



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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Committee against Torture

Communication No. 439/2010

Decision adopted by the Committee at its fiftieth session (6–31 May 2013)

<i>Submitted by:</i>	M.B. (represented by SAJE ¹)
<i>Alleged victim:</i>	The complainant
<i>State party:</i>	Switzerland
<i>Date of complaint:</i>	22 November 2010 (initial submission)
<i>Date of decision:</i>	31 May 2013
<i>Subject matter:</i>	Deportation to the Islamic Republic of Iran
<i>Procedural issue:</i>	None
<i>Substantive issue:</i>	Risk of torture upon return to country of origin
<i>Article of the Convention:</i>	3

[Annex]

¹ Service d'Aide Juridique aux Exilé-e-s (Legal Advice Service for Asylum Seekers), an association based in Switzerland.

Annex

Decision of the Committee against Torture under article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (fiftieth session)

concerning

Communication No. 439/2010

Submitted by: M.B. (represented by SAJE)
Alleged victim: The complainant
State party: Switzerland
Date of complaint: 22 November 2010 (initial submission)

The Committee against Torture, established under article 17 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

Meeting on 31 May 2013,

Having concluded its consideration of communication No. 439/2010, submitted to the Committee against Torture by M.B. under article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

Having taken into account all information made available to it by the complainant, his counsel and the State party,

Adopts the following:

Decision under article 22, paragraph 7, of the Convention against Torture

1.1 The complainant is M.B., an Iranian citizen born in 1970. Following the refusal of his application for political asylum in Switzerland, he runs the risk of being returned to the Islamic Republic of Iran. He considers his forced return would constitute a violation by Switzerland of his rights under article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. He is represented by counsel.

1.2 In accordance with rule 108 of its rules of procedure, when the complaint was registered, on 29 November 2010, the Committee, through its Rapporteur on new complaints and interim measures, requested the State party not to expel the complainant to the Islamic Republic of Iran while his complaint was under consideration.

The facts as presented by the complainant

2.1 The complainant filed an application for asylum in Switzerland in January 2005. In support of his request, he stated that he was an ethnic Arab from the Islamic Republic of Iran, from a city near the Iraqi border, where he had worked as a tailor for 10 years. He has a brother who is politically active and a member of an Arab political party advocating the independence of Khuzestan Province. Specifically, his brother had distributed political tracts (the complainant was unaware of his other activities). His brother had no fixed abode

and was in hiding from the authorities. For approximately the past five years, the authorities had made regular visits to the family home in search of his brother, at different times of day and, on average, twice a week, hoping to find out his whereabouts and the precise nature of his activities. Officers searched the house for weapons, among other things, and sometimes beat the members of his family. On one occasion, the authorities saw the brother in question flee the house over the rooftops and they opened fire but did not hit him. After the death of their father, the complainant became the head of the family and thus the target of the authorities' questioning and searches.

2.2 After a year had passed, in 2005, the complainant decided to leave the country to flee from the harassment of the authorities, who were constantly hounding him and invading his privacy.²

2.3 His younger brother, viewed as being the head of the family following the departure of the complainant, was detained by the Iranian security services for one week; on another occasion, he was reportedly detained for "two or three days". He was allegedly threatened with prison and was tortured (his genitals were reportedly burned during one such detention).³ His family has also been harassed by the secret service, and one of his brothers has been threatened with prison. The B. family, in a broad sense is a clan residing in the south of the country and has been subjected to surveillance by the authorities; several people with the name B. have been detained and killed, particularly young men, while others have disappeared. The complainant has no way to communicate by phone or mail with his family in the Islamic Republic of Iran, inasmuch as the Iranian authorities monitor the mail and telephone calls.

2.4 In 2006, the complainant participated in a public demonstration in front of the Iranian embassy in Bern with an Arab group. A photograph showing the complainant at the demonstration was posted on a website. According to the complainant, judging by the pressure brought to bear on his brother, the Iranian authorities were thus made aware of the fact that he had demonstrated. In order to protect his relatives back home, the complainant decided to stop all political activities in Switzerland.

