

AMNESTY INTERNATIONAL

Public Statement

AI Index: MDE 13/141/2007 (Public)
News Service No: 235
6 December 2007

Iran: Execution of child offender Makwan Moloudzadeh is a mockery of justice

Amnesty International condemns the execution, on 4 December 2007, of Makwan Moloudzadeh, an Iranian Kurdish child offender, following a grossly flawed trial for an offence he allegedly committed at the age of 13. Execution for a crime committed at the age of 13 is a gross abuse of international human rights standards, which prohibit the execution of those convicted of crimes committed under the age of 18.

In 2007 alone, the Iranian authorities have executed at least five other child offenders and at least 75 others remain on death row.

Makwan Moloudzadeh, 21, was convicted of *lavat-e iqabi* (anal sex) for the alleged rape of three individuals, eight years ago, when he was 13.

Under Article 49 of the Penal Code, minors - those who have not yet reached maturity (puberty) as defined by Islamic Law - are exempted from criminal responsibility. Under Article 1210 of the Civil Code, boys are deemed to reach puberty at the age of 15 lunar years (approximately 14 years and seven months), but this appears to leave open the possibility that judges may rule on a different age of maturity in individual cases. Article 113 of the Penal Code provides for up to 74 lashes in the case of a minor convicted of anal sex.

Makwan Moloudzadeh's trial was grossly flawed. The alleged victims withdrew their accusations in the course of the trial, held in a criminal court in Kermanshah and with sessions held in Paveh, western Iran, in July 2007, and reportedly stated that they had either lied previously or had been forced to "confess." In sentencing Makwan Moloudzadeh to death, the judge relied on his 'knowledge' that Makwan Moloudzadeh could be tried as an adult and that the alleged offence had been committed, as is allowed by Iranian law.

According to Article 120 of the Penal Code, in cases of anal sex between men, the judge "can make his judgement according to his knowledge which is obtained through conventional methods."

The trial judge sentenced Makwan Moloudzadeh to death in July 2007 when Makwan Moloudzadeh was aged 21, even though Makwan Moloudzadeh was under 15 lunar years at the time of the alleged crime, and in the absence of medical evidence testifying to his state of maturity at the time of the crime.

Iran is a state party to both the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child, both of which require that the authorities do not execute child offenders – those under 18 at the time of their alleged offence. The Committee on the Rights of the Child, the independent body that examines states' implementation of the Convention on the Rights of the Child, has expressed concern about the process of determination

by judges of the criminal responsibility of child offenders due to the weight the judges attach to subjective and arbitrary criteria, such as the attainment of puberty, the age of discernment or the personality of the child.

Amnesty International is calling on the Head of Judiciary in Iran, Ayatollah Shahroudi, urgently to review the methods used by judicial officials in this case, which resulted in the death sentence and execution of Makwan Moloudzadeh. The Iranian authorities must uphold Iran's commitment to the international community not to execute child offenders.

Background

Makwan Moloudzadeh was arrested on 1 October 2006 in Paveh, western Iran. In July 2007 he was tried and sentenced to death by a criminal court in Kermanshah. During his trial, Makwan Moloudzadeh is said to have maintained his innocence. Previously, he alleged that while detained by security officials he was ill-treated during interrogation and "confessed" that he had had a sexual relationship with a boy in 1999. No investigation of his allegations of ill-treatment, or of those made by the witnesses against him who alleged that they had been required to provide false testimony, is known to have been investigated by the trial court or other Iranian authorities. The Supreme Court rejected Makwan Moloudzadeh's appeal on or around 1 August. The Head of the Judiciary apparently approved the sentence, and between August and October the case was submitted to the Office for the Implementation of Sentences.

In November Makwan Moloudzadeh's lawyer sought a judicial enquiry to allow a review of the verdict and sentence. On 14 November a temporary stay of execution was ordered to allow for reinvestigation of the case. However, this review appears to have found no fault with the verdict and sentence and Makwan Moloudzadeh was executed on 4 December.

At least 75 child offenders are on death row in Iran; Amnesty International fears that an additional 15 child offenders, all Afghan nationals convicted of drug smuggling offences committed when they were under 18 may also be facing possible death sentences or have been already 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>

Flogging is cruel, inhuman and degrading punishment which amounts to torture.

Reports suggest that the military presence in the town of Paveh has been increased in anticipation of protests by local inhabitants.