

£YEMEN

@Mansur Rajih: Prisoner of conscience under sentence of death

On 8 July 1983, eight days after his release from prison where he had spent six months without charge or trial, Mansur Muhammad Ahmad Rajih was rearrested by members of *al-Amn al-Watani* (National Security) in his village of Humayrim in the Province of Ta'iz and was taken to *al-Amn al-Watani* Interrogation Centre in the city of Ta'iz. In the following nine months, Mansur Rajih was repeatedly tortured to force him to reveal information about an opposition movement in the former Yemen Arab Republic (YAR).

In March 1984 Mansur Rajih was tried by the Court of First Instance in Ta'iz on charges of murder. The trial fell far short of international standards for fair trial, and Mansur Rajih was sentenced to death. The sentence was upheld by the Court of Appeal in Ta'iz in the spring of 1986 and subsequently by the Supreme Court of Cassation in Sana'a. His sentence is currently pending ratification by the Presidential Council of the Republic of Yemen.

BACKGROUND

Mansur Muhammad Ahmad Rajih, a writer and poet, was born in 1958 in the village of Humayrim in the Province of Ta'iz in northern Yemen, formerly the YAR. He completed his high school degree in Yemen but left to pursue higher education, initially in Agriculture at the University of Aleppo, Syria, from 1978 to 1980. In 1980 he attended the Lebanese University in Beirut, Lebanon, to study for a degree in Business Administration. He returned to Yemen in January 1983.

Upon his return, Mansur Rajih was arrested by *al-Amn al-Watani* and detained for six months (until June 1983) without charge or trial. He was free for only eight days before he was arrested again. This time, his father and uncle were also arrested, and the three were charged with the murder of Sheikh Ahmad 'Abdo Saleh, a man from their village.

Mansur Rajih had been politically active for most of his adult life. During his stay in Syria he was the president of the Yemeni Student Association, and when he attended the Lebanese University in Beirut, he became the Secretary General of the Organization of Arab Students. He was also a member of the National Democratic Front (NDF), the principal opposition group in the former YAR.

The NDF was formed in February 1976 as a result of the merger of six different organizations; it also included a number of independent personalities. It was supported by the former People's Democratic Republic of Yemen (PDRY) and was based in 'Aden, the capital of the PDRY. Between 1979 and 1982, the NDF was engaged in a guerrilla war with the government of the YAR. Following almost three years of intermittent fighting, a truce came into effect as a result of the mediation of some Arab governments and the Palestine Liberation Organization (PLO), and a general amnesty was declared for all NDF members who had participated in the fighting. After the unification of the former PDRY and YAR into the Republic of Yemen in 1990, the NDF dissolved itself and officially became part of the Yemeni Socialist Party, the ruling party in the former PDRY.

Amnesty International does not consider that membership of or association with the NDF is in itself conclusive evidence that a certain individual has used or advocated violence. In determining whether an individual is a prisoner of conscience, Amnesty International looks into whether the individual personally used or advocated violence in the circumstances relating to his or her arrest. In other words, it examines any specific opinions or acts imputed to the person in question beyond mere membership of the organization.

This is a standard that Amnesty International has applied to armed opposition organizations in other parts of the world, notably the Palestine Liberation Organization and the African National Congress of South Africa. In the latter case, although Amnesty International did not adopt Nelson Mandela as a prisoner of conscience because of his acknowledged advocacy of violence, it did adopt other individual members of the ANC when there was evidence that they had disassociated from acts of violence, but nevertheless remained active with the ANC. Similarly, Mansur Rajih is known to have dissociated himself from the NDF's violent political activities, and while he shared its overall political objectives, he did not necessarily agree with all its policies, including those relating to the use of violence. In addition, the official charges for which Mansur Rajih was arrested were of a criminal and not a political nature.

TREATMENT WHILE IN DETENTION

At the time of his second arrest in June 1983, Mansur Rajih was taken to *al-Amn al-Watani* Interrogation Centre in the city of Ta'iz where he remained in incommunicado detention for nearly nine months. During this time, he was continually blindfolded and subjected to various forms of torture. One method of torture was suspension for a prolonged period from a metal bar inserted between his knees and the arms while his wrists were tied together. This method of torture is locally known as "Kentucky Farruj" in reference to the way chickens are displayed. While suspended thus, Mansur Rajih was beaten on the back, legs and head with electric cables

and wooden sticks. He was repeatedly asked for information on NDF activities and names of NDF members. He was also subjected to electric shocks, lashings and sleep deprivation.

