



انجمن پژوهشگران ایران

Association des Chercheurs Iraniens

Date: Thursday, 05 January 2006

Ref: 124/M/313

Mehdi HOOSHYAR

Failed Iranian asylum seeker on hunger strike since 26 November 2005

TO WHOM IT MAY CONCERN

Association des Chercheurs Iraniens (ACI), an intellectual forum, works to identify the problems concerning the future of Iran and Iranians. By analysing the issues and problems facing the future of Iran, ACI hopes to offer well-informed and expert solutions to improve and overcome them. Our objective is to offer a framework for social, political, cultural, and economic planning for the future of Iran. The publication of the papers and communication of such findings to international public and private decision-makers as well as most importantly to the general public is an integral part of our work. To date ACI has held forty international conferences, published eleven books, a vast array of notices and articles, and has an active network of over six hundred experts who have participated in its activities worldwide.

We write this letter in support of Mr Mehdi Hooshyar a failed asylum seeker in the Netherlands who is facing deportation to Iran.

In this respect we would like to bring three points to your attention. Firstly Mr Hooshyar claims that he has been politically active against the Islamic regime in Iran while waiting for his asylum decision. Secondly, he has also chosen to become a Christian and the campaign to save him has the full support of his priest and church. Finally and crucially important concerning both of above points i.e. his dissident activity and conversion have become public knowledge through his hunger strike and the campaign to save him and thus he has lost his anonymity.

It may have been argued that if forcibly returned he would come to no harm based on his reasons for seeking asylum originally. However with the public knowledge of his opposition and activities against the regime while in the Netherlands plus his conversion to Christianity he is no longer an unknown face.

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1. Dissidence, Freedom of Speech and Thought

- 1.1. Based on Book Five of the Islamic Penal Code dissent was criminalised in 1995. Articles 498 and 499 provide for prison sentences ranging from 2 to 10 years for anyone “forming or joining a group or association outside or inside the country which seeks to disturb the security of the country”; article 500 provides for prison sentences for “anyone who undertakes any form of propaganda against the State”.
- 1.2. Article 513 punishes by death or by a prison term of between one and five years “insults” against Islam; article 514 punishes by a prison term of six months to two years ‘insults’ against the Supreme Leader; article 697 punishes defamation by a prison term of between one month and one year; and article 609 punishes with a fine, 74 lashes or a prison sentence of between three and six months criticism of a number of State officials in connection with carrying out their duties. Once again there is no definition for ‘insult’.
- 1.3. Article 698 concerns the dissemination of false information or rumours with the intention of causing anxiety or unease in the public’s mind. This is punishable by flogging or imprisonment. This particularly applies to information contained in opposition leaflets.
- 1.4. Iranians are not free to oppose the system. Political parties are limited to those who accept the Islamic governance structure and opponents of the Islamic regime are classed as criminals. There is no freedom of thought or speech as has been reported and condemned internationally. Particularly reporting on their visit to Iran during February 2003¹, the UN Working Group on Arbitrary Arrest and Detention condemned the long pre-trial detention and the use of torture in particular during investigations and interrogations. Similarly the Report² submitted by Ambeyi Ligabo, the UN Special Rapporteur on the right to freedom of opinion and expression, condemns lack of freedom of expression and comments on the practice of arbitrary arrest and long periods of detention without charge.

¹ COMMISSION ON HUMAN RIGHTS - Sixtieth session - Item 11 (b) of the provisional agenda E/CN.4/2004/3/Add.2 – 27 June 2003

² COMMISSION ON HUMAN RIGHTS - Sixtieth session - Agenda item 11 (c) of the provisional agenda, E/CN.4/2004/62/Add.2 – 12 January 2004

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1.5. Also, it is important to note that the use of torture is commonplace for the extraction of information and attempts by the pro-reform sixth parliament (2000 – 2004) to pass torture ban laws failed despite holding the majority in Parliament. On June 9 2002, the Council of Guardians vetoed a bill banning torture stating that the bill would limit the authority of judges to adjudicate on the admissibility of confessions and therefore ruled that the bill was against the principles of Islam. However, the ban on torture is clearly stated in verses of the Qoran and the stories of the behaviour of the Prophet Mohamad, and therefore when drafting the Islamic Constitution in 1979 Articles 38 and 39 of the Constitution clearly reflected this. It should be noted that at present the majority of the seventh parliament is in the hands of hardline conservatives.

1.6. Although the Islamic Constitution prohibits the use of torture or degrading and inhumane treatment in certain situations, this continues regardless, hence the necessity for the prohibitive Bill, and legislation. On 24 January 2004, the newly amended bill was rejected for a third time by the Council of Guardians; this time the main issue was the cost factor of implementation, among other objections. The Islamic Republic therefore remains outside the Convention (CAT) and carries on violating its own internal laws as well.

1.7. The use of torture to extract confessions was further exposed by few internet journalists who exposed the situation they were held under after being conditionally released in November/December 2004. Human Rights Watch carried a major campaign on behalf of these journalist³.

2. Apostasy

³ As part of a clamp down on internet journalism and web loggers between August and November 2004 over twenty people were arrested. They were detained in secret detention centres outside Tehran. In order to secure their release they were coerced to write self incriminatory confessions admitting spying for foreign governments and threatening the national security. They were released on bail in early December 2004. In response to the reports of torture while in detention some of the journalists were rearrested. They were tortured and the lives and safety of their families were threatened. Under these conditions they agreed to hold a televised press conference refuting the allegations of ill treatment. Instead of having the desired affect there was an international backlash to these staged confessions. On 1st of January 2005 a few of the detainees reported to a presidential committee about the truth behind the confessions and televised press conference. Although held in private the proceedings and their testimony was made public by vice president Abtahi. Human Rights Watch reported on this incident in detail:
hrw.org/english/docs/2004/12/06/iran9785.htm; hrw.org/english/docs/2004/12/17/iran9913.htm;
hrw.org/english/docs/2005/01/06/iran9948.htm; hrw.org/english/docs/2005/04/04/iran10415.htm

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- 2.1. On the point concerning Mr Hooshyar's conversion to Christianity he is now identified as an apostate, an innate Moslem who has chosen another faith. Either he must accept to return to Islam or he should be put to death. There is no article of law stating this however Article 167 of the Islamic Constitution provides the judge with the discretion 'to deliver his judgement based on authoritative Islamic sources and authentic fatwa'. In the specific area of religious freedom, many qualified jurists, including Imam Khomeini, whose teachings as the founder of the Islamic Republic of Iran enjoy a privileged position in contemporary Iranian jurisprudence, have ruled that the penalty for conversion from Islam, or apostasy, is death
- 2.2. Although recognised religious minorities are discriminated against legally, they do nevertheless have certain albeit limited rights as protected minorities⁴. This protection is not offered to Muslim converts - indeed this is a most heinous crime - and Islamic teaching according to religious jurists punishes this with death. Article 295(J) (2) of the Islamic Penal Code states that if it is proven that a murdered person deserved to die (Mahduoldam⁵) then there is no punishment for the murderer.
- 2.3. For example according to religious teachings an apostate or a man and a woman caught in the act of adultery by the woman's husband⁶ is Mahduoldam or Salman Rushdie, a blasphemer and infidel, is Mahduoldam.

⁴ The Constitution of the Islamic Republic, 'Article 13: Zoroastrian, Jewish, and Christian Iranians are the only recognized religious minorities, who, within the limits of the law, are free to perform their religious rites and ceremonies, and to act according to their own canon in matters of personal affairs and religious education'. However Article 14 states that '...This principle applies to all who refrain from engaging in conspiracy or activity against Islam and the Islamic Republic of Iran.' This is a charge used repeatedly against religious minorities and converts; therefore the reason for execution or imprisonment is not the individual's religious beliefs but his act of treason or collaboration with the enemies of Islam.

⁵ In November 2004, six people charged and convicted of murder had their sentence overturned by the Supreme Court because in their appeal they had relied on the teachings of several high religious authorities concerning ridding the world of corruption and since the victims consumed alcohol, used drugs and had sex out of wedlock they were corrupt and rightly deserved to die. (BBC World Service Persian Section 19 November 2004 among many others)

⁶ Islam allows an aggrieved husband to kill the man his wife was having an adulteress relationship with if he catches them in the sexual act. This is in recognition of the tradition, religious and social concepts of honour.

