

PUBLIC

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UA 306/07 Death penalty/ imminent execution/ legal concern

YEMEN Radfan Razzaz Khaled Hassan (m)

Radfan Razzaz Khaled Hassan was sentenced to death in April 2006 for murder. He may have been a child offender. International law and Yemen law prohibit the execution of those under the age of 18 at the time of their crime. His sentence has been ratified, and he is at risk of execution at any time. President 'Ali 'Abdullah Saleh has the power to commute the sentence to a term of imprisonment.

He was originally sentenced by the Court of First Instance in Ta'iz in July 2004 to six years in prison and the payment of 725,000 Yemeni riyals (US\$ 3,658) as compensation to the family of the victim. During his trial, Radfan Razzaz Khaled informed the court that he was 16 years old at the time of the crime, a factor which seems to have been taken into account by the court when he was sentenced. However, when the prosecution and relatives of the victim appealed against his sentence, the Court of Appeal discounted his claims on the grounds that during his pre-trial interrogation he had reportedly informed the police that he was aged 21, and later had informed the prosecutor that he was 20 years old. The Court of Appeal sentenced him to death.

No medical checks are known to have been carried out by the court to assess the age of Radfan Razzaz Khaled Hassan, in the absence of clear documentary evidence such as a birth certificate. It is common in Yemen for births not to be registered. Yemeni law requires that in case of dispute of the age of the offender, the trial court judges make a determination regarding the prisoner's age with the assistance of a medical expert.

Under Article 31 of the Yemeni Penal Code, it is illegal to execute those under 18 at the time of the crime. Yemen ratified the UN Convention on the Rights of the Child, which expressly prohibits the execution of child offenders, in 1991. In addition, it is also a state party to the International Covenant on Civil and Political Rights, which also forbids the death penalty for children. However, Amnesty International has recorded executions of child offenders in Yemen convicted of murder and sentenced to death despite uncertainty of their age.

Radfan Razzaz Khaled Hassan is held in Ta'iz prison where three prisoners under sentence of death were executed on 6 November. Two of them, Sharaf al-Yusfi and 'Issam Tahla, reportedly survived the first execution attempts but were then returned to prison, suffering from serious injuries, and executed. Sources in Yemen have told Amnesty International that Sharaf al-Yusfi was declared dead after the executioner fired seven bullets at him as he lay face down. His body was then handed to his family to bury. On the way home, however, the family realised that Sharaf al-Yusfi was still alive and rushed him to Ta'iz hospital for treatment. At the hospital, he was seen by a police officer, who found out from the Public Prosecutor's office that he was supposed to have been executed that morning, following which Sharaf al-Yusfi was taken back to the prison and shot dead. 'Issam Tahla was shot three times by the executioner, and declared dead. His body was handed to his family for burial but as they reached the prison gate, they realised that he was alive and informed the prison guard. He was then taken back inside the prison and shot dead.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in Arabic, English or your own language:

- urging the authorities to safeguard Radfan Razzaz Khaled Hassan from execution;

- expressing grave concern that the death sentence imposed on Radfan Razzaz Khaled Hassan was upheld contrary to Article 31 of the Yemeni Penal Code, Article 37 of the Convention on the Rights of the Child and Article 6 (5) of the International Covenant on Civil and Political Rights, which prohibit the use of the death penalty against child offenders;
- expressing concern at reports that Sharaf al-Yusfi and 'Issam Tahla were returned to prison and killed after suffering serious injuries during failed execution attempts;
- calling for the death sentence to be replaced by a penalty consistent with international standards for the administration of juvenile justice;
- urging the President to commute all outstanding death sentences and establish a moratorium on executions, with a view to completely abolishing the death penalty.

APPEALS TO:

President

His Excellency General 'Ali 'Abdullah Saleh
President of the Republic of Yemen
Sana'a
Republic of Yemen

Fax: + 967 127 4147

Salutation: Your Excellency

Attorney General

His Excellency Abdullah al-Ulufi
Office of Attorney General
Sanaa, Republic of Yemen

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Salutation: Your Excellency

Minister of Interior

His Excellency Dr Rashid Muhammad al-Alimi
Ministry of Interior
Sana'a
Republic of Yemen

Fax: + 967 1 332 511

Salutation: Your Excellency

Minister of Human Rights

Her Excellency Houda 'Ali 'Abdullatif al- Baan
Ministry for Human Rights
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Faxes: + 967 1 444 838

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 27 December 2007.