

# URGENT ACTION

## YEMENI MAN TO BE EXECUTED WITHIN DAYS

**Muhammad Abdul Karim Muhammad Haza'a is scheduled to be executed on 9 March. His age at the time of his alleged crime remains in dispute.**

**Muhammad Abdul Karim Muhammad Haza'a** is scheduled to be executed on 9 March for the alleged killing of a man that took place in 1999. His execution was halted for a week by the Attorney General pending further investigation into his age. His lawyer has since filed a request with the Attorney General to postpone the execution on the grounds that he was under 18 at the time of the alleged crime and that the killing took place in self-defence. The Attorney General was said to have referred this request to a prosecutor in the south-western city of Ta'izz; however, when the lawyer approached him on 6 March, the prosecutor apparently refused to look at it.

Muhammad Abdul Karim Muhammad Haza'a was initially sentenced in 2000 by the Court of First Instance in Ta'izz to serve a term of imprisonment and to pay financial compensation to the family of the victim. His case then went back and forth between the Appeal Court and the Supreme Court. In December 2005, the Appeal Court sentenced him to seven years' imprisonment in addition to payment of financial compensation. However, it subsequently increased his sentence to the death penalty, considering him to have been over 18 at the time of his alleged crime as it believed the birth certificate he had submitted – indicating he was 17 years old at the time – was forged. In 2008, the Supreme Court approved his death sentence; this was subsequently ratified by the Yemeni President in December 2012.

Yemeni law prohibits the application of the death penalty to offenders under the age of 18 at the time of the crime. In practice, however, some courts in Yemen continue to impose the death penalty on alleged juvenile offenders. In some cases of murder, the immediate blood relatives of a murdered person have the power to seek execution, request *diyya* (financial compensation) or grant a conditional or unconditional pardon.

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

- Urging the Yemeni authorities to halt Muhammad Abdul Karim Muhammad Haza'a's death sentence;
- Calling on them to prevent the imposition of the death penalty regardless of age;
- Calling on the Justice Minister to reactivate the medical examination committee as a first step towards a comprehensive reform of the juvenile justice system, in line with UN Human Rights Council resolution 19/37 (2012);
- Urging the President to stop ratifying death sentences and establish a moratorium on all executions, with a view to completely abolishing the death penalty.

### **PLEASE SEND APPEALS BEFORE 9 MARCH 2013 TO:**

#### President

His Excellency Abd Rabbu Mansour Hadi  
Office of the President  
Sana'a, Republic of Yemen  
Fax: +967 1 274 147 (please keep trying  
)

**Salutation: Your Excellency**

#### 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](mailto:moj@yemen.net.ye)

**Salutation: Your Excellency**

#### **And copies to:**

#### 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**

**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 first update of UA 57/13. Further information:

<http://amnesty.org/en/library/info/MDE31/006/2013/en>

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### ADDITIONAL INFORMATION

Amnesty International has long-standing concerns about the use of the death penalty in Yemen, particularly as death sentences are often passed after proceedings that fall short of fair trial. In 2012, a large number of people were sentenced to death and dozens were executed.

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.

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, the Yemeni President ordered the reinstatement of the medical examination committee. It was not involved in the case of Muhammad Abdul Karim Muhammad Haza'a.

Amnesty International calls 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 Karim Muhammad Haza'a

Gender m/f: m

Further information on UA: 57/13 Index: MDE 31/008/2013 Issue Date: 6 March 2013