

Iran: Too little, too late -- Afsaneh Norouzi's death sentence and pardon

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There is no criminal justice system in the world that can claim infallibility in determining guilt or innocence. However, in any democratic society, the justice system must make every effort to ensure fairness. A justice system must not only strive to be accurate, but must also recognize its imperfections and account for them. This means that it must allow for the possibility of error by admitting them when they are found and by compensating the innocent.

The 36-year-old Iranian woman, Afsaneh Norouzi, who was recently spared the death penalty and finally released from prison, deserved her freedom and her right to life. But, like her unfair trial that resulted in her wrongful capital murder conviction, her "too little, too late" pardon was also grossly unfair and offered no compensation whatsoever for the litany of injustice she has endured since her detention eight years ago.

Afsaneh Norouzi was arrested on 10 July 1997 in Tehran along with her husband, Mostafa Jahangiri, three days after the body of Behzad Aghdam Moghadam was found in his duplex villa in Kish Island, a vacation and free trade zone in southern Iran. Behzad Aghdam Moghadam's bare naked body was found stabbed in his children's bedroom. His penis was partially cut off. Bloodied walls and disarray suggested a struggle. The police immediately suspected a sex-related killing. Less than a month later, five detectives and forensic experts confirmed that the killing was an act of self-defense against rape by a woman. By then, Afsaneh Norouzi, an incommunicado detainee in police custody, had also repeatedly confessed to stabbing Behzad Aghdam Moghadam with kitchen knives to protect herself from rape.

A high-ranking security and intelligence official, Behzad Aghdam Moghadam was a powerful figure in Kish Island. It is said that he also made a lot of money by importing cement and called himself "the Commander of Kish". Mostafa Jahangiri, a jeweler by occupation, became friends with him seven years earlier when he ran a jewelry shop together with Moghadam's uncle. They eventually lost the business and, as a result, Mostafa Jahangiri and his family were homeless for a long time. Then, Behzad Aghdam Moghadam invited them to Kish, ostensibly to help them financially. He promised to use his influence to buy duty-free goods so that Mostafa Jahangiri could earn a commission by transferring them to Tehran.

Mostafa Jahangiri, his wife, Afsaneh Norouzi, and two children, nine-year-old daughter Mahdieh and five-year-old son Mohammad, arrived at Behzad Aghdam Moghadam's villa on 1 July 1997. Once there, they found out that Behzad Aghdam Moghadam's wife and children had gone to Tehran. Four days later, on Friday afternoon, when Behzad Aghdam Moghadam had just sent Mostafa Jahangiri off to Tehran with goods, he undressed and lunged at Afsaneh Norouzi in his children's bedroom. That was his first unsuccessful attempt to rape Afsaneh Norouzi. Drawn upstairs by her mother's struggling sounds, the nine-year-old Mahdieh scared him off.

Thereafter, Behzad Aghdam Moghadam used violence, humiliation, harassment and financial inducements to force Afsaneh Norouzi to have sex with him. A penniless stranger in Kish, Afsaneh Norouzi could not flee the house or go to the police. When Mostafa Jahangiri was leaving for Tehran, Behzad Aghdam Moghadam prevented him from giving her money insisting that he "would take care of all their needs" and the police were his friends or colleagues. But she did everything else possible to protect herself: at night, she vigilantly stayed awake with her children sleeping next to her; in the evening, she took her children to the beach and stayed there until dark and, despite not having her own phone, she managed to call her husband with Behzad Aghdam Moghadam's mobile and told him to return immediately.

Then, on Sunday, while Mostafa Jahangiri was returning by plane, Behzad Aghdam Moghadam again attempted to rape Afsaneh Norouzi. This time she defended herself with two kitchen knives she had previously hidden in the bedroom.

When Mostafa Jahangiri arrived from the airport, he found Afsaneh Norouzi traumatized and injured, "her right fingers almost dangling from her hand". His children were weeping. Fearing the consequences of

getting arrested in Kish, they decided to go back to Tehran. But, expecting a payment and their return plane tickets from Behzad Aghdam Moghadam, Mostafa Jahangiri had no money either. They broke into Behzad Aghdam Moghadam's briefcase and took the amount of money they needed to buy plane tickets for Tehran. Until their arrest three days later, neither of them knew that Behzad Aghdam Moghadam had died.

