

URGENT ACTION

YEMENI MAN TO BE EXECUTED ON 10 FEBRUARY

Muhammad Abdul Wahhab Faysal al-Qassem has been told by the General Prosecutor's office that he will be executed this coming Sunday. His age at the time of the murder for which he was condemned to death is still disputed.

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 that took place in February 1998. His death sentence was upheld by an appeal court in February 2009 and confirmed by the Supreme Court in February 2012; it was recently ratified by the President. He is being held in Ibb prison.

He has told Amnesty International that General Prosecution staff visited him recently and told him that he would be executed on 10 February. He was told a week ago that he had two weeks left to see his family, write a will, and seek a pardon from the family of the murdered man.

He maintains that he was under 18 years old at the time of the killing. According to him, the court had determined that he was over 18 on the basis of falsified copies of his school reports and a 2004 medical examination that he insists did not actually take place. It appears that the court dismissed a copy of his birth certificate that showed him to have been under 18 as forged although it had been retrieved from the branch of the Personal Status Department in Ibb, a government office, and had been issued eight years before the killing.

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 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 10 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.

This is the first update of UA 23/13. Further information: <http://www.amnesty.org/en/library/info/MDE31/001/2013/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 which fall short of fair trial. In 2012, a large number of people 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 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 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 old at the time any crime is committed.

However, 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. In many areas of Yemen, birth certificates are not issued or sought by families, creating confusion around the date of birth of young alleged 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. 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 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.

The Human Rights Council's 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."

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 a violation of the right to life.

Name: Muhammad Abdul Wahhab Faysal al-Qassem

Gender m/f: m

Further information on UA: 23/13 Index: MDE 31/002/2013 Issue Date: 4 February 2013