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Iran: Sakineh Mohammadi Ashtiani's fate unclear while lawyer Javid Houtan Kiyan languishes in jail

Two years after an international outcry erupted over her sentence of stoning to death, Sakineh Mohammadi Ashtiani remains imprisoned in north-west Iran apparently still facing a stoning sentence. Her lawyer, Javid Houtan Kiyan, arrested on account of his advocacy for her, remains held as a prisoner of conscience, and is reported to have been sentenced to a lengthy prison term. He is believed to have been tortured during his detention.

Recent but unconfirmed reports suggested that the Iranian authorities no longer intend to implement the stoning sentence handed down to Sakineh Mohammadi Ashtiani in 2006. These reports highlight the need for clarity concerning her fate.

According to a 25 June 2012 article in *The Times* [of London] newspaper, Mohammad Mostafaie, one of Sakineh Mohammadi Ashtiani's previous lawyers, said that he had heard that the stoning sentence had been "lifted" and that "she could be released" before completing her sentence.

While this would be welcome news, Amnesty International is not aware of any official confirmation that this is the case. If Sakineh Mohammadi Ashtiani is no longer under sentence of stoning, the Iranian authorities should state publicly that this is the case, and clarify her current legal status, including any remaining prison sentence imposed upon her.

Under Iran's current Code of Criminal Procedures, an individual convicted of stoning must remain in detention until the sentence is carried out. The life of Sakineh Mohammadi Ashtiani appears to remain in the balance: if her stoning sentence has not been lifted, then it could be carried out at any time as it has previously been sent to the Office for the Implementation of Sentences.

If Sakineh Mohammadi Ashtiani remains under sentence of stoning to death, Amnesty International renews its appeal to the Iranian authorities to overturn the stoning sentence and not to execute Sakineh Mohammadi Ashtiani by any other means.

Amnesty International would consider Sakineh Mohammadi Ashtiani a prisoner of conscience and call for her immediate release if she is being held solely in connection for having had consensual sexual relations.

Additionally, Amnesty International is calling for the immediate and unconditional release of Sakineh Mohammadi Ashtiani's last lawyer, Javid Houtan Kiyan. He was arrested in October 2010 along with Sakineh Mohammadi Ashtiani's son and two German journalists, who have all been released. Javid Houtan Kiyan is believed to have been sentenced to at least four years in prison and given a five-year ban on practising law on charges including "spreading propaganda against the system" and "gathering and colluding with intent to harm state security", and may be facing trial on the charge of espionage, which can carry the death penalty.

A letter believed to have been written by Javid Houtan Kiyan while in prison in which he alleged that he had been tortured, surfaced in March 2011. Naghi Mahmoudi, Javid Houtan Kiyan's lawyer who has now fled the country, has reported that he has obtained a three-page letter written recently by his client, who remains in Tabriz Central Prison.

In the new letter, Javid Houtan Kiyan reiterated that he has experienced physical and psychological torture “like a soccer football kicked about” and that every day since his arrest, he has wished to die. He stated that he was transferred from a section of the prison holding those convicted financial crimes, to the “methadone” ward where drug addicts are held. He stated that he continues to be subjected to torture and that while he has written to various judicial officials to complain, his letters have made no difference and that he has therefore lost all hope. He adds that he has been deprived of seeing his young daughter as well.

Amnesty International is once again urging the Iranian authorities to conduct a prompt, thorough and independent investigation into the allegations of torture made by Javid Houtan Kiyan and for anyone found responsible for violations to be brought promptly to justice in full accordance with international fair trial standards.

Pending his release, Javid Houtan Kiyan must be given immediate access to his family, a lawyer of his choice, an independent doctor and all necessary medical care.

Background

Sakineh Mohammadi Ashtiani is a 44-year-old mother of two. Arrested in 2005, in 2006 she was convicted following an unfair trial of “adultery while married” for which the punishment is a mandatory stoning sentence. Sakineh Mohammadi Ashtiani had previously been sentenced to flogging for “illicit relations”. In May 2007 the Supreme Court confirmed the stoning sentence. Later still, the Amnesty and Clemency Commission twice rejected her requests for clemency.

She was also convicted of having played a part in the murder of her husband, Ebrahim Qaderzadeh, for which she was sentenced to 10 years’ imprisonment. This sentence was initially upheld by the Supreme Court. However, according to Javid Houtan Kiyan, in 2009 a judicial review by the Supreme Court led to the conviction of murder being changed to “complicity” in murder. As a result, he says the sentence was reduced to five years – the maximum sentence for this offence although he was not able to provide any documents in this regard before his arrest.

From Iran’s Azerbaijani minority, Sakineh Mohammadi Ashtiani’s mother tongue is Azerbaijani Turkic and she may not have fully understood the legal proceedings she went through, since no translation from Persian was offered to her at any point.

Amnesty International has repeatedly called on the Iranian authorities to decriminalize consensual sexual relations between adults. In the revised Penal Code, passed in February 2012 but which has not yet entered into force, the punishment of stoning was removed, although it would remain a crime to have sexual relations outside marriage. However, Article 167 of Iran’s Constitution directs judges to use Islamic law to rule on a case in the absence of codified law.

The organization is therefore concerned that while the revised Penal Code does not explicitly provide for stoning to death, judges would still be able to pass stoning sentences using Islamic law sources, in line with this constitutional provision.

The new Penal Code would also continue to allow judges to decide on the merits of a case solely based on their subjective “knowledge” (‘elm-e qazi) – one of many concerns Amnesty International has over the fairness of trial proceedings in Iran. The existing provision regarding “knowledge of the judge” in the current Penal Code was relied on by three of the judges who passed the majority verdict of stoning to death against Sakineh Mohammadi Ashtiani.

Amnesty International considers stoning to be a particularly repugnant and torturous form of execution and opposes the death penalty in all cases as a violation of the right to life and the ultimate form of cruel, inhuman and degrading punishment.

Death by stoning violates Article 6 [right to life] and 7 [prohibition of torture and cruel, inhuman and degrading treatment or punishment] of the International Covenant on Civil and Political Rights, to which Iran is a state party.

For more information:

- *Iran: The Life Of Sakineh Mohammadi Ashtiani Remains In The Balance*, 08 July 2011 , (Index MDE 13/066/2011)
- *Iran: Sakineh Mohammadi Ashtiani: A life in the balance*, (Index: MDE 13/089/2010) 28 September 2010
- *Iran: Executions by stoning*, (index: MDE 13/095/2010), 23 December 2010

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