

Further Information on UA 336/04 (MDE 13/053/2004, 16 December 2004) and follow-up (MDE 13/051/2004, 23 December 2004) Fear of imminent execution

IRAN

**Hajieh Esmailvand (f) aged around 35
Ruhollah G (m)**

Hajieh Esmailvand was acquitted on 9 December 2006 of the charge of adultery for which she had been sentenced to execution by stoning. She had been released on bail in September 2006 pending a retrial. Ruhollah G remains at risk of execution after being sentenced to *qesas* (retribution in kind) for the murder of Hajieh Esmailvand's husband.

Ruhollah G has been flogged for unmarried sexual relations. His execution has not been implemented because he is trying to obtain the consent of the murder victim's relatives to forgive him and to accept the payment of *diyeh* (blood money). Some of the relatives of the murder victim are under 18-years-old, at which point they can decide whether to accept the payment. He has been detained in Jolfa prison since his arrest in 1999.

News reports in 2004 had suggested that Hajieh Esmailvand was sentenced for having an adulterous relationship with a 17-year-old boy, Ruhollah G, and that both had been accused of murdering Hajieh Esmailvand's husband. It is now known that in 1999, Hajieh Esmailvand defended herself from a rape attempt at her home by a 20-year-old man known to her husband. This is now believed to be the person named in 2004 press reports as 17-year-old Ruhollah G. Six months later, while Hajieh Esmailvand and her children were staying with her parents in Tabriz for her child's medical treatment, the man killed her husband during a fight. During the investigation, the man accused Hajieh Esmailvand of being his accomplice and said they had been having an extra-marital affair. Hajieh Esmailvand was arrested on 20 January 2000.

Hajieh Esmailvand's mother tongue is Azerbaijani Turkic, and she is from a mainly Iranian Azerbaijani area of Iran. She had a court-appointed lawyer during her trial. The court proceedings against her were conducted in Persian, which she could not fully understand or speak at the time. During her trial she explained that the alleged murderer had attempted to rape her once, but it is believed that her statements were misunderstood as a confession to having committed adultery. She did not know the Persian word for "adultery".

On 25 April 2000, Branch 3 of Jolfa Public Court sentenced Hajieh Esmailvand to five years' imprisonment, to be followed by execution by hanging. The Supreme Court reportedly upheld her death sentence, but changed the method of execution from hanging to stoning. Hajieh Esmailvand has said that she did not know she had been sentenced to stoning until she asked her brother some time later, because she did not know the Persian word for stoning. She wrote several letters to the Head of the Judiciary, the last dated 1 June 2004, asking for a reprieve and insisting that she was innocent and had never committed adultery.

The stoning was scheduled for 1 September 2004 at the prison in Jolfa. According to reports, leaflets were published and distributed in Jolfa by the local Judiciary, inviting the public to participate. However, the judge responsible for implementing the sentence found flaws in the case. The Judge reportedly objected to the sentence because Hajieh Esmailvand did not know the meaning of the word "adultery" and had repeatedly denied having had sexual intercourse or committing adultery. In addition, her 'confessions' did not amount to adultery since she had feared and fought off the man, and the trial judge did not properly explain the basis on which he issued the stoning sentence.

Around 21 December 2004, a stay of execution was granted by the Head of the Judiciary, Ayatollah Shahroudi. The case was reportedly referred to the Amnesty and Clemency Commission for decision, while Hajieh Esmailvand remained detained in Jolfa prison for nearly two years, waiting for a decision on her case.

In mid-2006, a group of mostly women human rights defenders (HRDs) in Iran, including activists, journalists and lawyers, began a campaign to abolish stoning. They identified at least 9 women and 2 men who have been sentenced to death by stoning, and lawyers in the group took up representation of these cases, including of Hajieh Esmailvand.

In September 2006, the Supreme Court rejected Hajieh Esmailvand's stoning sentence, and she was released on bail of 100 million toman (around US\$100,000) pending her re-trial. By that time, she had been imprisoned in Jolfa prison for around seven years. The re-trial began in Jolfa Public Court in November 2006. On 9 December 2006, Hajieh was acquitted of the charge of adultery.

Hajieh Esmailvand's conviction for being an 'accomplice to murder' has not yet been reviewed by the Supreme Court. According to reports, her lawyer is planning to appeal this conviction. As Hajieh Esmailvand has already served the five year prison term that this charge carried, her release on bail is permanent.

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

- welcoming the news that Hajieh Esmailvand was acquitted of the charge of adultery and is therefore no longer at risk of execution by stoning;
- recognizing that Iran has a responsibility to bring to justice those suspected of criminal offences, but stating your unconditional opposition to the use of the death penalty in all cases, and urging that the death sentence of Ruhollah G. be commuted.
- stating your unconditional opposition to the death penalty, as the ultimate cruel, inhuman and degrading punishment and violation of the right to life;
- calling for the abolition of execution by stoning in Iran.

APPEALS TO:

Leader of the Islamic Republic

His Excellency Ayatollah Sayed 'Ali Khamenei, The Office of the Supreme Leader
Shoahada Street, Qom, Islamic Republic of Iran

Email: **info@leader.ir**
istiftaa@wilayah.org

Salutation: **Your Excellency**

Head of the Judiciary

His Excellency Ayatollah Mahmoud Hashemi Shahroudi
Ministry of Justice, Park-e Shahr, Tehran, Islamic Republic of Iran

Salutation: **Your Excellency**

COPIES TO:

President

His Excellency Mahmoud Ahmadinejad
The Presidency, Palestine Avenue, Azerbaijan Intersection, Tehran, Islamic Republic of Iran

Email: **dr-ahmadinejad@president.ir**
(via website) www.president.ir/email

Speaker of Parliament

His Excellency Gholamali Haddad Adel
Majles-e Shoura-ye Eslami, Imam Khomeini Avenue, Tehran, Islamic Republic of Iran

Email: **hadadadel@majlis.ir**

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 30 January 2007.*****