



THE CASE OF SAKINEH MOHAMMADI-ASHTIANI AND THE PRACTICE OF STONING IN IRAN

FREQUENTLY ASKED QUESTIONS (FAQ)

1. Can you give us a summary of the case of Sakineh Mohammadi-Ashtiani? What was the legal process that led to her indictment?

On 15 May 2006, Sakineh Mohammadi-Ashtiani was convicted of having an “illicit relationship” with two men and was sentenced to 99 lashes by Branch 101 of the Criminal Court of Osku, in East Azerbaijan Province. Then, in a September 2006 trial of a man accused of murdering her husband, Mohammadi-Ashtiani was once again accused of committing “adultery while married.” During this trial, she retracted the “confession” she supposedly made during pre-trial interrogation, alleging that she had confessed under duress, and declared her innocence. Two of the five judges found her not guilty, pointing to the lack of evidentiary proof in the case against her, and noting that she had already suffered 99 lashes due to her previous sentencing. Even though double jeopardy is illegal in Iran, the other three judges, including the presiding judge, found Mohammadi-Ashtiani guilty on the basis of the “judge’s knowledge” or “gut-feeling”, a provision in Iranian law that allows judges to make their own subjective and arbitrary rulings even in the absence of clear or conclusive evidence. Mohammadi-Ashtiani was sentenced to death by stoning on 10 September 2006. The Supreme Court confirmed her death sentence on 27 May 2007.

2. Did she have a fair trial?

No. Ms Mohammadi-Ashtiani’s lawyer, Mohammad Mostafaei, has reported that although she had apparently confessed to adultery, she later retracted this confession, claiming that she had confessed under duress, and declared her innocence. Furthermore, Ms Mohammadi-Ashtiani’s case involved double jeopardy, or the trying of the same crime twice under the same set of evidence. During the first trial in May of 2006, she was already found guilty of participating in an “illicit relationship” with two men and sentenced to 99 lashes. Her sentence had already been carried out when, in September, she was tried again for committing “fornication while married”, or adultery. In fact, two

judges found her not guilty based on the lack of evidence and the fact that her crime had already been tried and sentenced several months earlier.

Adultery is very difficult to prove in Iran. Usually, four eyewitness testimonies are needed to prove guilt (which is obviously very unlikely.) From what we know about other stoning cases in Iran, adultery is more often proven by confession rather than by eyewitness testimony. However, the processes by which these confessions are obtained frequently violate human rights norms as well as Iranian law itself. For instance, the following violations have been documented in cases involving stoning: individuals confessed after abuse and living in harsh prison conditions; their lawful right to see an attorney before confession was denied; they were not told of the consequences of their confession (i.e. the possibility of stoning); they were illiterate and could not adequately understand the confession they were asked to sign; or they later disavowed their confessions, which under Iranian law immediately nullifies the confession in court, but their disavowals were not accepted.

It is very likely that Ms Mohammadi-Ashtiani faced some or many of these obstacles during her trials. For instance, although she had disavowed her previous confession made under duress, her disavowal was not accepted.

There are also some allegations that a language barrier prevented Ms Mohammadi-Ashtiani from having a fair trial. Being of Azerbaijani descent, Ms Mohammadi-Ashtiani speaks Turkish, while her trial was most likely conducted in Persian. There have been other cases in which women were tried in a language they did not understand or were coerced into a signing a confession they could not read.

3. Where is Ms Mohammadi-Ashtiani detained now? Does any person have access to her?

She is currently being detained in Tabriz prison, in Western Iran. It is unclear if she has access to visitors, including her lawyer or children.

4. What are her chances of being pardoned by the authorities?

Her lawyer Mohammad Mostafaei has pleaded with the Head of the Judiciary, Head of the Provincial Judiciary and members of the Amnesty and Clemency Body to commute Mohammadi-Ashtiani's sentence to one that enables her to return to her life and children. His plea has been denied twice. In previous cases, Ayatollah Shahroudi, the former Head of the Judiciary in Iran, has commuted stoning sentences with the approval of Supreme Leader Ayatollah Khamene'i. According to her lawyer, repentance would have been adequate to warrant a pardon but the series of executions in Iran lately is sending an alarming signal that the Iranian authorities might carry out her sentence. We hope that by calling the world's attention to this case, the international community will put pressure on Iran to overturn Mohammadi-Ashtiani's sentence. This has worked before in previous stoning cases.

