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København, den 13. maj 1998

Vedr.: Deres j.nr. : risiko for dobbelt straf eller anden forfølgelse i Iran - "MS"

Under henvisning til Deres brev af 18.11.1997 og telefonsamtale af 7.5.1998 kan Amnesty International herved oplyse følgende om risiko for dobbeltstraf:

Af det vedlagte uddrag af den iranske straffelov i engelsk oversættelse (bilag 1), som Amnesty International er i besiddelse af, fremgår det, at enhver iraner, der begår en forbrydelse udenfor Iran vil blive straffet i overensstemmelse med den iranske straffelov, jfr. art. 7.

Generelt om iransk lovgivning kan det oplyses, at der, så vidt Amnesty International er orienteret, i øjeblikket pågår ændringer af den iranske straffelovgivning. Hvorvidt dette vedrører straffelovens jurisdiktionsbestemmelser kan Amnesty International ikke oplyse.

Endvidere kan det oplyses, at dødsstraf er foreskrevet som obligatorisk for en lang række af narkotikarelaterede forbrydelser, se vedlagte kopi af "The Death Penalty. No Solution to Illicit Drugs" side 27 (bilag 2). Se endvidere om brugen af dødsstraf samme rapport side 26 ff.

Endelig kan det oplyses, at Amnesty International ikke er i besiddelse af konkrete oplysninger om, hvorvidt iranere, der er dømt for overtrædelse af narkotikalovgivning i udlandet, risikerer dobbeltstraf i Iran. Til belysning af dette spørgsmål vedlægges en AFP pressemeddelelse fra juni 1996 (bilag 3). Det fremgår ikke klart af denne, om der alene referes til lovovertrædere, der har undgået strafforfølgelse udenfor Iran, eller om der også refereres til lovovertrædere, der allerede har afsonet straf i udlandet. Endvidere vedlægges kopi af pressemeddelelser af hhv. 10.8. og 15.11.1997 (bilag 4 og 5).

%. Endvidere vedlægges kopi af "State Injustice: Unfair Trials in the Middle East and North Africa" (bilag 6), som belyser den generelle retssikkerhedsmæssige situation i området og som måske kan have Deres interesse i forbindelse med denne sag.

IKKE MEDSENDT
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Vedrørende Deres spørgsmål om s risiko for forfølgelse i Iran på grund af hans politiske tilknytning og aktiviteter kan følgende oplyses:

Amnesty International kan desværre ikke forudsige, hvorvidt vil risikere forfølgelse fra de iranske myndigheders side på baggrund af, at han var tilhænger af shah-styret forud for 1984. På den anden side kan vi oplyse, at vi har kendskab til at mange personer, der var mistænkte for at støtte oppositionsgrupper og som én gang har været indkaldt til afhøring, ofte fortsætter med at blive tæt overvåget.

Endvidere er ikke muligt at forudsige om de iranske myndigheder vil skride ind overfor ham som følge af hans kritik af det iranske styre i danske aviser. Hertil bemærkes, at det ved bedømmelsen af en asylsøgers risiko for forfølgelse på grund af politiske grunde er irrelevant om han udførte sine politiske aktiviteter i hjemlandet eller i et hvilket som helst andet land. Paragraf 96 i UNHCR handbook udtaler: "A person may become a refugee "sur place" as a result of his own actions, such as ... expressing his political views in his country of residence. Whether such actions are sufficient to justify a well-founded fear of persecution must be determined by careful examination of the circumstances. Regard should be paid in particular of the person's country of origin and how they are likely to be viewed by those authorities."

Vedrørende risikoen for forfølgelse på baggrund af s tilknytning til den iranske monarkistiske organisation Derafsh-e Kaviani kan det oplyses, at denne er en større og mere profileret organisation. Amnesty Internation har modtaget rapporter om, at aktive medlemmer af denne organisation er blevet fængslet og udsat for tortur. F.eks. er det blevet rapporteret, at 4 medlemmer af denne organisation blev arresteret i december 1991.

Amnesty International bedømmer, at aktive medlemmer af Derafsh-e Kaviani organisationen vil være i fare, hvis de bliver udvist til Iran, og Amnesty International modsætter sig derfor tilbagesendelse i disse tilfælde.

Endelig vil jeg være Dem taknemmelig om De vil meddele os sagens udfald.

Med venlig hilsen

Birgitte M. Christensen
Flygtningeafdelingen

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BENT COLDING
BILAG C.

