

URGENT ACTION

TWO MEN NEAR EXECUTION AFTER UNFAIR TRIAL

Two men, one of them a Saudi Arabian national, are at risk of execution in Iraq, where the rate of executions has surged and the presidency has ratified the death sentences of around 200 people.

Saudi Arabian national **'Abdullah 'Azzam Saleh Musfer al-Qahtani** and Iraqi **Safa Ahmad 'Abul'aziz 'Abdullah** were sentenced to death on 16 March 2011 by the Central Criminal Court in Baghdad, along with four other men, who were executed on 2 April 2013. The two men's sentences were ratified by the Iraqi Presidency around September 2013. Their lawyer filed a memorandum with the Public Prosecution requesting a stay of execution as 'Abdullah 'Azzam Saleh Musfer al-Qahtani had been in detention, and Safa Ahmad 'Abul'aziz 'Abdullah had not been in Iraq, at the time of the attack on the shop in Baghdad for which they have been sentenced to death. However no decision has been taken by the prosecution. Both men are now held in Maximum High Security Prison (al-Himaya al-Quswa) at Camp Justice (Mu'askar al-'Adala) in the al-Kadhimiya district of Baghdad.

The six men were accused of taking part in an armed raid in 2009 on a shop in Baghdad during which the two owners were killed. They initially "confessed" to being members of al-Qa'ida and carrying out the raid to raise funds for the organization. They later recanted their "confessions", saying they had made them after torture and other ill-treatment. 'Abdullah 'Azzam Saleh Musfer al-Qahtani told one of his lawyers on 26 February 2013 that he had been tortured during his pre-trial detention. He said this had included severe beatings, pulling his genitals, burning with cigarettes and partial asphyxiation with a plastic bag. In its verdict, the court admitted the defendants' "confessions" as evidence, despite their allegations of torture and coercion in pre-trial detention. Before his conviction, in breach of his and his co-defendants' right to fair trial, al-Fayha TV broadcast an interview with 'Abdullah 'Azzam Saleh Musfer al-Qahtani in which he "confessed" to affiliation with an armed group and committing other crimes.

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

- Calling on the authorities not to execute 'Abdullah 'Azzam Saleh Musfer al-Qahtani or Safa Ahmad 'Abul'aziz 'Abdullah, and overturn their sentences;
- Expressing concern that the two men may not have received a fair trial, and calling for them to be retried in line with the most rigorous internationally recognized standards;
- Urging the authorities to declare an official moratorium on executions with a view to abolishing the death penalty, and to commute all death sentences immediately.

PLEASE SEND APPEALS BEFORE 7 MARCH 2014 TO:

Prime Minister

His Excellency Nuri Kamil al-Maliki,
Convention Centre (Qasr al-Ma'aridh)
Baghdad, Iraq

Salutation: Your Excellency

Minister of Justice

Hassan al-Shammari
Ministry of Justice
Baghdad, Iraq

Contactable in Arabic via website:

<http://www.moj.gov.iq/complaints.php>

Salutation: Your Excellency

And copies to:

Minister of Human Rights

His Excellency Mohammad Shayaa al-Sudani

Ministry of Human Rights

Baghdad, Iraq

Email: shakawa@humanrights.gov.iq

minister1@humanrights.gov.iq

Also send copies to diplomatic representatives accredited to your country. Please insert local diplomatic addresses below:

Name Address 1 Address 2 Address 3 Fax Fax number Email Email address Salutation Salutation

Please check with your section office if sending appeals after the above date. This is the second update of UA 259/12. Further information:

<http://www.amnesty.org/en/library/info/MDE14/005/2013/en>

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ADDITIONAL INFORMATION

The Iraqi Ministry of Justice issued a statement on 21 January 2014 confirming that the authorities had executed 26 men on 19 January. Amnesty International has confirmed through independent sources that at least 12 further men were also executed. The organization also learnt that on the same day, the presidency's office ratified around 200 cases of people sentenced to death, paving the way for their executions to be carried out.

The vast majority of death sentences in recent years are believed to have been imposed under the Anti-Terrorism Law, Law 13 of 2005, although full details are not available. The law covers, in vague terms, acts such as provoking, planning, financing, committing or supporting others to commit terrorism. Death sentences are often handed down after grossly unfair trials, where prisoners do not have access to proper legal representation and "confessions" to crimes are frequently extracted through torture or other ill-treatment.

In statements announcing the execution of 23 prisoners in September and 42 in October 2013, the Iraqi Ministry of Justice stated, misleadingly, that all death sentences were reviewed and confirmed by the Court of Cassation before executions took place. However, the Court of Cassation regularly fails to address the admission by trial courts of contested evidence, including withdrawn "confessions" and allegations of coercion and torture, when approving death sentences at the review stage. The generally paper-based procedure fails to give defendants a genuine review. Under international law, the right to have a conviction and sentence reviewed by a higher tribunal - Article 14(5) of the International Covenant on Civil and Political Rights (ICCPR) - requires a full evaluation of evidence and conduct of the first trial. The right to be present during an appeal is even more important in capital cases, where fair trial safeguards must be at least equal to those of ICCPR Article 14 (Safeguard 5 of Economic and Social Council (ECOSOC) resolution 1984/50). Once a death sentence has been confirmed by the Court of Cassation, Article 286 of the Criminal Procedure Code requires that it is sent to the Presidency to decide whether it should be ratified and the offender executed, pardoned or have his sentence commuted.

Amnesty International documented 90 cases of death row inmates in Iraq in March 2013 who had been convicted of terrorism or other crimes on the basis of "confessions" in which they incriminated themselves and which they said had been obtained under torture while they were held incommunicado. See Amnesty International's report *Iraq: A decade of abuse* (<http://www.amnesty.org/en/library/info/MDE14/001/2013/en>) and its video *Iraq's lethal confession culture* (<http://www.youtube.com/watch?v=kCfEnbDKp2I>). At least 14 of these 90 prisoners were executed during 2013.

The UN Assistance Mission for Iraq (UNAMI), the UN High Commissioner for Human Rights and the UN Special Rapporteur on extrajudicial, summary or arbitrary executions have made repeated calls for the establishment of a moratorium on the death penalty in Iraq. The UN High Commissioner for Human Rights stated in reaction to the execution of 21 prisoners on the same day in April 2013: "Executing people in batches like this is obscene. It is like processing animals in a slaughterhouse. The criminal justice system in Iraq is still not functioning adequately, with numerous convictions based on confessions obtained under torture and ill-treatment, a weak judiciary and trial proceedings that fall short of international standards. The application of the death penalty in these circumstances is unconscionable, as any miscarriage of justice as a result of capital punishment cannot be undone."

Name: 'Abdullah 'Azzam Saleh Musfer al-Qahtani, Safa Ahmad 'Abul'aziz 'Abdullah
Gender m/f: m

Further information on UA: 259/12 Index: MDE 14/002/2014 Issue Date: 24 January 2014