens' rights. One of the rights of a citizen is to have access to a fair trial, but with these judges fair trials do not take place.
56. In the national security cases human rights are violated during the entirety of the judicial process: From the moment defendants are arrested, which are done without any warrant, to the interrogations in the dark recesses of MOI [detention centers], where defendants are blindfolded and held in a terrible conditions and questioned without the presence of an attorney.
57. All cases I was involved in after 2005 were like that. Under Iranian law, after 24 hours of detention the judge is supposed to decide whether the detainee is to stay in detention or be released [on bail or other measures]. Generally this does not happen and the defendant stays in the black pits of the MOI for months without knowing the charges for which he or she has been arrested. In these types of cases the procurator goes to the MOI [detention center] and questions the defendant there and arraigns him or her. Everything is done in the MOI. Then when an indictment is ready the files go to the court and the trial, which is only a formality, commences. In an hour or less the judgment is issued and the defendant has the right to appeal. If the sentence is death or another serious sentence the defendant can appeal to the Supreme Court, and he or she files an appeal with the Supreme Court. The Supreme Court either affirms or reverses the judgment after a short period. Or it remands the case to the trial court for further investigation. In most cases the sentences are affirmed. In national security cases this process, from the moment of arrest to sentencing to its affirmation and to its implementation, violates Iranian law and certainly violates human rights.
58. I had a defendant who was charged with operating a separatist website. There is no law in Iran which states operating such a website is a crime and has a particular penalty. This was a violation of the principle of legality of crime and punishment. He was detained for three months at the MOI. He was severely tortured. In court, the judge said, "You have been disciplined. Therefore, you can be released."

## **Fates of 2005 Protesters and Individuals Accused of Involvement in the 2005-06 Ahvaz Bombings<sup>11</sup>**

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<sup>11</sup> Several bombings of public places took place in the months following the April 2005 protests in Khuzestan. Several Ahwazi Arabs were executed for complicity. Given the evidentiary standards and other due process violations in the prosecutions of these defendants as detailed by the witness, however, many believe that there was insufficient evidence to establish guilt for those executed. See also <http://www.iranhrdc.org/english/publications/reports/100000528-a-framework-of-violence-repression-of-the-arab-ethnic-minority-in-the-islamic-republic-of-iran.html#2.1.2>.

59. Ali Afrawi and Mehdi Nawaseri were the first two people executed after the 2005 Intifazeh.<sup>12</sup> They were executed in public near the Naderi Bridge in Ahvaz. In that case the attorneys neither met the defendants nor studied the case file. Nawaseri's brother, Abdulreza Nawaseri, was executed a year after that. He was in prison at the time of the protest. He was told that he had engaged in some activities during the few days of his furlough. He was tried and sentenced to death. He was executed.
60. There were people who participated in the protest or were political activists, and they escaped before being arrested. But when they were out of the country and in hiding, the authorities arrested their family members and imprisoned them for approximately two month. That was solely done to pressure the activists [who had escaped]. For example Sakineh Neysi, the wife of Ahmad Neysi, was arrested and imprisoned at the MOI prison for months without any charges. Another was Masumeh Ka'abi, who is married to Habib Nabgan.<sup>13</sup> Her husband was accepted as a refugee in Denmark and she went to Syria and registered her name at the UN and she was accepted as a refugee but when she wanted to leave the country to go to Denmark, she was arrested and sent back to Iran. She was sentenced to [four-and-a-half] years of imprisonment in Iran because of crossing the border illegally. She left Iran after serving her sentence.
61. Among those 19 people in the trial there were some who could not read and write Persian. They could not speak Farsi fluently and probably did not understand it very well. Some of them said that they needed translators, and they asked for Arabic translators. Unfortunately the court said that their Persian was good, that they did not have a problem understanding the language, and that they had to speak Persian which was the court's official language. They were told that they were Iranian, and that they must speak Persian. They were not allowed to have a translator.

## **Escape from Iran**

62. When I got involved in these cases I was constantly under pressure by security agents. I was threatened several times about providing any information about these cases to international organizations or the media. Despite the pressures and restrictions, I was able to inform human rights organizations about my clients' situations. When the pressures increased I left the country in 2007. I lived in India for three years. I entered Australia as a refugee in 2010.

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<sup>12</sup> See <http://www.iranhrdc.org/english/publications/reports/100000528-a-framework-of-violence-repression-of-the-arab-ethnic-minority-in-the-islamic-republic-of-iran.html#2.1.2.1>.

<sup>13</sup> See <http://www.iranhrdc.org/english/publications/witness-testimony/100000458-witness-statement-of-masumeh-ka'abi.html>.