

PUBLIC

AI Index: MDE 13/051/2004

23 December 2004

Further Information on UA 336/04 (MDE 13/053/2004, 16 December 2004) Fear of imminent execution and new concern: Flogging

IRAN

Hajieh Esmailvand (f)
Ruhollah G (m), aged 17 when accused (name previously

unknown)

Hajieh Esmailvand has been granted a stay of execution. She was reportedly due to be stoned to death on 21 December, for having an adulterous relationship with a 17-year-old boy, now named as Ruhollah G. He has been sentenced to death by hanging, and there is no further information about him.

Hajieh Esmailvand was initially sentenced to five years' imprisonment and 100 lashes, to be followed by execution by hanging. In November 2004 the Supreme Court reportedly upheld her death sentence, but changed it from death by hanging to death by stoning. The Supreme Court reportedly ordered that the remainder of her five-year prison sentence, which began in January 2000, be annulled so that the execution by stoning could take place before 21 December.

According to a report in the Iranian daily newspaper *Tose'h (Development)*, cited by the news agency AFP, Hajieh Esmailvand and Ruhollah G were also "accused of murdering her husband in 2000". The newspaper gave no further details of this "accusation".

On 18 December, a judiciary official confirmed to the Reuters news agency that "Her [death] sentence is approved by the Supreme Court, but there are no orders to carry out the sentence. We do not yet know if it is by stoning or hanging".

Following widespread international media coverage of the case, and campaigning action by Iranian and international activists, including the UA network, a judiciary official was quoted in a 23 December AFP report saying that "the stoning has been stayed pending a decision by the Amnesty and Clemency Commission."

The Amnesty and Clemency Commission (*Komisyon-e 'Afv va Bakhshoudegi*), which is part of the judiciary, is empowered to recommend a pardon or reduction of a sentence for a range of crimes, including those carrying the death penalty. If accepted by the Head of the Judiciary, the pardon or reduction of a sentence takes effect on one of 11 days of national significance in Iran, such as the anniversary of the revolution, or Islamic holy days.

BACKGROUND INFORMATION

Amnesty International opposes laws that criminalise adult consensual sexual relations in private. Treating adultery and fornication as criminal offences is not consistent with international human rights standards. The UN Human Rights Committee has stated explicitly that "it is undisputed that adult consensual sexual activity in private is covered by the concept of "privacy".

Amnesty International has recorded 10 executions of child offenders in Iran since 1990, three of them in 2004. As a party to the International Covenant on Civil and Political Rights (ICCPR) and the UN Convention on the Rights of the Child (CRC), Iran is bound not to execute child offenders. Both treaties provide that capital punishment shall not be imposed for offences committed by persons under 18 years of age at the time of the offence.

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

- welcoming the decision to grant Hajieh Esmailvand a stay of execution;
- stating that Amnesty International opposes the death penalty as the ultimate cruel, inhuman and degrading punishment, in violation of the Universal Declaration of Human Rights;
- asking to be told the full charges against Hajieh Esmailvand and Ruhollah G;
- expressing concern that Hajieh Esmailvand has reportedly been sentenced to death on a charge of adultery, which is not a recognizably criminal offence;
- asking whether Hajieh Esmailvand's sentence of 100 lashes has been carried out, and stating that Amnesty International considers the punishment of flogging to constitute cruel, inhuman and degrading treatment amounting to torture, in contravention of the International Covenant on Civil and Political Rights, to which Iran is a state party;
- urging that the death sentence passed on Ruhollah G, for an offence committed when he was under 18, be commuted immediately;
- expressing concern 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

The Clemency and Amnesty Commission of the Judiciary

The Secretariat of Clemency and Amnesty Commission

Clemency and General Amnesty Department of the Judiciary

General Department of Criminal Records

Ground Floor, Justice Administration Building

Opposite Park-e Shahr, Tehran, Islamic Republic of Iran

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")

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 6 February 2005.