

URGENT ACTION

YEMENI MAN GRANTED STAY OF EXECUTION

Muhammad Abdul Wahhab Faysal al-Qassem's execution has been suspended, pending further investigations into his case and age.

Muhammad Abdul Wahhab Faysal al-Qassem, has been granted a stay of execution by the Yemeni President on 6 February, he had been informed that he would be executed on 10 February. His age at the time of his alleged crime has been a cause of dispute. He told Amnesty International that the courts dismissed his birth certificate, which indicated he was under 18 and instead relied on falsified school certificates and a 2004 medical examination conducted to "prove" he was over 18. He insists the examination did not actually take place. The Yemeni judicial authorities are expected to review his case and take new steps to verify his age.

Problems in determining the age of alleged juvenile offenders such as Muhammad Abdul Wahhab Faysal al-Qassem are endemic in Yemen. In many areas of the country birth certificates are not issued to or sought by families, creating confusion regarding the age of young alleged offenders. In cases where the age of an alleged juvenile offender is in doubt, Yemeni courts rely on medical examiners, named by the prosecution, who in many cases have been accused of drawing biased conclusions supporting the prosecution.

In June 2012, the Yemeni Ministry of Justice established an independent medical examination committee to determine ages of alleged juvenile offenders, especially in cases where birth certificates are unavailable. Despite support and funding from UNICEF and the European Commission, it lacked the appropriate legal status and jurisdiction and ceased to function within six months of its creation. It has not been involved in this case.

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

- Welcoming the suspension of Muhammad Abdul Wahhab Faysal al-Qassem's execution and the possibility to review his case, in light of evidence that indicates that he may have been under 18 at the time of the alleged offence;
- Calling for the commutation of his and all other death sentences, and for the relocation of prisoners under the death sentence to institutions of detention appropriate to their age and the offence committed;
- Calling on the Yemeni authorities to prevent the imposition of the death penalty regardless of age;
- Calling on the Justice Minister to reactivate the medical examination committee as a first step towards a comprehensive reform of the juvenile justice system, in line with UN Human Rights Council resolution 19/37;
- Urging the President to stop ratifying death sentences and establish a moratorium on all executions, with a view to completely abolishing the death penalty.

PLEASE SEND APPEALS BEFORE 27 MARCH 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

Minister of Justice

His Excellency Murshed Ali al-Arashani
Ministry of Justice
Sana'a, Republic of Yemen
Fax: +967 1 222 015 (please keep trying)

Email: moj@yemen.net.ye

Salutation: Your Excellency

And copies to:

Minister of Human Rights

Her Excellency Dr Houriah Ahmed
Mashhour

Ministry of Human Rights
Sana'a, Republic of Yemen

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

Email: mshr@y.net.ye

Also send copies to diplomatic representatives accredited to your country.

Please check with your section office if sending appeals after the above date. This is the second update of UA 23/13. Further information:

<http://www.amnesty.org/en/library/info/MDE31/001/2013/en> and <http://www.amnesty.org/en/library/info/MDE31/002/2013/en>

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ADDITIONAL INFORMATION

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

Yemen has made some progress in the legal 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 those below the age of 18 at the time of capital offences. This was stipulated in Article 31 of the Penal Code, Law 12 of 1994, and marked progress in 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 old at the time any crime is committed.

However, in practice some courts in Yemen are still imposing the death penalty on defendants 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 people who are at risk of being sentenced to death.

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 old 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 the 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.

UN Human Rights Council resolution 19/37 of 23 March 2012 on Rights of the Child, urges 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." It further urges "States to take special measures to protect children in contact with the law including by means of the provision of adequate legal assistance, training in juvenile justice for judges, police officers, prosecutors and specialized lawyers, in addition to other representatives who provide other appropriate assistance, such as social workers; the establishment of specialized courts, as appropriate; the promotion of universal birth registration and age documentation..."

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 a violation of the right to life and the ultimate cruel, inhuman and degrading punishment.

Name: Muhammad Abdul Wahhab Faysal al-Qassem

Gender m/f: m

Further information on UA: 23/13 Index: MDE 31/004/13 Issue Date: 13 February 2013

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