

PUBLIC

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26 October 2007

UA 278/07 Death penalty/imminent execution

IRAN Makwan Moloudzadeh (m), aged 21, child offender

Child offender Makwan Moloudzadeh, an Iranian Kurd, is believed to be at risk of imminent execution. He has reportedly been convicted of *lavat-e iqabi* (anal sex) for the alleged rape of a 13-year-old boy. Makwan Moloudzadeh was aged 13 at the time of the alleged offence. His death sentence has been passed to the Office for the Implementation of Sentences and he is due to be executed in public, near his home.

He was reportedly arrested on 1 October 2006 in Paveh, in the western province of Kermanshah. He was detained in Paveh Prison and later transferred to Kermanshah Central Prison. Following interrogations in Paveh during which he was reportedly ill-treated, he was tried by Branch 1 of the Kermanshah Criminal Court and on 7 June 2007 he was sentenced to death. The witnesses and the two people who had pressed charges against him withdrew their claims after the trial. Under Iranian law, children (boys of up to 14.7 years) are to be flogged for *lavat* ("homosexual acts").

However, the judge relied on *'elm-e qazi*, the "knowledge of the judge" to determine that penetration had taken place and that Makwan Moloudzadeh could be sentenced to death. Makwan Moloudzadeh lodged an appeal on 5 July, which the Supreme Court rejected on 1 August. Several witnesses have withdrawn their testimonies and signed notarized written statements to that effect.

During his trial, Makwan Moloudzadeh reportedly maintained his innocence. Previously, however, he was reportedly ill-treated during interrogation and "confessed" during interrogation that he had had a sexual relationship with a boy in 1999. He is reported to have gone on hunger strike for 10 days to protest against his ill-treatment in detention. Prior to his trial and conviction, on or around 7 October 2006 Makwan Moloudzadeh was reportedly paraded through the streets of Paveh riding on a donkey, with his head shaved. People in the street shouted abuse and threw things at him.

Article 1210(1) of Iran's Civil Code sets the ages of 15 lunar years as the age of criminal responsibility for boys, and nine lunar years for girls. Makwan Moloudzadeh was reportedly born on 31 March 1986 and, at the age of 13, was a minor under Iranian law at the time of the alleged offence. According to Article 49 of Iran's Penal Code: "Children, if committing an offence, are exempted from criminal responsibility. Their correction is the responsibility of their guardians or, if the court decides, by a centre for correction of minors."

Furthermore, in this case the judge used the customary practice of "judge's knowledge" to override Article 113 of Iran's Penal Code which states, "If a minor has anal sex with another minor, each will receive up to 74 lashes unless one of them was forced to do so [in which case he will not be punished]."

BACKGROUND INFORMATION

International law strictly prohibits the use of the death penalty against people convicted of crimes committed when they were under the age of 18. The Committee on the Rights of the Child has raised concern about child offenders' criminal responsibility being determined by judges, using subjective and arbitrary criteria such as the attainment of puberty, the age of discernment or the personality of the child. As a state party to the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child, Iran has undertaken not to execute child offenders. However, since 1990, Iran has executed at least 24 child offenders, with a further two reportedly put to death on 17 October 2007. At least 78 child offenders are on death row in Iran; at least 15 Afghan child offenders are reportedly under sentence of death. For more information about Amnesty International's concerns regarding executions of child offenders in Iran, please see: *Iran: The last executioner of children* (MDE 13/059/2007, June 2007)

<http://web.amnesty.org/library/index/engmde130592007>

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in Persian, Arabic, English or your own language:

- calling on the Head of the Judiciary to urge the Supreme Court to review the case of Makwan Moloudzadeh who was a child at the time of his alleged offence under Iran's Civil and Penal Codes;
- expressing concern that Makwan Moloudzadeh may have faced an unfair trial in which a judge relied on subjective and arbitrary criteria in contravention to the Convention on the Rights of the Child and that the appeal appears to have ignored the retraction of testimony made by witnesses;
- expressing concern that Makwan Moloudzadeh is at risk of execution for a crime committed when he was under 18, and calling on the authorities to halt his execution immediately and commute his death sentence;
- reminding the authorities that Iran is a state party to the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child, which prohibit the use of the death penalty against people convicted of crimes committed when they were under 18, so executing Makwan Moloudzadeh would be a violation of international law;
- urging the authorities to abolish the death penalty for offences committed by anyone under the age of 18, so as to bring Iran's domestic law into line with its obligations under international law;
- stating that Amnesty International acknowledges the right and responsibility of governments to bring to justice those suspected of criminal offences, but opposes the death penalty unconditionally.

APPEALS TO:

Leader of the Islamic Republic

His Excellency Ayatollah Sayed 'Ali Khamenei
The Office of the Supreme Leader
Islamic Republic Street - Shahid Keshvar Doust Street
Tehran, Islamic Republic of Iran

Email: info@leader.ir

Salutation: Your Excellency

Head of the Judiciary

Ayatollah Mahmoud Hashemi Shahroudi
Ministry of Justice, Ministry of Justice Building, Panzdah-Khordad Square,
Tehran, Islamic Republic of Iran

Email: info@dadgostary-tehran.ir (In the subject line write: FAO Ayatollah Shahroudi)

Salutation: Your Excellency

COPIES TO:

Speaker of Parliament

His Excellency Gholamali Haddad Adel
Majles-e Shoura-ye Eslami
Baharestan Square, Tehran, Islamic Republic of Iran

Email: hadadadel@majlis.ir

Salutation: Your Excellency

Director, Kermanshah Central Prison

Kermanshah Central Prison
Street Number 101, Deisel Abad, Kermanshah, Iran

Email: markazi@kermanshaprisons.ir

ahead@kermanshaprisons.ir

Fax: +98 831 826 2049 (difficult to get through, please try three times)

Salutation: Dear Sir

and to diplomatic representatives of Iran accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 7 December 2007.