

AMNESTY INTERNATIONAL

Public Statement

AI Index: MDE 13/055/2004 (Public)
News Service No: 330
24 December 2004

Iran: Lives in the balance: an open appeal to Iran's judicial authorities

The case of Leyla Mafi, who faces execution on account of charges including sexual intercourse with blood relatives, giving birth to an illegitimate child and acts contrary to chastity, flies in the face of justice and human dignity. It also breaches Iran's own obligations under international law, Amnesty International said.

On 10 December 2004, Amnesty International issued an Urgent Action appeal on behalf of Leyla Mafi, who, according to the organisation's information, was facing flogging and execution on charges of acts contrary to chastity (a'mal-e khalaf-e 'ofat), by controlling a brothel, having intercourse with blood relatives (eteham-e zena ba maharem) and giving birth to an illegitimate child (tavallod-e bache-e haram). Leyla Mafi had reportedly been forced into prostitution from the age of eight and was raped by those to whom her mother introduced her. She reportedly has a mental age of eight yet she had been sentenced to death by a lower court in Arak around May 2004 on the basis of a "confession" that she had made to the court. The circumstances of this were not clear.

In the past two days, in response to urgent appeals from within Iran, from Amnesty International's Urgent Action network and from foreign governments, the Iranian authorities have taken the exceptional step of publicly commenting on the case. Amnesty International welcomes this engagement by the authorities, but believes that statements made by the judiciary leave far too many questions unanswered while exposing the shortcomings of Iranian law in respect to the international standards it is committed to uphold.

Amnesty International opposes the death penalty in all cases as the ultimate cruel, inhuman or degrading punishment and a violation of the right to life. Iran has made an explicit and unreserved commitment under article 6(2) of the International Covenant on Civil and Political Rights (ICCPR), that it will impose the death sentence "only for the most serious crimes". This means that a death sentence should be a most exceptional measure, and in any event is applicable only to intentional crimes with lethal or other extremely grave consequences.

The Iranian authorities have contested Amnesty International's information about Leyla Mafi's current age and mental capacity, and have stated that the charges relate to events which took place while she was of adult age. In view of the inconsistencies in information, Amnesty International believes it is essential to have an independent professional assessment of her age and mental capacity. This is a crucial factor in determining her awareness of whether she was committing a crime under Iranian law. Full account should also be taken of the social conditions in which she may have entered prostitution and the reported sexual abuse and exploitation which she was subjected to throughout her childhood and adolescence. However, irrespective of her age, mental capacity, coercion or criminal responsibility, on no account should she face execution.

Amnesty International calls on Iran's legislators and judicial authorities to work urgently to bring domestic law and practice in line with Iran's obligations under international law as set out in the ICCPR.

On 16 December 2004, Amnesty International issued another Urgent Action appeal in respect to Hajieh Esmailvand and an unnamed man who has since been identified as Ruhollah G, aged 17 at the time of their alleged act of adultery. The two are reportedly in detention in Jolfa, in north-western Iran. Both face a death sentence which, in Hajieh Esmailvand's case is to be carried out by stoning following a November 2004 decision of the Supreme Court which upheld the death sentences. It was reported that the Supreme Court had ordered the stoning sentence against Hajieh Esmailvand to be carried out before 21 December. On 23 December, the authorities reportedly temporarily stayed the execution of Hajieh Esmailvand, referring the case to the Amnesty and Clemency Commission (ACC, or Komisyon-e 'Afv va Bakhshoudegi) to review the sentence of execution by stoning. It is not clear whether the ACC will also review the other elements of her sentence, originally intended to be imposed before the execution, of flogging and a five-year custodial sentence. The ACC, a part of the judiciary, is empowered to reduce sentences or pardon prisoners. Ruhollah G, a child offender, who allegedly committed the acts in question while under the age of 18, is still awaiting his execution.

While welcoming this stay of execution of Hajieh Esmailvand, Amnesty International continues to call for the death sentence on both parties to be overturned, since their alleged "crimes" are not internationally recognisable criminal offences. The UN Human Rights Committee (in the case of *Toonen v Australia*) has made clear that treating adultery and fornication as criminal offences does not comply with international human rights standards.

BACKGROUND

In December 2002, the Head of the Judiciary, Ayatollah Shahroudi, reportedly sent a directive to judges ordering a moratorium on execution by stoning and for alternative punishments to be used instead. However, legal provision for execution by stoning remains, and in September 2003 a law was passed listing regulations for the implementation of particular sentences, including stoning. Since the reported moratorium, Amnesty International is aware of at least one case in which a sentence of execution by stoning has reportedly been issued. According to a report on 8 January 2004 in the Iran newspaper, a criminal court in city of Qazvin sentenced an unnamed man to 80 lashes and 10 years' imprisonment to be followed by execution by stoning. It is not known whether this sentence has been carried out.