5. Why has the Iranian Republic gone so far with this case?

Many political and religious figures in Iran oppose stoning, for a variety of reasons. Some believe that stoning is not required by Shari'a, or Islamic law. In fact, in 2002, the Head of the Judiciary Ayatollah Shahroudi ordered a moratorium on stoning sentences, claiming that such sentencing degraded the name of Islam and the Islamic Republic and could thus be legitimately abandoned regardless of religious justification. However, because stoning was never repealed from the Islamic Penal Code, it remained possible for judges to continue sentencing death by stoning for adultery. This is due to the structure of the Iranian judicial system.

Since the ultra-conservative Mahmoud Ahamadinejad became president in 2005, we are seeing an increase in the number of stoning cases. Some Iranian activists speculate that this is because rogue judges feel more empowered to sentence individuals to stoning as they fear less retribution from the "higher ups" in government.

6. What is the standing of stoning in the Iranian government's policy?

Judicial spokesmen often give contradictory statements, saying that the Islamic Republic of Iran does not stone people and that such an accusation is a propaganda tool used by the West to degrade Islam. At the same time, however, they defend stoning as part of their laws, reject the accusation that stoning is a human rights abuse, and aver that the Iranian judicial system has a right and duty to implement its own laws and regulations free from foreign intervention.

Despite such statements, many government officials in Iran are aware of how the issue is embarrassing their country. In fact, many political and religious figures call for the repeal of the stoning law because they argue that stoning attributes to "*vahne Islam*", or the degradation of Islam. In other words, stoning leads to the embarrassment of Islam and the Islamic Republic.

The newly proposed draft of the Islamic Penal Code of Iran contains provisions for annulling stoning sentences when the execution of such a sentence would damage the reputation of the Islamic Republic and lead to the degradation of Islam. However, there are serious concerns that, if passed, this provision will not necessarily put an end to the practice of stoning in Iran so long as judges continue to invoke religious jurisprudence that overrules or contravenes the proposed prohibition of stoning in the draft Code.

7. Are men stoned to death? Why do anti-stoning campaigns tend to focus on the impact of stoning on women?

Women are far more likely to become victims of stoning. Even though there is no article in law that mandates punishment by stoning exclusively for women, misogynist and discriminatory practices, interpretations and policies, make women far more likely than men to be found guilty of "adultery." In the Iranian Penal Code, a married woman has no

right to divorce, a privilege which is reserved for the husband. Women have no custody rights over their children after age seven; as a result, women who can obtain a divorce by proving their husbands are either abusive or an addict, choose not to do so fearing the loss of their children. A man can marry up to four wives simultaneously, and may establish a sexual relationship with any other single woman through a temporary marriage without the requirements of marriage registration, ceremony, or obligation to any possible child that may result. In addition, a woman is legally obliged to submit to her husband's sexual demands and do her best to satisfy him sexually. Hence if a man is sexually unsatisfied or in an unhappy relationship, he has many avenues open to him to dissolve the marriage and/or satisfy his sexual needs in a temporary "marriage." However, these legal options are denied to Iranian women, and a woman seeking alternative intimate relationships is, in the eyes of the law, "committing adultery." Many similar discriminatory laws and regulations exist in other countries and communities where stoning and other forms of cruel punishments are still being practiced.

8. What is the standing of stoning in Islam?

Stoning is a highly controversial topic in Islam. Although many religious clerics believe stoning to be prescribed by Shari'a (Islamic Law), there is, in fact, no mention of stoning in the Qur'an. For more information on stoning and Islamic doctrine, go to; http://stop-stoning.org/faq_stoning.