ISLAMIC CRIMINAL LAW

Book I - Generalities

Chapter 1 - General Articles

Article 1 - Islamic Criminal Law is about determination of various offences and the punishments and the security and rehabilatory measures which will be applied to the offender.

Article 2 - Every action or omission of an action for which there is a punishment in law, will be regarded as an offence.

Article 3 - Criminal laws will be applied to everyone who commits an offence within the Iranian waters, airspace and land territory, unless the law has stipulated some other arrangements.

Article 4 - If part of an offence is committed inside Iran and its result is produced outside Iranian territory, or part of an offence is committed inside or outside Iran, and its result is produced inside Iran, the offence will be considered as committed inside Iran.

x **Article 5** - Any Iranian or alien committing one of the following offences outside Iranian territory and is found in Iran or is extradited to Iran, will be punished in accordance with Islamic Criminal Law of the Islamic Republic of Iran:

a) action against the Islamic Republic of Iran and the internal and external security, her territorial integrity and the independence of the Islamic Republic of Iran.

b) forging decree, handwriting, seal or signature of the leader [of the Islamic Republic of Iran] or using them [i.e.forgeries].

c) forging official notes of the President, speaker of the Islamic Consultative Assembly, Council of Guardians, Speaker of Expert's Assembly, Head of Judiciary Power, Vice President, Head of Supreme Court, General Prosecutor, any of the Ministers or using them [i.e. forgeries].

d) counterfeiting current banknotes of Iran or forging documents of Iranian bank[s] such as: drafts accepted by the banks, cheques issued by the banks, bank bonds, treasury bills, government bonds, guaranteed debentures of the government or current coins.

x **Article 6** - Any offence committed by the foreign nationals employed by the Government of the Islamic Republic of Iran, or the employees of the Government [i.e. the Iranian employees of the Government] living outside Iranian territory due to the nature of their duties as well as any offence committed by Iranian diplomats and [Iranian] cultural and consulate attachés enjoying diplomatic immunity, will be punished in accordance with the criminal laws of the Islamic Republic of Iran.

x **Article 7** - Other than the cases cited in articles 5 and 6 aforementioned, any Iranian committing a crime outside Iran is found in Iran will be punished in accordance with the criminal laws of the Islamic Republic of Iran.

Article 8 - Regarding the offences which are the subject of a special law or international conventions according to which the offender will be prosecuted in the country he/she is found, if the offender is found in Iran he/she will be prosecuted in accordance with the laws of the Islamic Republic of Iran.

Article 9 - The offender must return the property he/she has acquired as a result of the offence to the owner and if the property is not available, the offender should return a similar property or its equivalent to the owner. He/she should pay compensation for the losses incurred.

Article 10 - If the prosecutor or examining judge has issued a warrant of non-prosecution or suspension of persecution, he should determine the fate of the properties and the objects discovered, which are the reason or instrument of the offence, gained by committing the offence or have been used during the offence or were to be used during the offence, so the objects or property are either returned or confiscated or destroyed. The prosecutor or examining judge is also duty-bound to consider the other party's request [i.e. the owner's request] for the property/object to be returned to him [i.e. the owner]. The prosecutor or examining judge can do so whilst he is considering the dossier and in doing so he should abide by the following conditions:

a) the presence of all or part of the objects and properties is not necessary during enquiry or legal procedure.

b) the objects and properties are unchallenged. [i.e. the ownership is not claimed by a third party].

c) the objects or properties are not subject to confiscation or destruction.

In all the criminal cases whilst the court is issuing its judgement or its warrant or after issuing these, the court must issue specific judgement regarding determination of the fate of the objects and properties as whether they should be destroyed, returned or confiscated. Such specific judgement is made whether the judgement [regarding the nature of the case] was of the nature of sentence, acquittal or suspension of prosecution and whether the objects and properties were the instruments of offence or gained by the offence or were used during the offence or were to be used during the offence.

Note 1 - The person who has incurred loss as a result of warrant of prosecutor or judgement or warrant of the judge can appeal against their decision regarding the objects and properties cited in this article to the criminal court, according to the regulations, even though the warrant or judgement of the court on the [original] criminal case is non-appealable.

Note 2 - If custody of the property would incur improportional cost to the government, or the value of the property would sharply decrease, or if the property would be wasted and the custody of the property is not necessary for the procedure as well as those properties which would rot quickly, [such properties] can be sold by the order of the prosecutor or the court at the current price. The proceedings will be kept in the account of the justice administration until the final decision is made.