2.5 His application for asylum was denied by the Federal Office for Migration on 19 January 2006. On 23 December 2009, the complainant's counsel filed a request for the Office to reconsider its refusal of his application and its call for his return. The Office considered that request to be a new application for asylum and rejected it on 26 February 2010. No appeal was filed against the Office's decision. On 1 June 2010, SAJE filed another request for reconsideration, supported by new evidence (it submitted a medical report dated 24 April 2010, according to which the complainant suffered from insomnia, severe distress, anxiety, nervousness and depression, as well as HCV positive viraemia). On 11 June 2010, the Office dismissed the application. On 8 July 2010, SAJE filed an appeal with the Federal Administrative Court against the Office's decision. The appeal was rejected by a ruling handed down on 3 September 2010, on the grounds that the request for reconsideration had been filed more than 90 days after notification of the last decision of the Federal Office for Migration and that the medical problems were not serious enough to justify reconsideration.⁴ The complainant believes that the Federal Office for Migration

² The complainant explains that he was unable to start a new life elsewhere in the Islamic Republic of Iran because he is uneducated, does not speak Farsi, comes from the Arab minority and, above all, because of the clan structure of Iranian society, whereby people become outsiders if they leave their family and their city to settle in another town without their relatives. He also adds that he did not respond to a call to military service.

³ The complainant provides no explanation as to the reasons for his brother's detention and persecution.

⁴ According to the complainant, an application for review may be submitted to the authorities within 90

committed an error in its application of the law, as it was required to reconsider his case on the basis of the new evidence adduced, namely the medical report of 24 April 2010. In this context, he refers extensively to the practice of the national authorities whereby they review cases on the basis of evidence submitted after the entry into force of earlier decisions, especially in cases involving non-refoulement to a country where there may be a risk of torture.

2.6 The complainant argues that the political situation of the Arab ethnic minorities is now sufficiently documented, which was not the case when he filed his application for asylum in the State party. He refers to the report of the UK Border Agency entitled *Country of Origin Information* (2009), and notes that around 3 per cent of the population of the Islamic Republic of Iran is of Arab origin, half of whom live in Khuzestan. Since 1999, more than 1 million Arabs have been forcibly displaced with a view to “Iranicizing” these groups by redistributing them among the Iranian population. As more than 80 per cent of Iranian oil is located in Khuzestan, it is a strategic region. Human rights violations such as arbitrary detention, indefinite detention and physical violence mainly affect members of ethnic minorities and, in particular, the Arab minority.

2.7 The complainant explains that, out of fear of crackdowns, Arabs avoid speaking their language in the Islamic Republic of Iran. Arab opposition parties have received support from Iraq in the past and a number of them, acting in secret, advocate independence. The complainant also claims that bomb attacks were carried out in Khuzestan in 2005. In retaliation, the authorities executed eight Arabs and arrested several others. Following the demonstrations in Abadan in 2005 against the poor quality of the water, the population of Khuzestan has been subjected to even greater surveillance and repression, torture during detention is systematic and the capacity of prisons has been seriously exceeded, resulting in inhuman conditions. The complainant adds that summary executions are a frequent occurrence in the Islamic Republic of Iran.⁵

2.8 He also notes that the Swiss Federal Administrative Court recognized that the Iranian secret services clearly may monitor political activities carried out against the regime abroad. However, it maintains that the attention of the Iranian authorities is largely focused on persons with a particular profile – persons acting outside the usual framework of mass opposition and whose functions or activities pose a serious and concrete threat to the Iranian regime, with the extent of the danger being decisive.

2.9 The complainant thus maintains that he fulfils several potential criteria for repression in the Islamic Republic of Iran: he is a member of the Arab minority, he belongs to the B. clan, he is from the family of a politically active person who is wanted by the authorities (his brother) and has now become the head of the family, following the death of his father; he took part in an opposition demonstration in Switzerland and believes that the Iranian authorities are aware of this fact. Even if he is not the leader of a political party and his political activities have been short-lived, the complainant believes that when his case is being considered, account should be taken of all the circumstances surrounding it.

2.10 The complainant states that it is difficult to obtain evidence from the Islamic Republic of Iran, where the security services do not document their investigations and where case files remain confidential until they are transmitted to a court. Lastly, he believes that it was quite normal for him not to know the exact name of the party for which his

days of discovery of the grounds for the review, which, in this case means the time when the medical report in question was issued.

⁵ The complainant refers to the report of the Department of State of the United States of America (2009) on the situation of human rights in the Islamic Republic of Iran, which mentions, inter alia, several violations committed against the Arab minority, including against members of the B. clan.

brother was an activist or the exact nature of his brother's activities, given that such parties operated in secret in the Islamic Republic of Iran.

2.11 Presenting a final point, the complainant believes that he also runs the risk of being tortured in the Islamic Republic of Iran simply because he left the country illegally.

