

PUBLIC

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Further Information on UA 278/07 (MDE 13/125/2007, 26 October 2007) Death penalty/imminent execution

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

On 14 November, a branch of the Supreme Court heard an appeal against the death sentence imposed on child offender Makwan Moloudzadeh. At some time during the next few months, the Supreme Court is expected to rule on whether the sentence passed on Makwan Moloudzadeh remains valid.

Makwan Moloudzadeh, an Iranian Kurd, was convicted of *lavat-e iqabi* (anal sex) for alleged rape about eight years ago, when Makwan Moloudzadeh was aged 13. Amnesty International has recently received new information that he allegedly raped three individuals. Under Iranian law, boys under 14 years and seven months (15 lunar years) and those who have not reached puberty are considered children. Article 113 of Iran's Penal Code 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]."

Following his arrest on 1 October 2006 in Paveh, western Iran, Makwan Moloudzadeh was tried and on 7 July 2007 found guilty and sentenced to death by Branch 1 of the Kermanshah Criminal Court, in an unfair trial. The plaintiffs reportedly withdrew their complaints in the course of the trial and at least one was reportedly arrested in order to make him appear in court. During his trial, Makwan Moloudzadeh is said to have maintained his innocence. Previously, however, he claimed he was ill-treated during interrogation and "confessed" during interrogation that he had had a sexual relationship with a boy in 1999.

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."

Makwan Moloudzadeh lodged an appeal on 5 July, which the Supreme Court rejected on 1 August. In finding Makwan Moloudzadeh guilty, judges relied on *'elm-e qazi* - the "knowledge of the judge" - to determine that penetration had taken place and that Makwan Moloudzadeh had reached puberty at the time of his alleged offence and could thus be sentenced to death as an adult.

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 reportedly executed at least 27 child offenders, five of them in 2007. Most recently, Mohammad Reza Turk was executed on 15 November 2007 after conviction of murder. At least 75 child offenders are on death row in Iran; and there are fears that at least 15 Afghan child offenders convicted of drug smuggling may have been, or face being, sentenced to 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:

- welcoming reports that a committee of the Supreme Court is re-considering the case against Makwan Moloudzadeh;
- noting that his original trial was unfair, as the judge is said to have 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;
- 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.

APPEALS TO:

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

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)

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 28 December 2007.