Mansur Rajih's feet were kept shackled together, not just while he was held at *al-Amn al-Watani*, but throughout his first seven years in prison, until 1990. The shackles used on him were made of two metal clasps attached to his ankles and connected with a metal chain. They were only removed after the unification of the PDRY and the YAR was agreed in May 1990, when the use of shackles was abolished by law.

THE TRIAL

In March 1984 Mansur Rajih, together his father and uncle, appeared before the Court of First Instance in Ta'iz to defend themselves against the charges of murder. The trial fell far short of international standards for fair trial. Mansur Rajih was sentenced to death, and his father and uncle were each sentenced to 15 years' imprisonment for being accessories to murder.

Although the former YAR had no penal code, a draft penal code issued in 1978 appears to have reflected existing practice. A Code of Criminal Procedure was adopted in 1979. The draft penal code provided for a mandatory death penalty for hadd offences (offences against divine will according to Shari'a). Crimes against the state, including aggravated murder or kidnapping, were punishable by death. Qisas (retribution) is a category of Islamic punishment whereby the family of a murder victim may demand retribution in the form of the death of the murderer, or may waive such a claim freely or by financial settlement. In order to be imposed, death sentences in the former YAR had to be upheld by a Provincial Appeal Court and then ratified by the Supreme Judicial Council based in Sana'a. Since the unification of Yemen in May 1990, all such sentences must be ratified by the Presidential Council of the Republic of Yemen. Mansur Rajih's sentence is now pending a decision by the Presidential Council.

There are several aspects of Mansur Rajih's trial which lead Amnesty International to believe that the charges against him were trumped-up, and that a decision to convict had been taken beforehand. It was common practice in the former YAR for political opponents to be arrested and convicted on trumped-up criminal charges. During Mansur Rajih's trial, the three prosecution "eye-witnesses", who only came forward four to six months after the murder was committed, gave contradictory accounts of the events in question. When two of them failed to identify Mansur Rajih in court, the judge ruled that this was because of the confusion and their "poor eye-sight". In addition, defence witnesses, among them relatives of the murdered victim, asserted that the three prosecution witnesses were not present at the scene of the crime. In fact, two defence witnesses testified that they had themselves been the ones to inform two of the three prosecution witnesses about the murder. The judge ruled that these defence witnesses were "mentally ill", and hence their testimonies were deemed inadmissible. Two other witnesses also testified that they were present with the accused at the time of the murder, thus providing him with an alibi. One of them was threatened in order to force him to alter his testimony. When he refused, he was imprisoned for six months without charge or trial.

Despite the overwhelming evidence in favour of the defence, Mansur Rajih was convicted and sentenced to death. His father and uncle were each sentenced to 15 years' imprisonment (they were both released after nearly seven years in prison). In the Provincial Court of Appeal in Ta'iz, Mansur Rajih's sentence was upheld and a 105,000 Riyals *diyya* (a fine imposed in accordance with tribal tradition in Yemen) was added. The prosecution witnesses were not questioned again on appeal and the testimonies they had given before the Court of First Instance were accepted without question. The sentence was also upheld in the Supreme Court of Cassation in Sana'a. The sentence has been awaiting ratification by the Presidential Council of the Republic of Yemen since 1988.

AI CONCERNS

Amnesty International is gravely concerned that Mansur Muhammad Ahmad Rajih has been convicted because of the peaceful expression of his political views, and therefore believes him to be a prisoner of conscience.

Amnesty International is concerned that Mansur Muhammad Ahmad Rajih was sentenced to death during a trial which fell far short of international standards for fair trial. Amnesty International opposes the death penalty in all cases and without reservation on the grounds that it is the ultimate form of cruel, inhuman and degrading punishment. All major international human rights declarations, conventions and covenants stipulate that everyone has the right to life, liberty and security of person. The international human rights standards that have been issued by the United Nations and by regional organizations since 1948 prohibit all forms of "cruel, inhuman or degrading treatment or punishment".

Mansur Rajih has spent more than nine years in prison charged with a crime he did not commit. Amnesty International believes he is held solely for his non-violent opposition to the government of the former Yemen Arab Republic. Amnesty International calls on the Government of the Republic of Yemen to quash his sentence and to release him immediately and unconditionally.

Amnesty International is also gravely concerned at the reports of his torture at the hands of members of *al-Amn al-Watani*. Amnesty International opposes the torture of all prisoners without reservation. There are no circumstances under which these abuses are acceptable or legally permissible. Torture violates the rule of law: it is a calculated assault. Nothing denies common humanity more than the purposeful infliction of totally unjustifiable pain and humiliation on a defenceless prisoner. Amnesty International is thus urging that the reports of torture be investigated, and if confirmed, that those found to be responsible be brought to justice.