

PUBLIC

AI Index: MDE 13/053/2004

UA 336/04

Fear of imminent execution

16 December 2004

IRAN

**Hajieh Esmailvand (f)
An unnamed man (aged 17 when accused)**

Amnesty International fears that Hajieh Esmailvand is at risk of imminent execution after her death sentence for adultery was upheld by the Supreme Court in November. She could allegedly be stoned to death as early as 21 December. Her unnamed co-defendant is at risk of imminent execution by hanging.

According to reports, Hajieh Esmailvand was sentenced to five years imprisonment, to be followed by execution by stoning, for adultery with an unnamed man who at the time was a 17 year old minor. Although the exact date of her arrest and trial are not known, it is reported that she has been imprisoned in the town of Jolfa, in the north west of Iran, since January 2000.

In Iran, all death sentences must be upheld by the Supreme Court before they can be carried out. In November 2004, the Supreme Court upheld the death sentence against Hajieh Esmailvand but changed the lower court's verdict from 'death by hanging' to 'death by stoning'. Reports suggest that the Supreme Court has ordered that the remainder of Hajieh's five year prison sentence be annulled so that the stoning sentence can be carried out before 21 December.

The unnamed man, with whom Hajieh had the affair, has been sentenced to death by hanging. It is reported that he is awaiting official orders to be hanged in public, suggesting that the death sentence may have already been upheld by the Supreme Court.

BACKGROUND INFORMATION

Amnesty International believes that the death penalty is the most extreme form of torture. It is a cruel, inhuman and degrading treatment, and a violation of the right to life as proclaimed in the Universal Declaration of Human Rights (UDHR). It is clear that the punishment of stoning is designed to cause the victim grievous pain before leading to death. Such methods of execution specifically designed to increase the suffering of victims are of particular concern to Amnesty International, as the most extreme and cruel form of torture.

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".

In December 2002, the Head of the Judiciary, Ayatollah Shahroudi, reportedly sent a directive to judges ordering a moratorium on execution by stoning and for alternative punishments to be used instead. However, legal provision for execution by stoning remains, and in September 2003 a law was passed listing regulations for the implementation of particular sentences, including stoning. Since the reported moratorium, Amnesty International is aware of at least one case in which a sentence of execution by stoning has reportedly been issued. According to a report on 8 January 2004 in the *Iran* newspaper, a criminal court in city of Qazvin sentenced an unnamed man to 80 lashes and 10 years' imprisonment to be followed by execution by stoning. It is not known whether this sentence has been carried out.

As a party to the International Convention on Civil and Political Rights, Iran has undertaken not to execute anyone for an offence committed when they were under 18 years old. The Iranian authorities are now

considering legislation (the draft law on the Establishment of Children's Courts) that would prohibit the use of the death penalty for offences committed under the age of 18. Iran has executed at least three child offenders in 2004. In addition to this, at least eleven other child offenders are believed to have been sentenced to death.

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

- 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 that Hajieh Esmailvand is reportedly facing imminent execution by stoning for adultery;
- asking for the trial details of the case against Hajieh Esmailvand, including details of any appeals against her convictions to be made public;
- urging that the death sentence against Hajieh Esmailvand be commuted immediately;
- seeking clarification about the status of the moratorium on stoning reportedly ordered by His Excellency Ayatollah Shahroudi in December 2002;
- expressing concern at reports that the unnamed co-defendant of Hajieh Esmailvand has been sentenced to death for an offence committed when he was a 17 year old minor;
- asking for details of the exact charges against the unnamed individual, including details of any appeals against his convictions to be made public;
- urging that the death sentence against him be commuted immediately;
- 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 and to pass legislation removing the provision for the execution of child offenders, thereby bringing Iran into line with its obligations under international law.

APPEALS TO:

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 (please mark '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:

Centre for Women's Participation

Dr Zahra Shojaei

Head of the Centre of Women's Participation and Advisor to the President

128 Shaheed Labbafi Nejad Street

Tehran 13156, Islamic Republic of Iran

Fax: + 98 21 640 3038

Email: cwp@women.org.ir (please mark for the attention of Dr Zahra Shojaei)

and to diplomatic representatives of Iran accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. All appeals must arrive by 21 December 2004.