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- 2.4. This is in direct violation of 11 (1) of the Universal Declaration of Human Rights and Article 37⁷ of the Islamic Constitution itself concerning the concept of innocent until proven guilty for a dead person cannot defend him/herself.
- 2.5. In addition on 10 November 2004 Ayatollah Janati the Chairman of the Guardian Council stated that he did not see any need for having 'secured religious minority seats' in Parliament. Reported by Radio France Internationale he had said that at the beginning of the Revolution the Constitution made provisions under pressure from human rights groups and international public opinion; and that there was no need to keep up the pretence anymore.
- 2.6. With the election of a hardline fundamentalist ex-pasdar as the President of the Islamic Republic the situation for religious minorities is uncertain. If the latest murder of a Christian convert on 22 November 2005 in the town of Gonbad Kavoods – east Iran - is anything to go by it is becoming worse. The various International Christian news networks reported that Ghorban Daroodi Tourani was kidnapped from his home, beaten, tortured and then stabbed repeatedly until he died. His bloodied body was thrown in front of the doorstep to his house. Following his kidnapping his house was ransacked during a search and his books and documents were taken away. The Presbyterian Open Door Organisation reported that many more were attacked following this killing. Radio Farda a state US Radio station broadcasting for Iran reported that in a meeting with Provincial Governors President Ahmadinejad had stipulated that the question of evangelical Christians and Moslem conversions should be dealt with harshly and stopped.
- 2.7. In Iran today as soon as a Moslem chooses to convert and to live as a Christian s/he faces exposure. For the sake of security and protection they cannot register their new faith. Therefore they cannot marry according to their new faith. Their children could not be baptised and could not go to Christian Schools; in Moslem schools they would be forced to study the Qoran and receive Islamic religious lessons. If a young student ever let slip that at home they have the Bible they would be expelled with the reason clearly stated, this would further exasperate

⁷ Article 37: Innocence is to be presumed, and no one is to be held guilty of a charge unless his or her guilt has been established by a competent court.

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their chances for registering with another Moslem school and moreover it would bring the attention of the authorities on the family. Unemployment being a serious issue and the State being the largest employer on the job application forms they must lie about their religion. Quite apart from these problems a convert has problems within the friends and family circle and many are excluded. If the convert does not have the support of his/her family that is an added problem since it would result in the individual being ostracised.

2.8. S/he will not be able to attend Church, and any religious activity s/he undertakes would be under the shadow of fear of exposure and arrest as explained above. One would have to live as a 'closet' Christian.

2.9. The most important question should be what it means to be a Christian. Is it just attending church and/or study groups while in fear of exposure OR is it living a Christian life i.e. marrying according to Christianity, raising children according to Christianity, not deceiving family, friends, employer and colleagues about one's faith, marking Christmas and Easter and other important religious dates with fellow Christians and ultimately being buried according to Christianity. Therefore deporting an Iranian Christian convert not only increases the chances of exposure and its uncertain consequences but condemns the individual into a life of deceit and fear without the ability to live and practice the new chosen faith freely.

3. The Red Mehdi Campaign and Public Exposure

3.1. As is evident from the internet site set up for Mr Hooshyar his long hunger strike and the campaign to save his life has attracted attention not least among the Iranian media. We understand the US State Radio Voice of America and Radio Free Europe (Radio Farda) carried interviews and news reports on Mr Hooshyar's plight in their Persian language services on 4 and 5 of January 2006. In addition National Iranian Television (NITV) a dissident satellite channel that broadcasts into Iran also carried a news report with pictures of Mr Hooshyar's sewn up lips and similar pictures broadcasting into Iran also on 5 January 2006. For these reasons his face and name as well as his life history have become known inside Iran.

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3.2. Therefore quite apart from the fact that agents of the regime present in Netherlands through Islamic Republic's Embassy and Consulate networks had heard of Mr Hooshyar's case it has now been heard in Iran too.

4. Conclusion

4.1. As reported by annual US State department reports, security agents are present at airports and anyone wanted by the authorities would be identified, detained and passed over to the relevant authority for investigations. The treatment one receives while in custody and conditions of extraction of information during interrogation have also been discussed at length. With the public awareness and exposure of his case Mr Hooshyar would be known to the authorities and there is a real and serious risk that he would be identified as a dissident and an apostate.

4.2. Although it may be argued that the Constitution of the Islamic Republic contains some limited safeguards of rights and freedoms that are guaranteed in the international instruments to which Iran is a state party, these do not guarantee any rights and none of these ensures the just application of the law. Therefore there now exists a serious threat to Mr Hooshyar's safety and liberty on forcible return.

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