Article 11 - In the Governmental regulations and arrangements, punishment and security and rehabilatory measures are not retrospective and no action or omission of action is punishable by the later law. But if, after the offence is made, a law is passed which would result in the non-punishment of the offender or the reduction of the punishment or would be of more assistance to the offender, [this new law] will be effective until the final judgement is made. If, according to the previous law a final binding judgement is made, it will be acted according to the following procedures:

a) if an action has been an offence in the past, and according to a later law, it is not an offence, the final judgement will not be executed and if the judgement is in the process of execution, it will be suspended. In the above two cases, and also if the judgement has previously been executed, there will be no criminal record [for the offender]. These regulations do not apply to the laws which have been set for a specific period or for specific circumstances.

b) if the punishment of an offence is commuted in accordance with a later law, the condemned party can request for the commutation of the punishment in which case, the issuing court or its successor, by considering the new law, will reduce the previous punishment.

c) if, according to the new law, the punishment for an offence is converted to taking rehabilatory and security measures, only these measures will be taken.

Chapter 2 - The punishments and rehabilatory and security measures

Section 1 - The punishments and rehabilatory and security measures
[The same headings have been used for both chapter and section]

Article 12 - The punishments laid down in this law are [divided into] five categories:

1. Islamic punishment [HAD is used in the text and is defined later, since in some cases there is no equivalent English for this term, in order to clarify the meaning, in some instances this term will also be used in translation].

2. Talio [GHESAS is the term used in the text which can also be translated as retaliation].

3. Mulcts [DIYAT is the term used, which can equally be translated as compensation].

4. Ta'zirat [singular Ta'zir, there is no equivalent term in English for this term but it is defined later. The same term will be used in the translation].

5. Deterrent punishments.

Article 13 - Islamic punishment (HAD) is defined as a punishment for which the extent, manner and mode is prescribed by Islamic Jurisprudence [Islamic Law].

Article 14 - Talio (GHESAS) is the punishment to which the criminal is sentenced to and is equal to his/her crime.

Article 15 - Mulct is the fine determined by Islamic Jurisprudence for the crime.

Article 16 - Ta'zir is the punishment whose extent and manner is not determined by Islamic Jurisprudence and it's extent and manner is left to the discretion of the judge such as imprisonment, fine and lashes. The number of lashes must be less than the number of lashes stipulated for Islamic punishment.[The comparison with article 13 above is made within the text, whilst according to the two definitions, the two punishments are non-comparable].

Article 17 - A deterrent punishment is the punishment of chastisement laid down by the State in order to safeguard law and order, interests of the society such as imprisonment, fine, closure of the business premises, cancellation of license, deprivation from social rights, banishment to certain places, inhibition of residence to certain areas and the like.

Article 18 - Duration of imprisonment starts from the day the condemned party is sentenced by the final binding judgement.

Note - If the condemned was arrested, for the offence or offences mentioned in his/her file, prior to the [date] of judgement, often determining the Ta'zir [i.e length of imprisonment], the court will deduct the previous imprisonment from the Ta'zir or deterrent punishment.

Article 19 - The court can supplement the Ta'zir (imprisonment) or deterrent punishment of a person who is condemned for a pre-meditated offence, by preventing him/her from social rights for a period, or banishing him/her to certain areas or ordering him/her to reside in certain areas for a [specified] period.

Article 20 - Prevention from all or part of social rights, banishment to certain areas or forced residence in certain areas, should be proportional to the offence and particularities of the offender in the specific period. If the condemned leaves that area he/she is banished to or enters the prohibited areas by the proposal of the enforcer public prosecutor's office, the court can change the said punishment to imprisonment or fine.

Article 21 - The procedure for enforcing the criminal judgements and particularities of prisons is in accordance with the law of regulation of criminal procedures and other laws and regulations.

Section 2 - Reduction of punishment

Article 22 - If the mitigating circumstances are established, the court can reduce the Ta'zir [nature of punishment issued is not clear in the text] or the deterrent punishment or change them to other kinds of punishments which is of more assistance to the accused [should have been condemned in the text].

The mitigation circumstances are:

1. Remission by private plaintiff.

2. If the statements and assistances of the accused are effective in finding [other] accomplices of finding the goods gained from the offence.

3. The specific circumstances influencing the accused to commit the offence such as verbal or behavioural provocations on behalf of the injured party or if the offence is made for a righteous cause.

4. Statement of the accused prior to prosecution, or his/her confession during investigation effective in detection of offences.

5. Specific circumstances of accused or his/her background.

6. Measures taken or efforts made by the accused to reduce the effects of the offence and indemnities done by him/her for the losses.

