



International Gay and Lesbian Human Rights Commission
80 Maiden Lane, Suite 1505, New York, NY 10038
Website: www.iglhrc.org

November 5, 2007

His Eminence Ayatollah Seyed Ali Khamenei
The Supreme Leader of the Islamic Republic of Iran,

Your Eminence,

I am writing with regard to the pending execution of Mr. Makvan Moulloodzadeh, a 21-year old Iranian citizen from the city of Paveh in Kermanshah Province. On June 7, 2007, Mr. Moulloodzadeh was found guilty of multiple counts of anal rape (*ighab*), allegedly committed when he was as young as 13 years old. The Seventh District Criminal Court of Kermanshah sentenced him to death, and, despite his lawyer's appeal, the Supreme Court upheld his death sentence on August 1, 2007.

This pending execution is based on a ruling that stands in violation of international law as well as various legal codes of the Islamic Republic of Iran. Although no one ever accused Mr. Makvan Moulloodzadeh of rape, the court ruling declares otherwise. All parties involved in this case, including the initial plaintiff and witnesses, told the court that their statements during the investigation were either untruthful or coerced. The court never ordered a medical examination of the alleged victims to verify the claims against the defendant. And unlawful techniques and procedures were used to gather evidence for this case, which puts into question the legality of the court ruling.

Based on our information about the case, the court ruling against Mr. Makvan Moulloodzadeh should be dismissed on the following grounds:

1- Makvan was born on March 31, 1986, making him a minor back in 1999, at the time of the alleged crime. According to Article 49 of the Islamic Penal Code, minors are free from criminal responsibility. The first clause of the same article states that, "Minors are those who have not reached what Islam considers to be the age of discretion." The 1991 Amendment of Article 1210 (1) of the Iranian Civil Code declares that, "The Islamic age of discretion is 15 full lunar years of age for boys and 9 full lunar years of age for girls."

2- Article 6(5) of the International Covenant on Civil and Political Rights (ICCPR) states that a "sentence of death shall not be imposed for crimes committed by persons below eighteen years of age." According to Article 9 of the Iranian Civil Code, "treaties that have been signed between Iran and other nations in accordance with the Iranian constitution are considered to be valid laws." Since the Iranian parliament ratified the ICCPR Covenant in 1975 and has not subsequently passed any legislation that nullifies

this international treaty, imposing the death penalty in this case clearly violates both the Iranian legal code as well as international law.

3- Article 111 of the Islamic Penal Code states, "Sodomy is only punishable by death if both parties are adults and of sound mind." Article 113 of the Islamic Penal Code declares: " If a minor sodomizes another minor, both should be punished by up to 74 lashes, unless one of them is forced to do so." Since the alleged sodomy happened when the defendant and his alleged partners were 13 years old, the death penalty is not applicable to this case.

4- The initial investigation into this case was conducted by the DA's office. Section 3 of Article 3 of the Legal Amendment of the Laws Governing Public and Revolutionary Courts (passed by the Islamic Consultative Council on October 20, 2002 and ratified by the Constitutional Council on November 3, 2002) states that, "Sodomy and adultery cases, and cases involving crimes committed by minors, should be handled exclusively by the Criminal Courts. The DA can only be involved in these cases if there is a need for investigating other aspects of the case." Since the alleged crimes in this case involved sodomy committed by minors, the DA's office was not authorized to be involved in gathering evidence, making the evidence collected legally inadmissible.

5- Although "Knowledge of the Judge" is recognized by the law as a way to prove sodomy cases, Article 120 of the Islamic Penal code clearly states that this should be obtained through "conventional methods." Given that all the alleged witnesses and victims dismissed the sodomy charges, the defendant pleaded not guilty and there was no medical examination conducted to verify the case, it is not clear how the judge became certain that sodomy took place.

6- The court decided that the initial confessions by the defendant, the plaintiff and the witnesses could be used as evidence, despite their testimony in court that they either lied or were forced to make confessions. This is against Article 116 of the Islamic Penal Code that clearly says, "The confession of [sodomy] is only admissible if the person who confesses is adult, of sound mind, under no pressure, and is willing to testify." The fact that several days after Makvan's arrest, and while the investigation was still under way, he was forced on DA's orders to shave his head and parade around the city on the back of a donkey implies that there was coercion involved in the case.

Your Eminence, as the highest-ranking religious and political authority in the Islamic Republic of Iran, it is within your legal and constitutional power to order the postponement or the cancellation of the execution, request a reexamination of the case, and even grant amnesty to Mr. Moulloodzadeh. We plead with you to use your authority to save the life of this innocent citizen, whose trial may have been unfairly influenced by unrelated political, social, and personal considerations.

I would also like to use this opportunity to reiterate that as an organization dedicated to the rights of all people to be treated fairly, regardless of their gender, sexual orientation, and gender expression, we support the equal treatment of members of sexual minorities. Our mission is to eliminate all forms of discrimination and injustice against people who have been targeted because of their sexual orientation or gender expression. The use of capital punishment, especially for sexual crimes, is a particularly unjust response that is out of proportion to the alleged crimes.

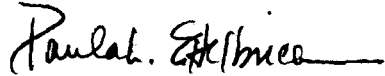
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IGLHRC LETTER ABOUT MR. MAKVAN MOULOODZADEH

I thank you in advance for your timely attention to this important legal case and respectfully ask that you save the life of Mr. Makvan Moulloodzadeh.

Respectfully,



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International Gay and Lesbian Human Rights Commission

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CC:

His Eminence Ayatollah Seyed Mahmoud Hashemi Shahrudi, The Honorable Chief Justice
His Excellency Dr. Mahmood Ahmadinejad, The President of the Islamic Republic of Iran
His Excellency Dr. Gholam-Ali Haddad Adel, The Distinguished Speaker of the Islamic Consultative Council (Parliament)
His Excellency Mr. Manuchehr Motaki, Minister of Foreign Affairs