

PUBLIC

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UA 21/05 Death penalty/unfair trial

IRAN Khaled Hardani (m)

Khaled Hardani has been sentenced to death for his part in the January 2001 attempted hijacking of a 30-seater passenger aircraft. He was scheduled to hang on 19 January, but the Head of the Judiciary ordered a stay of execution the previous day, apparently to allow lawyers to appeal.

He was one of 11 members of an extended family who attempted to commandeer a scheduled flight between the southern Iranian cities of Ahvaz and Bandar Abbas, and force it to fly to Dubai, in the United Arab Emirates. Security guards already on board ended the hijack attempt while the plane was still on the runway at Ahvaz, reportedly shooting Khaled Hardani in the process. The family were reportedly trying to escape the poverty and hopelessness they were experiencing as members of Iran's Arab minority.

Khaled Hardani was sentenced to death, together with his brothers-in-law, Shahram and Farhang Pourmansouri, on charges of "acts against national security" (*eqdam 'aleyhe amniyat*) and *Moharebeh*, or enmity with God, rather than charges relating specifically to hijacking an aircraft.

At the time of the hijacking, the brothers were reportedly aged 17 and 18 respectively. As a state party to the International Covenant on Civil and political Rights (ICCPR), Iran has undertaken not to execute anyone for an offence committed when they were under 18. The Head of the Judiciary reportedly ordered the executions of all three men to be stayed because of the ages of the two brothers. It is not clear how long the stay will cover Khaled Hardani, who was not a minor. One other member of the family has been sentenced to 22 years' imprisonment, but it is not known what action has been taken against the others on board.

According to a report on the internet news site IranMania (<http://www.iranmania.com>), Shahram and Farhang Pourmansouri's father told reporters that Hardani had persuaded his sons to board the plane without telling them his plans, and that they intervened to help him as the security guards opened fire, simply because of their family relationship with him.

According to an 18 January report on the Iranian Students' News Agency website (<http://www.isna.ir/news/Main.asp>), the men's lawyer, whose costs have been met by an Iranian independent non-governmental human rights organisation, the Society for the Defence of the Rights of Prisoners (SDRP), has said that his clients have been kept in solitary confinement in Raja'i Shahr prison, in the city of Karaj, around 50km west of the capital, Tehran. He apparently wrote to the Head of the Judiciary on 31 December 2004, stating that the three did not enjoy a just defence, as "the court did not follow the protocols of justice (*tashrifat-e dadrasi*)".

Before the recent stay of execution, the three men's death sentences had been upheld by the Supreme Court, while the Amnesty and Clemency Commission (*Komisyon-e 'Afv va Bakhshoudegi*) has reportedly rejected an application for a pardon from their lawyer.

BACKGROUND INFORMATION

Amnesty International recognizes the right and responsibility of governments to bring to justice those suspected of criminal offences but opposes the death penalty unconditionally, as the ultimate cruel, inhuman and degrading punishment. Iran has made an explicit and unreserved commitment, under article 6(2) of the ICCPR, to impose the death sentence "only for the most serious crimes". This means that a death sentence

Commented [b1]: I would say this was a motivation not a reason. And it's really not clear why he thought the hi-jacking would help him "escape" etc

Commented [b2]: Any info about when and for how long? Any info about the lawyer's access to them?

should be a most exceptional measure, and in any event is applicable only to intentional crimes with lethal or other extremely grave consequences.

The temporary stay of execution granted to Shahram and Farhang Pourmansouri, along with Khaled Hardani, is, as far as Amnesty International is aware, the first ever given on the basis of the prisoners' age. The Iranian authorities are now considering legislation that would prohibit the use of the death penalty for offences committed under the age of 18.

Iran executed at least three child offenders in 2004. In addition, a 14-year-old boy died on 12 November 2004 after receiving 85 lashes for eating in public during the Muslim holy month of Ramadan. He was reportedly flogged with a metal cable, which struck the back of his head, causing a brain haemorrhage.

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

- urging the authorities to review the case against Khaled Hardani, in particular whether the charges are compatible with Iran's obligations under the ICCPR;
- urging that the stay of execution and review into the cases of Shahram and Farhang Pourmansouri on account of their age be made permanent, in line with Iran's international obligations;
- asking for details of Khaled Hardani's trial and appeals, with a view to establishing whether these complied with international standards for fair trial;
- stating your unconditional opposition to the death penalty, as the ultimate cruel, inhuman and degrading punishment and violation of the right to life;
- expressing concern and dismay that Amnesty International has recorded 10 executions of child offenders in Iran since 1990, three of them in 2004, and calling on the Iranian authorities to immediately halt further executions of child offenders.

APPEALS TO: (Please note that email servers in Iran are unreliable. If your message bounces for any reason, please resend it)

Leader of the Islamic Republic

His Excellency Ayatollah Sayed 'Ali Khamenei

The Presidency, Palestine Avenue, Azerbaijan Intersection, Tehran, Islamic Republic of Iran

Fax: + 98 21 649 5880 (mark 'FAO Office of His Excellency, Ayatollah al Udhma Khamenei, Qom)

Email: info@wilayah.org (on the subject line write: For the attention of the Office of His Excellency, Ayatollah al Udhma Khamenei, Qom)

Salutation: Your Excellency

Head of the Judiciary

His Excellency Ayatollah Mahmoud Hashemi Shahroudi

Ministry of Justice, Park-e Shahr, Tehran, Islamic Republic of Iran

Email: irjpr@iranjudiciary.org (mark 'Please forward to HE Ayatollah Shahroudi')

Salutation: Your Excellency

COPIES TO:

Parliamentary Committee examining citizens' complaints regarding issues of law and governance

Chairperson, Article 90 Commission (Komisyon-e Asl-e Navad)

Majles-e Shura-ye Eslami, Imam Khomeini Avenue, Tehran, Islamic Republic of Iran

Fax: + 98 21 646 1746 (can be difficult to reach, please be patient)

Email: mellat@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 8 March 2005.