Note 1 - The court must explicitly state the mitigating circumstances in its judgement.

Note 2 - In the case of multiple offences, the court can consider mitigating circumstances.

Note 3 - If other mitigating circumstances are predicted in other articles, like these mentioned in this article, the court cannot re-reduce the punishment for the same mitigating circumstances.

Article 23 - If the offence is suspended due to remission of private plaintiff, such remissions should be in full, and conditional and suspended remissions will not be considered. Also, revocation from the remission will not be heard. If several parties have incurred losses from the offence, the criminal prosecution will commence by the complaint of each one of them but suspension of prosecution, investigation and punishment will be subject to the remission if all of the private parties.

Note - The right of remission will be inherited to the heirs which have suffered losses. If all the heirs remit [the offender], the case will be dismissed.

Article 24 - Pardon or reduction of punishment of the condemned, within the Islamic principles, is proposed by the Head of Judiciary power and approval of the Spiritual Leader.

Section 3 - Suspension of executing the punishments

Article 25 - By observing the following conditions in all Ta'zir or deterrent sentences, the judge can suspend execution of all or part of the punishment for a period of two to five years:

a) The convicted person should not have a former final sentence of one of the following:

1. A final sentence of an Islamic punishment (HADD).

2. A final sentence of amputation or loss of a limb.

3. A final sentence of more than one year imprisonment for committing a premeditated offence.

4. A final sentence of a fine of more than two million rials.

5. A previous record of final sentence on two or more occasions for premeditated offences with equivalent punishments??.

b) By considering the social circumstances and background of the condemned as well as the circumstances causing the offence to be committed, the court does not consider the implementation of all or part of the punishment to be suitable.

Note - In non-Ta'zir and non-deterrent sentences, suspension [of the implementation of the punishment] is not allowed, except in cases stipulated by law or Islamic Jurisprudence.

Article 26 - In the cases where the punishment is a fine as well as other Ta'zir punishments, the fine will not be suspended.

Article 27 - The decision to suspend the punishment will be issued at the same time the sentence is issued. If the offender whose sentence is suspended in full is in custody, he/she will be released forthwith by the order of the court.

Article 28 - The court will state the reasons for suspension [of the implementation] in its judgement as well as the orders which should be obeyed by the convicted person during suspension. The duration of the suspension will be determined by the court by considering the type of crime, and the personal circumstances of the criminal and duration mentioned in Article 25.

Article 29 - By considering the contents of the file and the circumstances of the convicted person, the court can ask the convicted person to perform the following instruction(s) during the suspension and the convicted person shall be bound to perform them:

a) To visit the hospital or clinic in order to cure his/her illness or his/her addiction [to drugs].

b) Non-performance of a specific job of trade.

c) Studying at an educational establishment.

d) Refraining from speaking out about committing what is forbidden, or abandoning [religious] obligations and from association with people the court has [forbidden] the convicted person from associating with.

e) Not travelling to specific areas.

f) Signing on to a certain person or official assigned by the prosecutor at specified intervals.

Note - If an offender whose punishment has been suspended, does not obey the court's instructions during the suspension as mentioned in this article and does not have an acceptable excuse, after request of the prosecutor and after proof of the matter in the court, on the first occasion one to two years will be added to his/her suspension and on the second occasion, the suspension will be repealed and the suspended sentence will be implemented.

Article 30 - The following criminal punishments are non-suspendable:

a) The punishment of importers, manufacturers and dealers of narcotics or those who assist them in any shape or form.

b) The punishment of those who are convicted of embezzlement, bribery, fraud, forgery, usage of forged documents, breach of confidence, abduction or a theft which is not subject to Islamic punishment [HADD].

c) Punishment of those participating in the actions punishable in accordance with the Islamic punishment [HADD].

Article 31 - Suspension of execution of a punishment of an offence committed against both public rights and private rights only applies to the part of the offence committed against public rights. The part of the punishment against private rights or payment of the fine to the private party is executed.

Article 32 - If, during the suspension of execution of the punishment, the condemned does not commit the offences aforesaid in article 25, the suspended sentence will be rendered null and will be removed from his/her criminal record. After the suspended sentence has been made final, the relevant prosecutor's office must issue a criminal record for the offender and despatch them to the competent authorities. If there is a change in the duration of suspension or if the suspended sentence is rendered null, the circumstances should be reported to the competent authorities forthwith to be registered in the criminal records [of the offender].

Note - If a sentence of dismissal is issued in accordance with the law of employment affairs, this sentence is not subject to the laws of suspension [of implementation] unless such subjectivity is stipulated in the laws or sentence of the court. [i.e. if someone is fired, the sentence will be carried out].

