

PUBLIC

AI Index: MDE 13/083/2006

UA 203/06

Imminent execution

27 July 2006

IRAN

Ashraf Kolhari (f) aged 37

Ashraf Kolhari, a mother of four children between the ages of nine and nineteen, is at imminent risk of execution by stoning for adultery. She has been held in Tehran's Evin prison for five years, and should by law serve the remaining ten years of her prison sentence before she is executed. However, on or around July 2006, she received the order for the implementation of her sentence, and is reportedly due to be executed by stoning by the end of July.

Ashraf Kolhari had an extra marital affair after her divorce request was rejected by the court, reportedly on the basis that she had children, and therefore had to resume living with her husband. She was sentenced on two charges; the first was for participating in the murder of her husband, for which she received a sentence of 15 years imprisonment; the second was for adultery as a married woman, for which she was sentenced to execution by stoning. Article 83 of the Iranian Penal Code stipulates that the penance for adultery by a married woman with an adult man is execution by stoning.

In death penalty cases such as murder, in which the sentence is 'qesas' (retribution), the victim's family has the right to pardon the condemned. However, in death penalty cases where the charge is adultery, according to Article 72 of the Penal Code, if a person confesses to adultery and subsequently repents, the Judge can ask for his or her pardon by the Supreme Leader. Article 4 of the Implementation of Execution Law states that after repentance, the case must be referred to the Parole Commission. Ashraf Kolhari has reportedly written to the Head of the Judiciary, Ayatollah Shahroudi, asking for forgiveness.

BACKGROUND INFORMATION

Amnesty International opposes the death penalty in all cases as the ultimate cruel, inhuman or degrading punishment and a violation of the right to life. Amnesty International further believes that execution by stoning aggravates the brutality of the death penalty and is a method specifically designed to increase the victim's suffering since the stones are deliberately chosen to be large enough to cause pain, but not so large as to kill the victim immediately. The Iranian Penal Code is very specific about the manner of execution and types of stones which should be used. Article 102 states that men will be buried up to their waists and women up to their breasts for the purpose of execution by stoning. Article 104 states, with reference to the penalty for adultery, that the stones used should "not be large enough to kill the person by one or two strikes; nor should they should they be so small that they could not be defined as stones". Death by stoning violates Articles 6 (right to life) and 7 (prohibition of torture and cruel, inhuman or degrading treatment or punishment) of the International Covenant on Civil and Political Rights (ICCPR).

As a state party to the ICCPR, Iran has made an explicit and unreserved commitment under article 6(2) that if it imposes the death sentence this will be "only for the most serious crimes". The UN Human Rights Committee (in the case of *Toonen v Australia*) has made clear that treating adultery and fornication as criminal offences does not comply with international human rights standards. Therefore the sentence of execution by stoning imposed on Ashraf Kolhori breaches Iran's commitments under the ICCPR, as adultery is not a recognizably criminal charge. Amnesty International opposes the criminalization of private, adult consensual sexual relations.

According to reports at the time, in December 2002 Ayatollah Shahroudi, the Head of the Judiciary, sent a ruling to judges ordering a moratorium on execution by stoning, pending a decision on a permanent change in the law to be taken by the Supreme Leader of the Islamic Republic of Iran. However, on 18 September

2003, the Official Gazette published a law entitled 'Implementation regulations for sentences of retribution, stoning, killings, crucifixion, execution and lashing'.

Since December 2002, Amnesty International has recorded cases in which a sentence of execution by stoning was passed, but not any in which the sentence was implemented. However, in May 2006 it was reported that Abbas Hajizadeh (m) and Mahboubeh Mohammadi (f) were executed by stoning in a cemetery in Mahshhad, part of which was cordoned off from the public. More than 100 members of the Revolutionary Guards and Bassij Forces, who had previously been invited to attend, participated in the stoning. They were reportedly convicted of murdering Mahboubeh Mohammadi's husband, and of adultery. It was for the charge of adultery that they were reportedly sentenced to death by stoning. Mahboubeh Mohammadi also reportedly received a 15-year prison sentence, which should have been served before she was executed. Amnesty International wrote to the Head of the Judiciary seeking clarification of these reports, but to date has not received a reply. According to Shadi Sadr (f), a lawyer and women's rights defender (WHRD), who is defending Ashraf Kolhari, and has begun a campaign against stoning, there are several other women under sentence of execution by stoning.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in persian, arabic, english or your own language:

- expressing concern that Ashraf Kolhari is reportedly facing imminent execution by stoning for adultery;
- reminding the Iranian authorities that the UN Human Rights Committee (in the case of *Toonen v Australia*) has made clear that treating adultery and fornication as criminal offences does not comply with international human rights standards. Therefore the sentence of execution by stoning imposed on Ashraf Kalhori breaches Iran's commitment under article 6(2) of the ICCPR that if it imposes the death sentence this will be "only for the most serious crimes";
- calling for the death sentence on Ashraf Kolhori to be commuted immediately;
- stating your unconditional opposition to the death penalty, as the ultimate cruel, inhuman and degrading punishment and violation of the right to life;
- calling for the abolition of execution by stoning in Iran as a positive step towards implementing international law and standards for the protection of human rights.

APPEALS TO:

Leader of the Islamic Republic

His Excellency Ayatollah Sayed 'Ali Khamenei, The Office of the Supreme Leader
Shoahada Street, Qom, Islamic Republic of Iran

Email: info@leader.ir
istiftaa@wilayah.org

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: Please send emails via the feedback form on the Persian site of the website:
<http://www.iranjudiciary.org/contactus-feedback-fa.html>

(The text of the feedback form translates as:

1st line: name, 2nd line: email address, 3rd line: subject heading, then enter your email into the text box)

Salutation: Your Excellency

COPIES TO: diplomatic representatives of Iran accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY.