

EXTERNAL

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EXTRA 49/97

Fear of imminent execution / Legal concern 2 April 1997

YEMEN Muhammad Ahmad Mislah al-Nadhiri, building contractor, aged 48

On 31 March 1997 Muhammad Ahmad Mislah al-Nadhiri was sentenced to death and crucifixion after a single trial hearing lasting approximately four hours.

The prisoner appealed against the verdict on 1 April, and on 2 April the Court of Appeal upheld the sentence of death against him. The case should now go through a further appeal stage where it will be heard before the Supreme Court. If the latter upholds the current verdict, the sentence of death will have to be ratified by the President of the Republic before the execution can be carried out. However, given the special speedy procedure by which the case has been dealt with so far, the next appeal stage and ratification may become just a formality, and Amnesty International fears that the execution may be imminent.

Muhammad Ahmad Mislah al-Nadhiri was convicted on charge of multiple murder and injuries. On 30 March 1997 he reportedly carried out indiscriminate shootings in two schools in Sana'a using an automatic rifle. The shootings reportedly left at least five or six people dead, including a headmistress of one of the schools, a teacher and four pupils. They also resulted in the injury of a number of others, mostly pupils from the two schools.

The defendant is reported to have told the court during his trial hearing that he had carried out the shootings to avenge the rape of his daughter last year by an employee of one of the schools he attacked. His allegation was reportedly ruled out by the court on the grounds that a medical examination confirmed the virginity of his daughter.

Some reports have referred to criminal investigation sources describing the prisoner as schizophrenic. However, it is not known whether the defendant has been subjected to medical examination to establish his mental state at the time of the offence and since. Under Article 33(1) of the Yemeni Penal Code there is no criminal responsibility if the offender suffers from permanent or temporary insanity or a mental disability. Similarly, Paragraph 3 of Resolution 1984/50 of 25 May 1984, approved by the UN Economic and Social Council, relating to Safeguards guaranteeing protection of the rights of those facing the death penalty, prohibits execution of persons who have become insane.

Amnesty International fears that this aspect of the case may not have been heard fully by the court as one defence lawyer has been quoted as having said: "the proceedings are hasty, I need more time," while asking the judges for a 10-minute recess to allow him to talk to the defendant. Such proceedings are contrary to international fair trial safeguards guaranteed for defendants facing the death penalty, particularly those contained in Article 14 of the International Covenant on Civil and Political Rights to which Yemen is a state party.

Amnesty International sympathizes with relatives of those murdered in the shootings of 30 March and recognizes the responsibility of the government to bring to justice those responsible for criminal offences. However, the organization opposes the use of the death penalty in all cases as a violation of the right to life and a cruel, inhuman and degrading punishment.

RECOMMENDED ACTION: Please send telegrams/telexes/faxes/express/airmail letters in Arabic/English or your own language:

- expressing sympathy with the families of those murdered in the 30 March shootings, and acknowledging the right of the government to bring to justice anyone responsible for such crimes, but expressing unconditional opposition to the death penalty in all cases;
- expressing concern that Muhammad Ahmad Mislah al-Nadhiri appears to be at risk of imminent execution and urging commutation of the death sentence against him, if upheld by the Supreme Court, to a humane punishment;
- expressing concern that the trial proceedings appear to have fallen short of international standards to which Yemen is a state party, and urging that defence lawyers be given adequate opportunity to present their defence and that both Yemeni laws and international standards protecting insane persons from the death penalty be taken into consideration.

APPEALS TO:

His Excellency

General 'Ali Abdullah Saleh
President of the Republic of Yemen
Sana'a, The Republic of Yemen

Telegrams: President 'Ali Abdullah Saleh, Sana'a, Republic of Yemen

Faxes: +967 1 262 017

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Salutation: Your Excellency

COPIES TO: diplomatic representatives of Yemen accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 10 May 1997.