2.12 On the basis of the foregoing considerations, the complainant believes that he should not be returned to the Islamic Republic of Iran, where he would run the risk of being tortured.

The complaint

3. The complainant states that if he is expelled to the Islamic Republic of Iran he will certainly be arrested and tortured by the security forces because of his ethnic background, his membership in the B. clan and the fact that he is the relative of a politically active person who is wanted by the authorities (his brother) and is also the head of his family. His forced return would constitute a violation by the State party of his rights under article 3 of the Convention.

State party's observation on admissibility and on the merits

4.1 On 19 May 2010 the State party presented its observations on the admissibility and the merits of the communication. It noted that the complainant is an Iranian of Arab origin and that he has affirmed both to the authorities responsible for asylum and to the Committee that he left the Islamic Republic of Iran because his home had been searched by the Iranian authorities, who were seeking his brother, a member of the Arab political party fighting for the rights of the local Arab population. The complainant would supposedly thus be arrested if he was returned to the country, all the more so as generally the families of political opponents, and Arabs in particular, are victims of repression, discrimination and ill-treatment. Furthermore, in 2006 he took part in a demonstration in front of the Iranian embassy in Bern, where photographs were taken. The fact that he left the Islamic Republic of Iran illegally would also reportedly put him in danger. Lastly, the complainant has also stated that in the light of his health problems, it would be unreasonable to force him to return.

4.2 The State party points out that the complainant entered Switzerland on 15 December 2005 and applied for asylum. On 19 January 2006 his application was denied by the Federal Office for Migration, which also called for the complainant's expulsion. On 2 February 2006 the Swiss Asylum Appeals Commission (whose remit has since been assigned to the Federal Administrative Court) confirmed the ruling. On 23 December 2009 the complainant filed a new asylum application, which was denied by the Federal Office for Migration on 26 February 2010. The complainant did not appeal against this ruling. Nonetheless, on 1 June 2010 he filed a request for reconsideration of his case; that request was rejected by the Federal Office for Migration on 11 June 2010. The Federal Administrative Court upheld that decision by a judgement handed down on 3 September 2010.

4.3 The State party notes that the complainant claims in his communication that in its judgement of 3 September 2010, the Federal Administrative Court did not assess his allegation that he would be tortured if returned to the Islamic Republic of Iran, restricting its review solely to the medical aspects invoked in the case. The State party notes that all the arguments put forward concerning the risk of persecution in the Islamic Republic of Iran were assessed in detail by the competent authorities during the three procedures brought before the Federal Office for Migration. The current communication does not contain any new elements that might change the decisions taken by the Office on 19 January 2006 and 26 February and 11 June 2010, nor the decisions of the higher authority issued on 2 February 2006 and 3 September 2010 upholding the Office's conclusions.

4.4 The State party indicates that the Federal Office for Migration concluded in its first decision that it was unlikely that persecution would result from the fact that a brother was supposedly politically active and points out that the opinion in question was confirmed by the decision of the Federal Administrative Court of 2 February 2006. In its second decision, issued on 26 February 2010, the Federal Office for Migration considered that the subjective reason invoked, i.e., political activity in Switzerland, could not be considered relevant for recognition of refugee status. At the same time the Office emphasized that the general reference to a situation likely to be faced by Iranian Arab citizens, in particular those from certain clans or families, was insufficient to conclude that the complainant ran the risk of personal persecution. The complainant justified his failure to appeal against this ruling by invoking the fact that his counsel was overburdened. As the Committee has explained in its case law, a failure on the part of counsel cannot be attributed to the State party.⁶ Furthermore, the complainant provided no explanation as to why he did not entrust his case to one of the numerous organizations defending the interests of asylum seekers in Switzerland.

4.5 The State party then explains that in its third decision, on 11 June 2010, the Federal Office for Migration specified that the fact that one of the complainant's brothers was politically active and that the complainant was ethnically an Arab and had been active in Switzerland had already been assessed in the course of the normal proceedings. As for the medical problems invoked (poly drug use and chronic hepatitis), the Office noted that the issue had been raised too late.

4.6 In the light of the foregoing, the State party denies the affirmation that the competent authorities did not consider on its merits the question of whether the complainant would be at risk of persecution in the Islamic Republic of Iran.

