

PUBLIC

AI Index: MDE 14/013/2008

29 May 2008

UA 144/08

Fear of forcible return/ fear of torture and ill-treatment / fear of death penalty

IRAQ

Sohrab Bawi (alias Imad) (m), aged 33
Mohsen Bawi (m), aged 35

] brothers, Iranian nationals from Arab
] ethnic community

Sohrab Bawi (also known as Imad) and his brother Mohsen Bawi, Iranian nationals of Arab ethnicity, are at risk of being forcibly returned from Iraq to Iran. If returned, they would face torture and possibly the death penalty.

In 2006, Imad and Mohsen Bawi were amongst five brothers convicted after an unfair trial of hiding explosives, establishing an illegal group and propaganda against the government (see UA 233/05, MDE 13/051/2005, 9 September 2005, and follow-ups). Imad and Mohsen Bawi were both serving lengthy sentences at different prisons in separate provinces of Iran, but had been given leave from prison to spend time with their family following the execution of their brother, Zamel Bawi, on 29 January 2008. The two men fled to Iraq on 16 February, and were arrested on the border in Basra. They have been held in a detention centre since then, and have appeared at least three times, separately, before a court in Basra, charged with illegal entry into Iraq. Imad Bawi is due to appear again before the Court on 2 June. They are both at risk of being imminently returned to Iran where they would face torture and new charges could be brought against them, resulting in possible death sentences.

The brothers were arrested by the Iranian authorities in August 2005. They come from a prominent family in the city of Ahvaz, in Khuzestan province, western Iran. Mohsen Bawi is an IT consultant and Imad Bawi, a law student, was on vacation from Lebanese University of Beirut at the time of their arrest. The charges against the brothers were connected with a series of bomb attacks in the province of Khuzestan, where most of Iran's Arab minority lives. They were tried behind closed doors and did not receive a fair trial; they were granted only very limited access to legal counsel and Mohsen Bawi is alleged to have been tortured or otherwise ill-treated in pre-trial detention. Their lawyers were notified of the trial date only one or two days in advance, instead of the minimum of five days stipulated in Article 64 of the Civil Procedure Code, and were unable, therefore, to study their clients' files fully before the trial. The two brothers were not allowed to meet in private with their lawyers, despite the latter's requests and a statement made by Iran's Head of the Judiciary on 20 May 2006 that "Nobody has the right to... deprive the accused of the right of visits by their family and lawyer. They must know quite clearly that they may request private meetings with their lawyers."

Imad Bawi was initially sentenced to death in October 2005. This was later commuted to 25 years' imprisonment. Mohsen Bawi was sentenced to 30 years' imprisonment.

BACKGROUND INFORMATION

Much of Iran's Arab community lives in the province of Khuzestan, which borders Iraq. It is strategically important because it is the site of much of Iran's oil reserves, but the Arab population does not feel it has benefited as much from the oil revenue as the Persian population. There were mass demonstrations in April 2005, after it was alleged that the government planned to disperse the country's Arab population or to force them to relinquish their Arab identity. Following bomb explosions in Ahvaz City in June and October 2005, which killed at least 14 people, and explosions at oil installations in September and October 2005, hundreds of people were arrested. Further bombings on 24 January 2006, in which at least six people were killed, were followed by further mass arrests. At least 17 men have now been executed as a result of their alleged involvement in the bombings. It is not clear if another man was executed or died in custody.

As a state party to the International Covenant on Civil and Political Rights (ICCPR), Iraq has an obligation not to return anyone to a country where they would be at risk of torture or other ill-treatment. Furthermore, the international law principle of non-refoulement, a principle binding on all states, prohibits the forcible return of anyone to a country where they would be at risk of serious human rights abuses, including torture.

Four Iranian men, members of Iran's Arab community, are believed to have been forcibly returned from Syria to Iran in 2006 (see UA 132/06, MDE 24/037/2006, 15 May 2006 and follow ups and UA 67/07, MDE 24/018/2007, 16 March 2007). At least one of these men is facing a death sentence.

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

- urging the Iraqi authorities not to forcibly return the two brothers, Sohrab (aka Imad) Bawi and Mohsen Bawi to Iran where they would be at risk of torture and possibly execution,
- reminding the Iraqi government of its obligations under international law that they must not forcibly return individuals to a country where they would be at risk of serious human rights violations, including torture.

APPEALS TO: Email addresses for the Iraqi authorities are proving unreliable. If there is no email address given, or if your email bounces, please send appeals to the authorities via the Iraqi embassy or diplomatic representative in your country, asking them to forward your appeals to:

President

Jalal Talabani

E-mail: questions@iraqipresidency.net

Salutation: Your Excellency

Prime Minister

Nuri Kamil al-Maliki

Salutation: Your Excellency

Minister of Justice

Safi al-Din al-Safi

E-mail: minister@iraqi-justice.org

deputy@iraqi-justice.org

Salutation: Your Excellency

Minister of Foreign Affairs

Hoshyar Zebari

Salutation: Your Excellency

COPIES TO: diplomatic representatives of Iraq accredited to your country. Ask them to send copies to the Human Rights Minister, Wajdan Mikhail.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 10 July 2008.