Many prominent Ayatollahs, or religious scholars, have spoken in support of a ban on stoning in Iran. In addition, the majority of Muslim nations including Malaysia, Indonesia, Tunisia, Algeria and others have banned death by stoning. In sum, there is no consensus among Muslims over whether stoning is religiously sanctioned.

9. Exactly how many individuals have been sentenced to stoning and awaiting executions?

It is very difficult to assess the exact number of stoning cases since the Islamic Revolution. This is because the Iranian government spends a great deal of effort censoring news concerning stoning from the media and general public.

The number of *known* cases of stoning since 1979 is around 30-40. The exact number is almost surely higher than this, but probably not by very much. Most of the central figures of the Iranian government are very aware of how this punishment embarrasses their government and elicits public outcry inside the country.

(See attached a list of the number of stoning victims/cases since August 2006-September 2009 at the bottom of this document.)

10. What is the attitude of the Iranian public towards stoning? Is there a gap between the customs of ordinary people in Iran and the norms imposed by the regime?

Iran is a country of over 70 million people. As such, there is an incredibly wide range of political, religious and social viewpoints. As we saw with the massive demonstrations following the June 2009 Presidential Election, there is undoubtedly a gap between the ideology imposed by the current Iranian government and the everyday beliefs and norms of the majority of the Iranian people. This government is quickly losing its legitimacy among a wide sector of society, including devout Muslims. The issue of stoning presents a very good example to illustrate how this government is using ‘culture’, ‘religion’ and ‘tradition’ as excuses to justify cruel and violent punishments, regardless of whether these acts have any genuine roots in Iranian culture or Islam.

The vast majority of the Iranian people are vehemently opposed to stoning. There is no history of stoning ever taking place in Iran before the 1979 Islamic Revolution and most Iranians find the practice revolting. While many Iranians believe that adultery is morally wrong (as do many people around the world), they do not believe that it should be considered a “crime against the state,” meaning that the Iranian government should not impose the death penalty for such an act. It is worth noting that in Iran, adultery carries a harsher punishment than murder, and this offends the sensibilities of a large portion of Iranians.

11. What would make the Iranian authorities change their mind on the case of Sakineh Mohammadi-Ashtiani, and on stoning generally?

International pressure on Iran remains a very important means by which the Iranian authorities could be convinced to reverse the sentencing of Mohammadi-Ashtiani and to end the use of stoning as a form of punishment.

The news on the imminent stoning of Sakineh Mohammadi-Ashtiani broke out in the international media in June 2010 when her lawyer, Mohammad Mostafaei, published an article entitled “Sakineh on the Threshold of Stoning”. Since then, many human rights organizations have issued their own calls for action, and the case is getting a lot of publicity from a variety of news sources and government statements. (For instance, see: <http://www.fco.gov.uk/en/news/latest-news/?view=News&id=22500613>)

There is a thriving movement against stoning both in Iran as well as internationally. The Stop Stoning Forever Campaign, a grassroots initiative in Iran, has been urging Iranian officials to repeal the stoning law since its formation in 2006. In the process, they have also worked to overturn many stoning sentences and educate the international community about stoning in Iran. To learn more about this campaign, see: <http://www.stop-stoning.org/node/49>

In addition, various bodies in the United Nations Human Rights system along with human rights groups including our own Global Campaign have called upon Iran to ban

the practice. Though the Iranian government seems adamant to maintain its policy on stoning, we are hopeful that the practice will be banned in the foreseeable future if we can sustain the international pressure while tapping on other means of influencing the legislative and policy-making processes within Iran through dialogues and supporting progressive voices within the country.

We are disturbed, however, by the growing tendency in the media and in public debates which uncritically link certain forms of punishment such as stoning to Islam as religion. This tendency reinforces the growing ill-informed public bias about Islam as inherently backward or a 'barbaric' religion, and demonizes Muslims around the world. Worse, this framework is being used by oppressive States, such as Iran, and by extremist political forces that use religion to consolidate their dominance and control over communities, and most especially women. This contributes to the worsening of human rights situations, like what we are witnessing now in Iran, whereby those that denounce and resist violations and abuses, are being attacked and punished for being 'anti-Islam'. The media and human rights groups have a pivotal role to play in exposing human rights violations, like stoning in Iran, while at the same time challenging the oversimplified coupling of stoning and other forms of cruel and inhuman punishments with Islam.