Article 33 - If a person has received a suspended sentence, and during the suspension of the sentence, commits a new offence punishable by one of the punishments aforesaid in article 25, as soon as the new offence is made [i.e. as soon as the new offence is proven by the court], the court which had issued the suspended sentence or the substitute court must announce the abrogation of that suspended sentence so that it can be implemented.

Article 34 - If, after the suspended sentence is issued, it is known that the condemned had previously been convicted and had received one of the punishments aforesaid in article 25 and the suspended sentence has been issued without noticing this [fact], the prosecutor, relying on previous conviction will ask the court to render the suspended sentence null. After establishment of the previous conviction, the court will render the suspended sentence null.

Article 35 - When the warrant of suspension of sentence is issued, the court should explicitly state the consequences of failure to obey its orders so that if during the suspension of the sentence, an offence is committed whose punishment is subject to article 25, not only the new offence will be punished, but also the suspended sentence will be implented.

Article 36 - The procedures regarding suspension of punishment do not apply to persons who are convicted of premeditated multiple offences. If a person is sentenced to several final sentences for committing several premeditated offences, one of which is a suspended sentence, the prosecutor in charge of implementation [of the suspended sentence] must ask the issuing court to render the warrant or warrants [plural term is used within the text] of suspension null. The court will act to nullify the warrant or warrants.

Article 37 - Prior to the completion of a sentence, if the condemned becomes insane and insanity is diagnosed by the coroner, the condemned will be transferred to an asylum and his/her stay in the asylum will be counted as his/her imprisonment. If an asylum is not available, he/she will be transferred to a suitable place by the discretion of the prosecutor.

Section 4 - Conditional release of prisoners

Article 38 - If a first offender is sentenced to imprisonment, for the offences punishable to more than three years and two thirds of the sentence is served, and for the offences punishable to up to three years and half the sentence is served, the court which has issued the peremptory sentence can order for the conditional release of the offender provided the following conditions exist:

a) the offender has shown good behaviour whilst serving his/her sentence.

b) from the circumstances and manners of the condemned, it is predicted that after release he/she will not commit any offence.

c) [the offender] has compensated the plaintiff as much as [the offender] can or has paid the fine or has agreed to pay the fine. Regarding the punishments of both fine and imprisonment, [the offender] pays the fine or with the approval of the prosecutor, an arrangement is made for paying the fine. [ambivalence and repeats are within the text].

Note 1 - The circumstances aforesaid in clauses a) and b) should be approved by the governor of the prison where the prisoner is serving his sentence as well as the assistant public prosecutor observing the prisons of the district prosecutor. The circumstances aforesaid in clause c) should be approved by the prosecutor in charge of executing the sentence.

Note 2 - If the issuing court of the sentenced is dissolved, the order of release is by the substitute court.

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Iran to punish citizens committing crime abroad

TEHRAN, June 17 (AFP) - Iran will take action against its itizens who commit crime in foreign countries, a foreign ministry fficial said Monday.

Mohammad-Sadegh Fayaz, the head of the ministry's consulate ffairs department, told Etellaat newspaper that offenders "such as iieves and drug smugglers disturb the security of average Iranians xpatriates and the image of the Islamic republic."

He said the government would bar offenders from leaving the ountry once they return and cooperate with the international olice force, Interpol, to apprehend and extradite criminals.

Japan and several Scandinavian countries have complained about ising crime among the Iranian communities in their respective ountries, where many Iranians travel in search of jobs or to nigrate.

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[EMBARGOED FOR 0001 HRS GMT, TUESDAY ~~3 OCTOBER 1995~~]

amnesty international

THE DEATH PENALTY

No solution to illicit drugs

OCTOBER 1995 SUMMARY AI INDEX: ACT 51/02/95

DISTR: SC/DP/CO

A new report by Amnesty International provides compelling evidence of the futility and injustice of trying to use the death penalty to suppress drug trafficking and abuse.

Responding to the drug menace, some 26 governments have adopted laws making drug-related offences punishable by death. Thousands of prisoners have been executed, most of them after unfair trials. But despite the thousands of executions, there is no clear evidence that the death penalty has had any identifiable effect in alleviating trafficking and abuse.

The Amnesty International report reveals wide differences among national laws. Some countries have attempted to restrict the death penalty to the top traffickers. Elsewhere the laws are extremely broad. Several statutes make possession of drugs punishable by death, entailing the risk of executing not only traffickers but addicts as well. In at least one country a person can by law be executed for possessing two grams of heroin - an amount which a heavy addict might consume in a day. People have been executed for trafficking in cannabis, a drug whose use in some countries is treated as a minor offence or is not even criminalized.