Immediately following their arrest in Tehran, Afsaneh Norouzi confessed to stabbing Behzad Aghdam Moghadam alone to defend herself against rape. But the authorities, not only decided to detain Afsaneh Norouzi for intentionally murdering Behzad Aghdam Moghadam, a charge that entails mandatory pre-trial detention, but also to detain Mostafa Jahangiri. Since Kish did not have a prison, the couple was transferred to the nearest township, Bandar Abbas, capital city of the Hormozgan province, so that the Kish General Court, and its judge Iraj Khazai, could investigate, prosecute and try the case as provided by the then criminal laws.

However, once in Bandar Abbas, the Chief Police Detective arbitrarily held the couple in incommunicado detention to conduct his own interrogations. For six months, he and his subordinates repeatedly interrogated the couple; each time beating and threatening them to force them to confess falsely, initially that Mostafa Jahangiri had killed Behzad Aghdam Moghadam because he owed money and then that Afsaneh Norouzi had killed him because of the above reason and because she had an illicit sexual affair with him.

As a result of the prolonged physical and psychological tortures, they both suffered physically and mentally. Afsaneh Norouzi repeatedly attempted suicide: once by trying to hang herself with a rubber hose in the toilet and several times by cutting her wrist. She also made several false confessions.

Later on, when the couple was transferred from police custody to prison, Afsaneh Norouzi retracted all of her false confessions. She even named her torturers before Judge Khazai. Her complaint was disregarded. Eventually, however, after two years, Judge Khazai accepted her account of events and the opinions of the five police and forensic experts who supported her account. He even recommended that the couple be released on bail until trial.

Another year passed without the trial commencing. In the three years that Afsaneh Norouzi and her husband had so far lingered in pre-trial detention, they could not see their children at all. The first eight months, they could not see each other either and thereafter they could only visit each other in prison every three weeks. Officials disregarded their complaints. Hitting rock bottom, Mostafa Jahangiri sewed his lips shut in protest and went on a hunger strike for 16 days. Afsaneh Norouzi broke down too when she heard about her husband's dire situation. After taking her 140 inmates hostage and making threats with a broken bottle, she was hospitalized.

A few months later, Judge Khazai was suddenly taken off the case and, finally, on 19 October 2000, a new judge named Mortazawi tried Afsaneh Norouzi and Mostafa Jahangiri. Mostafa Jahangiri was acquitted and released from prison, but Afsaneh Norouzi was convicted of intentionally and premeditatedly murdering Behzad Aghdam Moghadam and condemned to the mandatory death penalty (*qisas-e-nafs*).

The trial was held in secret. The court appointed lawyer was treated as if he was not even there. Experts were not called to testify and forensic evidence was not discussed. The judge continuously responded to Afsaneh Norouzi's remarks with verbally abusive language and merely used the opportunity to declare his already formed opinions.

The final judgment, issued four working days later, was riddled with flagrant legal and factual errors, mischaracterizations, omissions, and anti-women prejudices. It rested on the fictitious scenario that Bandar Abbas police detectives had previously obtained from Afsaneh Norouzi under torture. Although Afsaneh Norouzi had retracted those false confessions both before Judge Khazai and before Mortazawi and had even lodged a formal complaint about it at trial, these confessions became, in part, the bases of the conviction.

More incredibly, Mortazawi also relied on some unbelievably sophisticated remarks, for example concerning "promissory notes", attributed to the nine-year-old Mahdieh, despite evidence that the police had extracted them by intimidation and inducements such as "these remarks will help your mother". Most

significantly, the judge summarily rejected the multitude of solid medico-legal evidence, including scene examination and event reconstruction, forensic reports, and expert opinion that were produced by five police detectives and forensic doctors early on and supported Afsaneh Norouzi's account of events.

Despite the judicial errors, Branch 16 of the Supreme Court summarily rejected Afsaneh Norouzi's appeal on 16 February 2002. Facing this arbitrary rejection and her imminent execution, Afsaneh Norouzi's husband and new pro-bono lawyer, Abdolsamad Khoramshahi, took her case to the press. With their initiative and the efforts of many reporters, journalists and activists inside Iran, all of whom risking harassment and illegitimate prosecution for exposing state injustices, Afsaneh Norouzi's case received an unprecedented publicity nationally and internationally for the next two years.