4.7 Concerning the alleged health problems of the complainant, the State party considers that they are not of such gravity that they would render his expulsion to the Islamic Republic of Iran wrongful. Such problems, or the medical certificate attesting to their existence, provide no new elements; they could and should have been invoked well before the complainant's application for reconsideration in 2010, as they had been known to the complainant since 2008. The State party refers to the Committee's practice according to which the aggravation of the condition of an individual's physical or mental health by virtue of a deportation is generally insufficient, in the absence of additional factors, to amount to degrading treatment in violation of the Convention.⁷

4.8 The State party then proceeds to consider the communication from the perspective of article 3 of the Convention. In this connection, it points out that no State party shall expel, return ("*refouler*") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture, and that for the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights. The Committee gave specific form to the elements of article 3 in its case law and in general comment No. 1 (1997),⁸ which stipulates that complainants must establish that there

⁶ The State party refers in particular to the Committee's decision in *R.S.A.N. v. Canada*, communication No. 284/2006, decision of 17 November 2006, para. 6.4.

⁷ The State party refers in particular to the Committee's decisions in communications Nos. 220/2002, *R.D. v. Sweden*, of 8 November 2002, para. 7.2, and 227/2003, *A.A.C. v. Sweden*, of 6 February 2003, para. 7.3.

⁸ *Official Records of the General Assembly, Fifty-third session, Supplement No. 44 (A/53/44 and Corr.1)*, annex IX, p. 54.

is a personal, present and serious danger of being subjected to torture in the event of a return to the country of origin. The existence of such a danger must be assessed on grounds that go beyond mere theory or suspicion. The allegations must demonstrate that the danger is serious.

4.9 With reference to paragraphs 8 (b) and 8 (e) of general comment No. 1, the State party notes that the complainant makes no allegations of having been subjected to ill-treatment in the Islamic Republic of Iran and says that he was not politically active there. Regarding his brother's supposed political activities, the State party notes that no proof has been adduced. The State party adds that in its decision of 19 January 2006, the Federal Office for Migration stated that it was unlikely that the complainant's brother would not have been apprehended by the authorities while living at his parents' home, where the security forces had reportedly sought to capture him on numerous occasions. In such circumstances, it did not make sense that only the complainant would flee the country, and not his parents or his brother.

4.10 The State party then notes that both the Federal Office for Migration and the Swiss Asylum Appeals Commission deemed that the complainant's allegations were unfounded concerning problems encountered prior to departure owing to his ethnic background. In its decision of 26 February 2010, the Federal Office for Migration emphasized that the news reports and press articles produced by the complainant in support of his second asylum application contained no new elements to show that the entire Arab community in the Islamic Republic of Iran, and the complainant in particular, were persecuted by the Iranian authorities.

4.11 The State party goes on to note that the complainant also alleged that he was in danger of torture in the Islamic Republic of Iran because he took part in a demonstration in front of the Iranian embassy in Bern, as proven by two photographs. The State party points out in this connection that the Federal Office for Migration noted that the complainant had not begun to be politically active in Switzerland until well after his arrival, while he had never been politically active in the Islamic Republic of Iran. Furthermore, the publication on the Internet of one photograph of a crowd of people, along with hundreds of other such photographs, made it impossible for the Iranian authorities to positively identify each individual's face. The State party points out that the complainant produced neither evidence nor specific indications to support the allegation that his participation in the demonstration in question would make him vulnerable to persecution.

4.12 The State party observes that the Federal Office for Migration also emphasized that, in light of the large number of Iranian citizens living in other countries, when the Iranian authorities are made aware of the political activities of their citizens overseas they cannot maintain surveillance over and monitor each person. Furthermore, they are aware that many Iranian migrants, having left their country above all for economic reasons, try to obtain a European residence permit by carrying out all kinds of activities that are critical of the Iranian regime. The Iranian authorities only identify such individuals if the nature of their activities constitutes a threat to the established political system (Federal Office for Migration, decision of 26 February 2010).

4.13 In this context, in respect of the complainant, the Federal Office for Migration noted that activities such as participation in non-violent demonstrations are not sufficient to establish that a specific danger exists in the event of a return to the Islamic Republic of Iran. The complainant has not held any high-profile political posts in the organizations mentioned, he has no record of political activity in the Islamic Republic of Iran and has not actively shown any interest in political involvement since his arrival in Switzerland. The State party points out that the Federal Office for Migration also considered that the complainant's behaviour in Switzerland was not likely to bring about serious prejudice from the Iranian authorities, especially since there was no indication that the authorities had

taken measures against him owing to his activities in the State party. The Office further noted that there was a contradiction between the claim that the complainant was wanted by the Iranian authorities, while according to the complainant's own allegations, they knew that he was in Switzerland at the same time. The Office thus concluded that the complainant did not have a political profile that would expose him to danger in the Islamic Republic of Iran.