No convincing evidence has been produced that the death penalty deters would-be traffickers more effectively than other punishments. In Saudi Arabia, officials have claimed that drug-related crimes have dropped by as much as 50 per cent since the penalty was introduced in 1987. But since executions for drug offences began rising in 1993, officials in the country have attributed the rise to an increase in trafficking, implicitly contradicting claims of the efficacy of the punishment.

China has carried out hundreds of well-publicized executions of alleged traffickers in provinces near the drug-producing "Golden Triangle", yet the latest report of the International Narcotics Control Board reveals that traffickers have developed a major land route in China for transporting heroin from the "Golden Triangle". In Malaysia, where more than 200 people have been executed for drug offences since 1975, the same report states that the increasing availability of heroin has contributed to a growing demand for the drug. Iran has carried out over 2,900 executions for drug offences since the establishment of the Islamic Republic in 1979, but an important heroin trafficking route still runs through the country, according to the same report.

In the haste to introduce the death penalty for drug offences, some countries have enacted laws which undermine international norms for a fair trial. The presumption of innocence is weakened by the provision in certain laws that the possession of drugs shall be taken as evidence of trafficking unless the contrary is proved. In some countries suspected offenders are tried in special courts or under special procedures where safeguards for a fair trial are curtailed or non-existent. Foreigners often face drug charges, but facilities for courtroom interpretation are often inadequate. Since 1975, people from at least 25 countries and territories have been executed abroad for drug offences. Some executions of foreigners have caused an uproar in the home country, disturbing relations between states.

The death penalty seems to have been introduced with little consideration of the risks it could entail. These include: the risk that traffickers faced with a possible death penalty would more readily kill to avoid capture, increasing the danger to law enforcement officials; the risk that minor traffickers or even drug abusers would suffer the death penalty while those behind the crimes escaped capture and punishment; the risk that increasing the severity of penalties would drive up drug prices, playing into the hands of organized crime and attracting hardened criminals prepared to face the attendant dangers.

There is much cooperation among countries in the fight against drugs, both bilaterally and through the United Nations, but the UN has never given any endorsement to the use of the death penalty against trafficking and abuse. The Comprehensive Multidisciplinary Outline of Future Activities in Drug Abuse Control, adopted at a major UN conference in 1987, contains many recommendations but makes no mention of the death penalty. The three international conventions governing the international fight against drugs also make no reference to the death penalty.

Even as the death penalty is introduced in certain countries, its use is being rejected elsewhere. Nigeria abolished the death penalty for drug offences in 1986 after several executions provoked widespread protests. Turkey abolished the death penalty for drug trafficking in 1990 as part of a general reduction in the crimes punishable by death. In Mauritius, where the death penalty for drug trafficking had been introduced in a 1986 law, the section of the law providing for the death penalty was declared unconstitutional in 1992.

Amnesty International hopes that the information presented in this paper will convince governments that the death penalty should not be used. It urges that no further executions be carried out and that laws providing for the death penalty be repealed. The information in this paper strongly suggests that the absence of the death penalty will not harm efforts to combat drug trafficking and abuse - it may even strengthen them.

KEYWORDS: DEATH PENALTY1 / DRUG TRAFFICKING1 / TRIALS1 / LEGISLATION1 / FOREIGN NATIONALS1 / CONFESSIONS / CORPORAL PUNISHMENT / MIGRANT WORKERS / MANUAL WORKERS / SAILORS / FISHERMEN / ARTISTS / WOMEN / STATISTICS / UN / INTERNATIONAL MEETINGS / HUMAN RIGHTS INSTRUMENTS / NIGERIA / TURKEY / MAURITIUS / BAHRAIN / BANGLADESH / BRUNEI DARUSSALAM / CHINA / EGYPT / GUYANA / INDONESIA / IRAN / IRAQ / JORDAN / SOUTH KOREA / KUWAIT / MALAYSIA / MYANMAR / PHILIPPINES / QATAR / SAUDI ARABIA / SINGAPORE / SUDAN / SYRIA / TAIWAN / THAILAND / UAE / USA / VIET NAM /

This report summarizes a 46-page document (19,400 words), *The death penalty: No solution to illicit drugs* (AI Index: ACT 51/02/95), issued by Amnesty International in October 1995. Anyone wanting further details or to take action on this issue should consult the full document.

INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 8DJ, UNITED KINGDOM

Citing irregularities in the trial process, evidence of his innocence and humanitarian concern for his family, Kamjai Khong Thavorn's lawyers in May 1991 requested the Supreme Court to review the case. The Supreme Court refused the request in September 1992 on the grounds that there was no new evidence to be heard, and that clemency had already been denied. In early January 1993 lawyers submitted a second request for presidential clemency. The President's decision was not known to have been announced by mid-1995.

Since 1994 Amnesty International has received reports of four further death sentences imposed for drug offences. In September 1994 two Thai nationals, Saelaw Prasert and Namsong Sirilale and an Indian national, Chaubey Ayodhya Prasad, were sentenced to death on drug charges. The three were tried in Indonesian, a language which they do not speak or understand. On 17 January 1995 Tham Tuck Yin was sentenced to death for trafficking in heroin.

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A mandatory death penalty was provided for recidivist production or import of narcotic drugs under a 1959 law, and for illicit trafficking in specified quantities of narcotics under an amendment of the law approved in 1969.[12] Many convicted drug offenders were executed under the government of the Shah of Iran. On 14 July 1974, for example, the government announced that during the past two and a half years 239 drug smugglers and pedlars had been put to death.[13]

After the creation of the Islamic Republic of Iran in 1979, heroin abuse and trafficking reportedly increased. The magnitude of the problem was indicated by an official figure of three million heroin addicts in mid-1980.

The use of the death penalty was one part of the authorities' response, and since 1979 there have been massive executions for drug offences, especially during periods when the government has conducted intensive anti-drug campaigns.

[12] See "The Death Penalty: No Solution to Illicit Drugs", AI Index: ACT 05/39/86, December 1986 for details.

[13] *The Death Penalty: Amnesty International Report*, London, Amnesty International Publications, 1979, p. 172. For an account of the use of the death penalty for drug offences under the Shah of Iran, see Annette Destrée, "Opium et peine de mort en Iran", *Revue de Droit Pénal et de Criminologie*, Vol. 52, No. 5, February 1972, pp. 568-589.

On 10 June 1980 Ayatollah Sadegh Khalkhali was appointed head of the Revolutionary Anti-Narcotics Court. Between the date of his appointment and 3 November 1981, a total of 459 convicted drug offenders were executed, according to an official announcement quoted in the Iranian newspaper *Ettela'at*.

Between September and December 1983 more than 200 executions were reported of people said to have been convicted of drug trafficking. During the Iranian year ending in March 1985, 140 people were executed for drug-related offences, according to a statement by the Prosecutor of the Revolutionary Anti-Narcotics Court. One hundred and ninety-seven people were said to have been similarly executed in the four weeks from 21 March 1985.

On 25 October 1988 the Council to Determine the Expediency of the Islamic Order approved the new *Anti-Narcotic Drug Law*. This law provides for a mandatory death penalty for a long series of drug offences including the cultivation of poppies or cannabis aimed at the production of narcotic drugs, if committed four times; smuggling, producing, distributing, or dealing in over 5 kilograms of opium or over 30 grams of heroin, hashish, morphine or cocaine, including if those amounts are reached cumulatively on up to four occasions; keeping, storing, concealing or carrying the above amounts of heroin, hashish, morphine or cocaine; recidivist offences of keeping, concealing or carrying the above amounts of opium; recidivist offences of intentionally addicting another person to heroin, hashish, morphine or cocaine; and trafficking while armed. For prisoners sentenced to death for armed trafficking or repeated trafficking in the above quantities of narcotics, the law states that "the death sentence, if deemed appropriate, shall be carried out on the premises of [the perpetrator's] residence and in public".

On 5 April 1989 the Prosecutor General was reported by Tehran Radio to have said that 313 smugglers had been executed so far, that 65 more were due to be hanged the following day, and that he hoped executions would continue until the last smuggler in the country was eliminated. By the end of the year over 1,000 people had been executed for drug-related offences.

Multiple executions were carried out on many occasions in different towns. Some executions, particularly of women, were held inside prisons, but hundreds of people were hanged in public, often in groups. In some cases, several nooses were attached to a horizontal bar which was then raised, so that the victims were hauled up by the neck in a row to die of slow strangulation. Bodies were frequently left on display for hours.

Reporting on the anti-drug campaign, an article in the *New York Times* commented that the executions and other drastic measures such as mass round-ups of addicts "signal the preventing the processing of those drugs into heroin constitute great problems for that country."[15]

IRAQ

According to information provided by the Iraqi Government to the United Nations in 1985,[16] illegal drug trafficking is punishable by death.