Unresponsive to public outcry, the State General Prosecutor also summarily rejected a subsequent annulment request lodged by Abdolsamad Khoramshahi. By September 2002, Afsaneh Norouzi's file was sent back to Kish Court for the carrying out of the *qisas-e-nafs* sentence, pending authentication of the victim's living heirs and documentation of their request for her *qisas-e-nafs*. Under Islamic Penal Code of Iran, in a *qisas-e-nafs* death sentence, the decision to actually inflict the death rests with the victim's heirs. The heirs can also forgo their right to *qisas* and instead request *diyeh* (blood-money) or just pardon the culprit. Thus, the state itself can neither commute the sentence nor grant clemency to the person sentenced to *qisas-e-nafs*.

On 28 September 2003, prison officials instructed Afsaneh Norouzi to sign her death warrant. Iran's law requires only a 48-hour minimum notification of a death warrant before actual execution.

Following an even wider and stronger public outcry nationally and internationally, Ayatollah Hashemi Shahrudi, the Head of the Judiciary ordered suspension of Afsaneh Norouzi's death sentence. Four months later, in February 2004, Afsaneh Norouzi's case was submitted to Branch 26 Supreme Court in Qom for a review. After a further six months, it was announced on 26 July 2004 that "due to some errors of law", Branch 26 has quashed the verdict and the case was referred back to the Kish General Court for retrial.

Afsaneh Norouzi finally received a new trial on 21 December 2004, almost as flawed as her first trial. Not only was the hearing once again held behind closed doors (according to one daily paper even her husband was not allowed in the court room), but it was also closely supervised by the Head of the Hormozgan Justice Administration as well a representative from the Head of the Judiciary. Ali Asghar Abbasi, the trial judge who was appointed to Kish Court just two months previously, had no previous trial experience.

Worse still, as Afsaneh Norouzi and the public eagerly awaited an acquittal; judicial officials unlawfully circumvented the trial process. Compared to years of dawdling over bringing Afsaneh Norouzi even one step closer to freedom, this time officials "worked tirelessly around the clock for days" to press Behzad Aghdam Moghadam's family (his mother and two children) to forgo Afsaneh Norouzi's *qisas-e-nafs* death penalty, a sentence that had supposedly been quashed by Branch 26 of the Supreme Court.

Offering the family an exorbitant 50 million Tuman in "blood money" (*diyeh*) (a normal *diyeh* in Iran is 22 million Tuman); officials announced on 11 January 2005 that they had obtained their consent. Consequently, Afsaneh Norouzi, like any other murder convict graciously pardoned by the victim's family, became liable for paying the agreed *diyeh*. As the public once again took action to support Afsaneh Norouzi by making contributions for the payment of the *diyeh*, judicial officials announced on 26 January 2005 that the state has re-negotiated and paid a lower amount of *diyeh* (31 million Tumans) to Moghadam's family.

A day later, Afsaneh Norouzi was finally released after spending 2760 days in detention. There is, of course, no remedy that can erase the harm done to any wrongfully convicted and imprisoned person. But justice demands that the unjustly convicted at least receive an acknowledgment of the wrong done and of their innocence, as well as compensation.

Afsaneh Norouzi's pardon not only denied her any justice, but once again profiled her as an intentional murderer. Facing public criticism and to justify their unlawful intervention, Iranian judiciary officials restated that "Afsaneh Norouzi's act has not been in self-defense and the claims of her defense attorney have not been proven." Afsaneh Norouzi, they professed, was solely "indebted" to the "generosity" of

their "Islamic system" and "those who claim violation of her civil rights are rumor-mongers intending to taint the system".

In the court of public opinion, however, Afsaneh Norouzi's pardon, like her infamous death sentence, epitomize the disastrous state of the Iranian Islamic justice system, a system riddled with laws that blatantly flout human rights, procedures and practices that contradict standards for fair trial, political influences and discrimination against women.

This article was written by an outside contributor and does not necessarily reflect Amnesty International policy.

Author's note:

All the events described in this article are extracted from reports published in the Iranian press and by individual journalists between March 2002 and March 2005. These include daily papers: Etemaad, Hayat-e-no, Iran, Shargh, Vaghyeh-e-Etefaghieh, and Yase-e-no newspapers; the news agencies FARS, ILNA and ISNA, Zannan Magazine and articles by Asieh Amini, Payam Fazlinejad, Sina Ghanbarpour, Fereshteh Ghazi, Shahram Rafizadeh, Shadi Sadr, and Mitra Shojayi.