4.14 The State party adds that it is impossible to deduce merely from the complainant's participation in one or even more than one demonstration in Switzerland that he would be perceived as a potential threat to the Iranian regime and that he would thus be in danger of torture upon his return to the country. In any event, the complainant had failed to demonstrate that the Iranian authorities were aware of his participation, and had also failed to show to what extent they considered him to pose a threat because of it. He had also failed to demonstrate that he personally was wanted in the country, or even that his brother was wanted there.

4.15 In the light of the foregoing considerations the State party concludes that the complainant does not run the risk of being tortured if he is returned to the Islamic Republic of Iran.

Complainant's comments on the State party's observations

5.1 The complainant presented his comments on the observations of the State party on 27 June 2011. Regarding the observations relating to his brother, who is politically active in the Islamic Republic of Iran, the complainant explained that he had only recently come to live in his parents' home. Previously, he had lived in another town and visited his parents only occasionally. The complainant also stated to the asylum authorities that his brother had been seen once by security officers fleeing his parents' house by the roof; they had opened fire, but he had managed to escape. The complainant's brother sometimes returned for a week, then left for 10 days, and continued thus, without having a fixed address.⁹

5.2 The complainant adds that he chose to flee because he could no longer bear to be constantly harassed by the security services. He feared threats to his physical integrity and to his life. If his brother had not fled the country, that was his personal choice, no doubt related to his involvement in politics; it is not a matter of logic.

5.3 The complainant holds no proof of persecution. The Iranian authorities never officially summoned him, nor did they issue a wanted notice or an arrest warrant for him, or any other document to show that his family was under surveillance. As for his brother's political activities, he pointed out that the regime's repression is so severe that opposition parties must act with the utmost caution; they remain underground and very few documents can attest to the fact they exist. For example, no party membership card is issued. The Swiss authorities have recognized that the political opposition in the country was built upon mistrust and secrecy (JAAC 1999 I No. 63.5, p. 45; JJCRA 1998/4).

5.4 Regarding the arguments about his political activities in Switzerland, the complainant reiterates the points made in his initial communication and adds that the State party is unaware which of those Iranians who took part in public political demonstrations have or have not been identified by the Iranian authorities. In considering the danger of torture in the event of return, it is not enough to rely on mere probabilities or conjecture that

⁹ On 9 June 2005 the complainant stated during a hearing as part of the asylum application procedure that his clan, the B. clan, was the largest in Khuzestan Province, and his brother could thus stay anywhere. He also explained that many members of the family, including many young people, had been killed, while others had disappeared.

the complainant was not recognized by the authorities of his country. For the Iranian authorities, the very fact that the complainant is in Europe is an indication of his opposition to the regime, an indication strengthened by the other elements in the case file: he is a member of a persecuted ethnic minority and of the B. clan, and his brother is politically active and is wanted by the authorities. According to the case law of the European Court of Human Rights, merely participating in a demonstration can bring about arrest, detention and torture (Judgment of 9 March 2010, application No. 41827/07, *R.C. v. Sweden*).

5.5 The complainant adds that the Iranian regime is unpredictable and repressive, guided by ideology and not procedure, and by a political view of the threats it is facing. Even someone who has never carried out any political activities can be perceived as an opponent if that is the opinion of the regime. The danger of persecution is thus high owing to the very unpredictability of the regime.

Issues and proceedings before the Committee

Examination of admissibility

6.1 Before considering any claims contained in a communication, the Committee against Torture must decide whether or not it is admissible under article 22 of the Convention. The Committee has ascertained, as it is required to do under article 22, paragraph 5 (a), of the Convention, that the same matter has not been and is not being examined under another procedure of international investigation or settlement. It also notes that domestic remedies have been exhausted. Accordingly, the Committee considers that there are no obstacles to admissibility of the complaint. It considers the complaint admissible and thus proceeds immediately to the consideration of the merits.

Consideration of the merits

7.1 The Committee has considered the communication in the light of all the information made available to it by the parties concerned, in accordance with article 22, paragraph 4, of the Convention.

