

URGENT ACTION

YEMENI MAN AGAIN FACING IMMINENT EXECUTION

A Yemeni man who had been granted a stay of execution in February could now be executed as early as 5 May. His birth certificate shows that he was 15 years old at the time of the offence for which he was sentenced to death.

The General Prosecutor's office has told **Muhammad Abdul Wahhab Faysal al-Qassem** that he will be executed within the next few days. He had been granted a stay of execution by the country's president on 6 February, four days before he was scheduled to be executed. The judicial authorities were expected to review his case and take new steps to verify his age, which is still disputed. It is unclear if the authorities have re-examined his case and he could be executed as early as 5 May.

He maintains that he was not yet 16 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 he says did not actually take place. The court simply dismissed the copies of the birth certificate that he presented as forged although they were acquired from the appropriate offices and copies of it were issued years before the date of the offence. Yemeni law prohibits the use of the death penalty against juvenile offenders (those convicted of crimes committed when they were under 18 years of age).

Muhammad Abdul Wahhab Faysal al-Qassem was sentenced to death on 14 February 2005 by the Court of First Instance in Ibb, 190km south of the capital, Sana'a. He was convicted of a murder 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. He is being held in Ibb prison.

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

- Calling on the president 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 sentence of death;
- Reminding them that they are bound by international standards of 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 12 JUNE 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 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

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 third update of UA 23/13. Further information:

www.amnesty.org/en/library/info/MDE31/004/2013/en

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ADDITIONAL INFORMATION

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.

In many 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 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, Yemen's president ordered the reinstatement of the medical examination committee. It was not involved in the case of Muhammad Abdul Wahhab Faysal al-Qassem.

Amnesty International has called 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 Wahhab Faysal al-Qassem

Gender m/f: m

Further information on UA: 23/13 Index: MDE 31/011/2013 Issue Date: 1 May 2013