

PUBLIC

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Further Information on UA 39/08 (ASA 11/002/2008, 12 February 2008) - Death penalty

AFGHANISTAN **Sayed Perwiz Kambakhsh (m), student and journalist**

Sayed Perwiz Kambakhsh is now known to have been convicted of an offence which carries a maximum sentence of five years' imprisonment, but is still facing the death penalty. He has not been receiving a fair and impartial hearing for his appeal, which began on 18 May. His appeal has since come to a standstill at the Court of Appeal in Kabul.

Perwiz Kambakhsh was arrested on 27 October 2007, and on 22 January was sentenced to death by a primary court in the northern city of Mazar-e-Sharif for "blasphemy". He was convicted of downloading material from the internet that examined the role of women in Islam, adding some commentary and distributing it at Balkh University. He denies all this, saying that he had been coerced into making a "confession". There are no legal grounds for either his conviction or his sentence. He was convicted under Article 347 of the Penal Code, which carries a maximum sentence of five years' imprisonment, not the death penalty, for a person who disturbs or stops the conduct of religious ritual or damages religious places of worship.

According to a report by a charity providing training and capacity building for local media, the Institute for War & Peace Reporting (IWPR), during the last appeal hearing, on 15 June, the presiding judge "took on the role of prosecutor rather than impartial judge, engaging in a legal duel with defence attorney Mohammad Afzal Nooristani... time and again the judge attacked Kambakhsh, who sat pale but composed in the defendant's chair." The hearing was adjourned indefinitely, to allow time for the court to summon witnesses from Mazar-e-Sharif. The Court of Appeal has sent four summonses to the court in Mazar-e-Sharif which convicted Sayed Perwiz Kambakhsh, for that court to deliver to witnesses, but it has not done so.

In addition, under Article 6 of the Interim Criminal Procedure Code, an appeal must last no more than two months, after which the appellant must be released, whether or not the proceedings have reached a conclusion. Kambakhsh's appeal began on 18 May and he should therefore have been released on 18 July.

This is the fourth time the appeal hearing has been adjourned. A hearing on 1 June was suspended following a motion by Kambakhsh's defence counsel to have him examined by a doctor, who would investigate injuries that Kambakhsh said were caused by torture. Kambakhsh, according to the IWPR report, claimed the security forces broke his nose and left hand while he was in custody in late 2007. The court did order an examination, but this did not determine when Kambakhsh had sustained his injuries. Kambakhsh also claimed that he had confessed to distributing the "blasphemous" material only because he was coerced.

President Hamid Karzai has said that "justice will be done" in the case.

The proceedings against Perwiz Kambakhsh appear to be politically motivated, intended to stop his brother, journalist Yaqub Ibrahim, from publishing articles critical of local warlords. Perwiz Kambakhsh's arrest came after his brother published a series of articles voicing concerns about local leaders. Since his case has come to international and domestic attention, it has stoked up conservative religious sentiment against Kambakhsh in Afghanistan, and many religious leaders have been calling for him to be executed.

BACKGROUND INFORMATION

Between 70 and 110 people are believed to remain on death row in Afghanistan. This is despite the UN General Assembly's adoption of a resolution on 18 December 2007, calling for a worldwide moratorium on the use of the death penalty and at a time when a total of 135 countries have abolished the death penalty in law or practice.

Amnesty International opposes the death penalty in all cases. It has not been shown to have any greater deterrent effect than other punishments, and is known to have been carried out on the innocent. The death penalty is the ultimate form of cruel, inhuman and degrading treatment, and a violation of the right to life, a right proclaimed in the Universal Declaration of Human Rights and other international human rights instruments.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English, Dari, Pashtu or your own language:

- expressing concern that the proceedings in Perwiz Kambakhsh's appeal against his conviction which was itself the result of an unfair trial, have not been impartial;
- expressing concern that Perwiz Kambakhsh's appeal proceedings have so far lasted four months, and by law he should have been released when proceedings did not conclude after two months;
- expressing concern that Kambakhsh has been sentenced to death even though he was convicted under Article 347 of the Penal Code, which does not carry the death penalty;
- expressing concern that the proceedings against him appear to be politically motivated and that conservative religious elements are attempting to ensure that the death penalty is upheld;
- calling on President Karzai to use his constitutional powers to ensure that Kambakhsh is not put to death;
- calling on President Karzai to immediately reintroduce a moratorium on all executions in Afghanistan, as called for in the UN General Assembly resolution passed on 18 December 2007, with a view to an eventual complete abolition of the death penalty.

APPEALS TO:

It is difficult to get letters and emails to Afghanistan. Please send appeals to diplomatic representatives of Afghanistan accredited to your country. Ask that they be forwarded to President Hamid Karzai, Attorney General Mohammad Ishaq Alako and Minister of Justice Sarwar Danish.

Please also send copies to your country's Foreign Affairs Minister and the human rights department in your country's Ministry of Foreign Affairs.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 04 November 2008.