7.2 The issue before the Committee is whether the State party's deportation of the complainant to the Islamic Republic of Iran would constitute a violation of its obligation, under article 3 of the Convention, not to expel or return a person to a State where there are substantial grounds for believing that he or she would be in danger of being subjected to torture.

7.3 Regarding the complainant's allegations under article 3, the Committee must take into account all relevant considerations, including the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights. However, the aim of such analysis is to determine whether the complainant runs a personal risk of being subjected to torture in the Islamic Republic of Iran. It follows that the existence of a consistent pattern of gross, flagrant or mass violations of human rights in a country does not as such constitute sufficient grounds for determining that a particular person would be in danger of being subjected to torture if expelled to that country; additional grounds must be adduced to show that the individual concerned would be personally at risk.

7.4 The Committee recalls its general comment No. 1 (1997) on the implementation of article 3 of the Convention, which states that the risk of torture need not be highly probable, but it must be personal and present. In this regard, the Committee has established in previous decisions that the risk of torture must be "foreseeable, real and personal".¹⁰ As to

¹⁰ See communications Nos. 203/2002, *A.R. v. Netherlands*, decision of 14 November 2003, para. 7.3,

the burden of proof, the Committee also recalls that it is normally for the complainant to present an arguable case, and the risk of torture must be assessed on grounds that go beyond mere theory or suspicion.

7.5 Additionally, the Committee recalls that, in accordance with its general comment No. 1, considerable weight will be given to the State party's findings of fact, but the Committee is not bound by such findings and instead has the power of free assessment of the facts based upon the full set of circumstances in every case.

7.6 In the present case, the complainant asserts that there is a risk that he will be tortured if returned to the Islamic Republic of Iran because he is from the persecuted Arab minority and from the B. clan, several members of which have already reportedly been killed, with others having gone missing; because of the political activities of his brother, who is wanted by the authorities; and because he took part in a demonstration in front of the Iranian embassy in Bern.

7.7 The Committee notes first of all that the overall human rights situation in the Islamic Republic of Iran can be considered to be problematic in many respects. Nonetheless, it notes that the complainant has never been tortured there, either because of his ethnicity or for any other reason. Even if he claims that his family has been persecuted by the authorities seeking his brother, who is supposedly politically active in the local underground Arab opposition, the complainant produces no evidence in support of this claim. As for his general complaint regarding the persecution of the Arab minority, in particular in the region of Khuzestan, the Committee considers that such a complaint in no case would justify concluding that there is a real, personal and serious danger for the complainant.

7.8 The Committee notes that the complainant was not politically active in his country of origin and thus is not at risk owing to such activities in the event of his return. As for his political activities in Switzerland, the Committee notes that the complainant took part, once, in a demonstration with an Arab group in front of the Iranian embassy in Bern, and that a group photograph showing the complainant was subsequently placed on an Internet page, along with hundreds of other photographs. The Committee notes the argument of the State party, which the complainant did not refute, according to which the demonstration in question involved several dozen participants. The Committee considers that, even if the Iranian authorities were aware of it, the complainant's participation on one occasion in a mass demonstration, in the absence of other elements, does not make it possible to believe that the complainant would run the risk of being subjected to torture or otherwise persecuted in the event of his return to the Islamic Republic of Iran.

7.9 As for the complainant's explanation that, owing to secrecy, it is difficult for him to produce evidence of his allegations or impossible for him to provide further details on the name of the political party in which his brother is supposedly politically active or on his brother's precise activities, the Committee recalls its jurisprudence that it is normally for the complainant to present an arguable case and that the risk of torture must be assessed on grounds that go beyond mere theory and suspicion.¹¹

8. In view of all the foregoing considerations, and having taken into account all the information made available to it, the Committee considers that the complainant has not

and 285/2006, *A.A. et al. v. Switzerland*, decision of 10 November 2008, para. 7.6.

¹¹ See inter alia *M.F. v. Sweden*, communication No. 326/2007, decision of 14 November 2008, paragraph 7.7; or *Mehdi Zare v. Sweden*, communication No. 256/2004, decision of 12 May 2006, para. 9.5.

produced elements sufficient to conclude that he personally runs a real and foreseeable risk of torture if returned to his country of origin.

9. The Committee against Torture, acting under article 22, paragraph 7, of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, concludes that the complainant's removal to the Islamic Republic of Iran would not constitute a breach of article 3 of the Convention.

[Adopted in English, French, Russian and Spanish, the French text being the original version. Subsequently to be issued also in Arabic and Chinese as part of the Committee's annual report to the General Assembly.]
