

PUBLIC

AI Index: MDE 13/068/2005

08 November 2005

Further Information on UA 332/04 (MDE 13/048/2004, 10 December 2004) and follow-up (MDE 13/001/2005, 11 January 2005) - Fear of imminent execution/ fear of flogging

IRAN **Leyla Mafi, (f) aged about 20**

Leyla Mafi is no longer facing the death penalty for "morality-related" offences. However, she still faces a sentence of flogging, and three and a half years in prison. Amnesty International opposes the use of flogging as a judicial punishment, and considers it to be cruel, inhuman and degrading treatment amounting to torture.

In a verdict issued on 27 March, which was not made public until June, the Supreme Court overturned the death sentence issued in 2004, but upheld a sentence of flogging. As a result of the Supreme Court's decision, the case was sent back to the Court of First Instance in the central city of Arak for a retrial.

In October 2005, the presiding judge of Branch 104 of the General Court of Arak acquitted Leyla Mafi of the charge of incest (which carried the death penalty), and of controlling a brothel, on the grounds that she had made contradictory "confessions". However, she was convicted under Article 637 of the Penal Code of an "unchaste act with next of kin (other than fornication)", and was sentenced to receive 99 lashes, to be carried out at the headquarters of the Justice Department in Arak. Amnesty International does not know if this sentence has yet been carried out.

Leyla Mafi was also sentenced to three-and-a-half years' imprisonment by the court in Arak for "providing the facilities for corruption and prostitution by being available for sexual acts". The judge also ordered that following the completion of her prison sentence, she should reside for six months in a women's rehabilitation centre.

According to newspaper reports, Leyla Mafi was forced into prostitution by her mother when she was eight years old, and was raped repeatedly thereafter. She gave birth to her first child when she was nine, and was sentenced to 100 lashes for prostitution at around the same time. At the age of 14 she became pregnant again, and received a further 100 lashes for prostitution.

In May 2004 it was reported that Leyla Mafi had been sentenced to flogging and death on charges of "acts contrary to chastity" by controlling a brothel, having intercourse with blood relatives and giving birth to an illegitimate child. A newspaper report on 28 November 2004 claimed that tests carried out by social workers have repeatedly shown her to have a mental age of eight. However, she had been tried and sentenced to death solely on the basis of her explicit confessions, without being examined by court-appointed doctors and without consideration of her background or mental health. On 26 December, Foreign Ministry officials announced that the issue of her mental capacity had been referred to the relevant bodies for investigation. The outcome of this investigation is not known.

Amnesty International welcomes the fact that Leyla Mafi's death sentence has been overturned but remains concerned that Iran continues to impose death sentences for adultery and fornication, despite having made an explicit and unreserved commitment under article 6(2) of the International Covenant on Civil and Political Rights (ICCPR) that it will impose the death sentence "only for the most serious crimes". The UN Human Rights Committee (in the case of *Toonen v Australia*) has made it clear that treating adultery and fornication as criminal offences does not comply with international human rights standards.

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

- welcoming the news that Leyla Mafi's death sentence has been overturned, but expressing concern that she faces a sentence of flogging;
- stating that you consider the use of flogging as punishment to be cruel, inhuman and degrading treatment amounting to torture, contrary to Article 5 of the Universal Declaration of Human Rights, which states: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment";
- calling for Leyla Mafi's flogging sentence to be commuted;
- reminding the authorities that imposing death sentences for crimes such as adultery and fornication violates Iran's explicit and unreserved commitment under article 6(2) of the ICCPR to impose the death sentence "only for the most serious of crimes".

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 6 649 5880 (mark "FAO the Office of His Excellency, Ayatollah al Udhma Khamenei")

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

Salutation: Your Excellency

President

His Excellency Dr Mahmoud Ahmadinezhad

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

E-mail via website: <http://www.president.ir/email/>

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 His Excellency Ayatollah Shahroudi")

Fax: + 98 21 8879 6671 / 6640 4018 / 6640 4019

Salutation: Your Excellency

COPIES TO:

Speaker of Parliament

Gholamali Haddad Adel

Majles-e Shoura-ye Eslami (Parliament)

Imam Khomeini Avenue, Tehran, Islamic Republic of Iran

Fax: + 98 21 6 646 1746

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 20 December 2005.