

URGENT ACTION

YEMENI MAN AT RISK OF IMMINENT EXECUTION

Muhammad Abdul Wahhab Faysal al-Qassem is at imminent risk of execution after the President of Yemen ratified his death sentence. His age at the time of his alleged crime remains in dispute. He could be executed at any time in the next two weeks.

Muhammad Abdul Wahhab Faysal al-Qassem was sentenced to death on 14 February 2005 by the Court of First Instance in Ibb, 190 kilometres south of capital Sana'a. He was convicted of a murder he was alleged to have committed in February 1998. His death sentence was upheld by an appeal court in February 2009 and was confirmed by the Supreme Court in February 2012; it was recently ratified by the President of Yemen. He is being held in Ibb prison.

Muhammad Abdul Wahhab Faysal al-Qassem told Amnesty International that members of the General Prosecution visited him in prison this week and told him that the President has ratified his death sentence. He was also told that he had two weeks left to see his family, write a will, and seek a pardon from the family of the victim.

He maintains that he was under 18 years old at the time of the alleged offence. According to him, the court had determined that he was over 18 on the basis of falsified copies of his school reports and a medical examination in 2004 that Muhammad Abdul Wahhab Faysal al-Qassem says did not actually occur. The court judged that the copies of the birth certificate that he presented were forged.

Please write immediately in Arabic, English or your own language:

- Calling on the President of Yemen to halt the execution of Muhammad Abdul Wahhab Faysal al-Qassem;
- Calling on the authorities to commute the death sentence of Muhammad Abdul Wahhab Faysal al-Qassem, as well as those of all other prisoners under death sentence;
- Reminding them that they are bound by international standards for fair trial in capital cases, including the right to be presumed to be under the age of majority when in doubt and the right to seek pardon or commutation of the sentence;
- Urging the President to stop ratifying death sentences and establish a moratorium on executions, with a view to completely abolishing the death penalty.

PLEASE SEND APPEALS BEFORE 13 FEBRUARY 2013 TO:

President

His Excellency Abd Rabbu Mansour al-Hadi

Office of the President

Sana'a, Republic of Yemen

Fax: +967 1 274 147 (please keep trying)

Salutation: Your Excellency

Attorney General

His Excellency Ali Ahmed Nasser al-Awash

Attorney General's Office

Sana'a, Republic of Yemen

Fax: + 967 1 374 412 (please keep trying)

Salutation: Your Excellency

And copies to:

Minister of Human Rights

Her Excellency Houriah Ahmed Mashhour

Ministry for Human Rights

Sana'a, Republic of Yemen

Fax: +967 1 444 833 (please keep trying)

Email: mshr@y.net.ye

Salutation: Your Excellency

Also send copies to diplomatic representatives accredited to your country.

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INTERNATIONAL**



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ADDITIONAL INFORMATION

Amnesty International has long-standing concerns about the use of the death penalty in Yemen, particularly as death sentences are often passed after proceedings which fall short of fair trial. In 2012, a large number of offenders were sentenced to death and dozens were executed.

Yemen has made significant progress in the prohibition of the use of the death penalty against juvenile offenders (those convicted of crimes committed when they were under 18 years of age). It ratified the Convention on the Rights of the Child in 1991. At the time, the prohibition of the use of the death penalty against juveniles was limited to offenders below the age of 15 at the time of the crime. However, this was extended in 1994 to include individuals below the age of 18 at the time of the commission of capital offences. This was stipulated in Article 31 of the Penal Code, Law 12 of 1994, and marked progress to bringing Yemen's laws into line with both Article 37 of the Convention on the Rights of the Child and Article 6 of the International Covenant on Civil and Political Rights, to which Yemen is also a state party. Both treaties categorically prohibit the use of the death penalty against anyone under 18 years of age at the time of commission of any crime.

However, some courts in Yemen continue to impose the death penalty for alleged offenders who may have been below the age of 18 at the time of the offence. Amnesty International is aware of at least 26 people who are possible juvenile offenders under sentence of death in Yemen and 200 such individuals who are at risk of being sentenced to death.

In a large number of areas of Yemen, birth certificates are not issued or sought by families, creating confusion around the date of birth of alleged young offenders. Prosecutors typically hire medical examiners who in many cases have been accused of drawing biased conclusions that support the prosecution's view on the age of the defendant.

An official medical examination committee was formed in 2012 to determine the age of alleged juvenile offenders, especially in cases where birth certificates are unavailable. The medical committee, which has been supported and funded by the UNICEF and the European Commission, has so far been unable to carry out effective work, due to a lack of appropriate legislation or definition of its status. It was not involved in the case of Muhammad Abdul Wahhab Faysal al-Qassem.

Amnesty International believes that governments should apply a full range of appropriate criteria in cases where there is dispute over whether an alleged offender was over or under 18 years of age at the time of the offence. Good practice in assessing age includes drawing on knowledge of physical, psychological and social development. Each of these criteria should be applied in a way that gives the benefit of doubt in disputed cases so that the individual is treated as a juvenile offender and accordingly that the death penalty is not applied. Such an approach is consistent with the principle that the best interests of the child shall be a primary consideration in all actions concerning children, as required by Article 3(1) the Convention on the Rights of the Child.

The Human Rights Council on 23 March 2012 adopted resolution 19/37 on Rights of the Child, in which it urged States, "to presume children alleged as, accused of or recognized as having infringed the criminal law to be under the age of majority when their age is in doubt until such an assumption is rebutted by the prosecution, and to treat the accused as a juvenile if the burden is not met."

Amnesty International acknowledges the right and responsibility of governments to bring to justice those suspected of recognizably criminal offences, but is unconditionally opposed to the death penalty in all cases as the ultimate cruel, inhuman or degrading punishment, and as a violation of the right to life.

Name: Muhammad Abdul Wahhab Faysal al-Qassem

Gender m/f: m

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