In March 1994 Amnesty International reported that 'Ali 'Issa, Sirwan Hassan, Ghazi 'Abd al-Majid and Qais Latif were believed to have been sentenced to death in December 1993 for drug trafficking. Amnesty International had raised their cases with the Iraqi authorities but had received no response, the organisation said. Amnesty International also learned that Kabed Sabri Sa'id Shahada had been sentenced to death on drug-related charges; his sentence was upheld by the Court of Cassation on 5 February 1994. Kabed Sabri Sa'id Shahada had been detained in Abu Graib Prison since 1990, Amnesty International said.

JORDAN

Under the *Law on Narcotic Drugs and Psychotropic Substances* (Law No. 11 of 1988), the death penalty is provided as a mandatory punishment for the unauthorized production, manufacture, import, export, transport, purchase or sale of narcotic drugs or psychotropic substances or the cultivation of or dealing in plants which produce such drugs or substances, if such offences are repeated, are committed in association with a minor or with the use of a minor, are committed by an official, employee or worker charged with the control of drug offences, or are committed in association with an international drug-trafficking criminal group or in conjunction with another international crime. The same law provides for an optional death penalty for dealing in narcotic drugs or psychotropic substances if such offences are repeated, are committed in association with a minor or with the use of a minor, or are committed by an official, employee or worker charged with the control of drug offences; if such offences punishable by death are committed in association with an international drug-trafficking

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[15] *Report of the International Narcotics Control Board for 1994, op. cit.*, paragraphs 249, 262. According to the Iranian Government, however, law enforcement efforts have led to the elimination of clandestine heroin and morphine laboratories and the eradication of opium poppy cultivation in the country (*ibid.*, paragraphs 259, 262).

[16] *Capital punishment; report of the Secretary-General to the Economic and Social Council*, Addendum dated 8 January 1986, UN document No. E/1985/43/Add.1, p.10.

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Iran to introduce stricter drug trafficking laws

Reuter World Service 10 august 1997

TEHRAN, Aug 10 (Reuter) - Iran plans to introduce tough legislation calling for stiffer punishment for drug smugglers, Iranian newspapers reported on Sunday.

The decision was made at a meeting of Iran's Expediency Council on Saturday chaired by former president Akbar Hashemi Rafsanjani and attended by President Mohammad Khatami.

"Rafsanjani underlined that the punishment of drug traffickers is to be made more severe in the near future," the Tehran Times newspaper reported.

The papers did not give details of the new penalties.

Iran's judiciary and police force had sent a letter to Supreme leader Ayatollah Ali Khamenei calling for harsher treatment of offenders, the papers reported.

Iran is a key transit route for drugs, mostly opium from which heroin is made, being smuggled to Europe via Turkey from Afghanistan and Pakistan -- the so-called "Golden Crescent".

More than 1,000 people have been executed in Iran since a 1989 law took effect imposing the death penalty for possession of five kg (11 lb) of opium or 30 grams (just over one ounce) of heroin.

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Artikel: 5 af 199

Iran stiffens punishment for drug offenders

Reuter World Service 15 november 1997

TEHRAN, Nov 15 (Reuters) - Iran, eager to curb widespread drug smuggling and use, has toughened its anti-narcotics laws, the official Iranian news agency IRNA said on Saturday.

It said the Expediency Council -- a body of about two dozen officials who can legislate on important matters over the head of parliament -- amended existing laws to send major offenders to hard labour camps instead of prison.

Council secretary Mohsen Rezaei said minor offenders would be sent to camps with easier conditions, IRNA said.

Rezaei said that addicts seeking treatment would not be prosecuted during their rehabilitation period, IRNA reported.

The Expediency Council, headed by former president Akbar Hashemi Rafsanjani, has been reviewing the country's anti-drug laws over the past few months.

Rezaei also said the new law would give greater powers to the country's president in mobilising all state authorities to fight drug abuse.

Iran is a key transit route for drugs smuggled to Europe via Turkey from Afghanistan and Pakistan, the "Golden Crescent".

Iranian officials say there are half-a-million drug addicts in the country of 60 million. Local media had put the number at up to one million.

Iran said in June that about 58 percent of its 138,000 prisoners were convicted of drug charges.

Under existing laws, smugglers caught in possession of five kg (11 lb) of opium or 30 grams (1.1 ounce) of heroin face the death penalty. More than 1,000 people have been executed for drug related offences since 1989.

REUTERS

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