LIST OF STONING CASES:

Stoning Victims:

1. **Mahboubeh M** (7 May 2006)
With Abbas H.
2. **Abbas H** (7 May 2006)
Found guilty of murdering Mahboubeh's husband and committing adultery with each other, for which they were sentenced to stoning.¹ The public was not invited to the executions carried out in Behesht Reza grand cemetery in Mashhad.²
3. **Jafar Kiani** (July 2007)
Aghche-kand village near Takistan, Ghazvin Province. Partner of Mokarrameh Ebrahimi
4. **Hushan Khodadaeh** (December 2008)
Behesht Reza Cemetery in Mashhad
5. **Mahmoud** (December 2008)
Escaped (Afghan citizen)
Behesht Reza Cemetery in Mashhad
6. **Unnamed man (1)** (December 2008):
Behesht Reza Cemetery in Mashhad
7. **Unnamed man (2)** (May 2009)
Partner's life spared after repenting.³

Awaiting Stoning (As of September 2009)

1. **Abdollah Farivar**,
Imprisoned in Sari Prison
2. **Afsaneh R.**, |
Imprisoned in 'Adel Abad Prison –Shiraz. As of December 2008, sentence upheld by 27th Iranian District Court.⁴

¹ For the crime of murder, Abbas was sentenced to *ghasas*, or retaliation, while Mahboubeh was sentenced to fifteen years in prison for being an accomplice.

² Vahdati, Soheila. "Women Victims of Stoning: Interview with Asieh Amini." Meydaan-e Zanan. September 5, 2006

<<http://meydaan.net/English/showarticle.aspx?arid=40&cid=46>> Date of Access: July, 2007.

³ <http://stop-stoning.org/node/622>

3. **Ashraf Kalhori**, (Kolheri, Kolhari, and Kalhari)
Imprisoned in Evin Prison-Tehran. First became aware of sentence in June 2006. First case appealed by the Stop Stoning Forever Campaign. Successfully delayed sentence several times. Request for amnesty rejected by the Judicial Commission for Amnesty and Clemency in March 2009.⁵
4. **Kobra Najjar**,
Commutated to 100 lashes by Head of Judiciary.
5. **Ghilan Mohammadi**,
Imprisoned in Central Prison – Isfahan
6. **Gholamali Eskendari**,
Imprisoned in Central Prison – Isfahan
7. **Iran A.**,
Imprisoned in Sepidar Prison - Ahvaz
8. **Kheirieh V.**,
Imprisoned in Sepidar Prison - Ahvaz
9. **M.J. (Woman)**,
Imprisoned in Vakil Abad Prison – Mashhad
10. **H. (Woman)**,
Imprisoned in Vakil Abad Prison – Mashhad

Commutated/Acquitted:

1. **Azar Kabiri**, commuted to 100 lashes by Head of Judiciary in August 2008
2. **Zohreh Kabiri**, commuted to 100 lashes by Head of Judiciary in August 2008
However, neither of these two sisters has been released yet, to our knowledge.
3. **Hejieh Esmailvand**, full acquittal.
4. **Layla G.**, commuted to 100 lashes by Head of Judiciary in August 2008

⁴ <http://stop-stoning.org/node/497>

⁵ <http://stop-stoning.org/node/576>

5. **Mokarremeh Ebrahimi**, held in Choobin Prison, in Takistan, Ghazvin Province
6. **Najaf A.**
7. **Parisa A.**
8. **Shamameh (Malek) Ghorbani**, commuted to 100 lashes by Head of Judiciary in August 2008
9. **Unnamed woman (1)**, who repented but her partner was executed in May 2009.