

URGENT ACTION

YEMENI MAN AT RISK OF IMMINENT EXECUTION

Yemeni man Muhammad Abdul Karim Muhammad Haza'a continues to be at imminent risk of death after his execution was postponed. The Yemeni Attorney General halted his execution to enable claims that he was under 18 at the time of his alleged crime to be re-examined and to give him the opportunity to reach an agreement with the victim's family.

Muhammad Abdul Karim Muhammad Haza'a was officially informed on 26 February that he was to be executed the following day for the murder of a man that took place in 1999. His execution was halted by the Attorney General pending further investigation into his age and providing an opportunity for him to reach an agreement with the victim's relatives. The suspension could be lifted at any time and as such he remains at imminent risk of execution, and could be executed as early as 3 March 2013. His age at the time of his alleged crime remains in dispute.

Muhammad Abdul Karim Muhammad Haza'a was initially sentenced to imprisonment and financial compensation to be paid to the family of the victim in 2000, by the Court of First Instance in the south-western city of Ta'izz. His case then went back and forth between the Appeal Court and the Supreme Court. In December 2005, the Appeal Court sentenced him to seven years' imprisonment in addition to paying financial compensation. However, the Appeal Court subsequently sentenced him to death, considering him to be over 18 at the time of his alleged crime as it believed the birth certificate he had submitted – indicating he was 17 years old – was forged. In 2008, the Supreme Court approved his death sentence; this was subsequently ratified by the Yemeni President in December 2012.

Yemeni law prohibits the application of the death penalty to offenders under the age of 18 at the time of the crime. In practice however, some courts in Yemen continue to impose the death penalty on alleged juvenile offenders – partly because in some parts of Yemen, birth certificates are not issued or sought, and because practices of determining age typically fall far below international standards. In some cases of murder, the immediate blood relatives of a murdered person have the power to seek execution, request *diya* (financial compensation), or grant a conditional or unconditional pardon.

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

- Urging the Yemeni authorities to commute Muhammad Abdul Karim Muhammad Haza'a's death sentence;
- Calling on them 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 (2012);
- 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 9 APRIL 2013 TO:

President
His Excellency Abd Rabbu Mansour
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:
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

Also send copies to diplomatic representatives accredited to your country.

Please check with your section office if sending appeals after the above date.

**AMNESTY
INTERNATIONAL**



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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 also 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. However, this was extended in 1994 to include those below the age of 18 at the time of their crime. 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 under 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.

An official medical examination committee was formed on 16 June 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 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. In February 2013, the Yemeni President ordered the reinstatement of the medical examination committee. It was not involved in the case of Muhammad Abdul Karim Muhammad Haza'a.

Amnesty International calls on governments to apply a full range of appropriate criteria in cases where there is dispute about 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 Karim Muhammad Haza'a
Gender m/f: m

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