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Iran, Saudi Arabia, Sudan: End Juvenile Death Penalty

(New York) - Only three countries - Iran, Saudi Arabia, and Sudan - are known to have executed an individual since the beginning of 2009 for a crime committed before age 18, Human Rights Watch said today. In advance of the World Day Against the Death Penalty, October 10, Human Rights Watch called on the three countries to immediately end the practice.

The juvenile death penalty is prohibited under international law, and the prohibition is absolute. The Convention on the Rights of the Child, to which all three of the countries are parties, prohibits capital punishment for individuals who were under 18 at the time of the crime.

"Countries around the world have banned this barbaric punishment for children," said Jo Becker, children's rights advocacy director at Human Rights Watch. "Iran, Saudi Arabia, and Sudan should seize the opportunity to end this practice around the world once and for all."

In 2009, Iran executed at least five juvenile offenders, Saudi Arabia executed three, and Sudan one. This year, only one known juvenile execution has been carried out to date - in July by Iran for a crime committed at age 17.

From 2005 through 2008, five countries - Iran, Saudi Arabia, Sudan, Pakistan, and Yemen - were known to have executed juvenile offenders.

"Step by step, we are coming closer to ending all executions of juvenile offenders," Becker said. "To reach this goal, countries with people on death row for crimes committed as children should immediately halt all executions of juvenile offenders and commute their sentences to bring them into line with juvenile justice standards."

According to the Children's Rights Information Network, at least twelve countries still have domestic laws that theoretically authorize the sentence. Countries that still have such laws can contribute to ending the juvenile death penalty by making sure the laws on their books ban the practice, Human Rights Watch said.

In a positive move, Sudan amended its laws in January 2010 to set 18 years as the firm age of majority nationwide. Previously, Sudan's legal system contained ambiguous provisions allowing an individual to reach the age of majority - and thus be liable to the

death penalty - as young as 15. However, the December 2008 Sudanese Supreme Court decision confirming the death sentence for Abdulrahman Zakaria Mohammed, the juvenile offender executed in 2009, was based in part on a conclusion that the prohibition of the death penalty for children did not extend to *hodud* offenses - crimes seen as being "against God." It is not clear whether the new 2010 law would affect the Court's ruling regarding future *hodud* cases.

In Nigeria, over 30 juvenile offenders were on death row as of March, even though Nigeria is not known to have executed a juvenile offender since 1997. Nigeria defines the age of adulthood nationally as 17, and 12 states in northern Nigeria operate under Shari'a laws, some of which define the age of legal responsibility as younger than 17.

The United Arab Emirates (UAE) also held juvenile offenders on death row in 2010, according to local media reports. In April, the UAE Supreme Court upheld death sentences for two Emiratis and one Bangladeshi for a murder committed when each of the defendants was 17. Later in April, two other men, an Emirati and a Bangladeshi, were sentenced to death in Sharjah for a murder committed when each was 17.

Iran

Iran executed at least one juvenile offender in 2010, and five in 2009.

January 21, 2009: Molla Gol Hassan, a 21 year-old Afghan citizen who at age 17 killed a fellow Afghan, Fakhr al'din, in Iran while trying to steal money from him.

May 1, 2009: Delara Darabi, 22, for a murder she allegedly committed at age 17. Darabi had initially confessed, but later retracted her confession, saying she had hoped to protect her boyfriend from execution, because her boyfriend believed that Darabi would not be sentenced to death because she was under 18.

May 20, 2009: Ali Jafari was executed for a crime committed before age 18. The execution was reported by several Farsi news sources, but no further details on the case are available.

October 12, 2009: Behnoud Shojai, 21, hanged for a killing committed in 2005, when he was 17.

December 17, 2009: Mosleh Zamani, 23, who had been arrested at 17 in Sanandaj, Kordestan province, on charges of abducting and raping a woman several years older with whom he was allegedly having a relationship. The appeals court judge affirmed that the sex had in fact been consensual, but still insisted that Zamani be executed to "set an example" to other young Iranians.

July 10, 2010: a person identified as Mohammad was secretly hanged in Marvdasht prison, Shiraz, in connection with the rape and murder of two young boys, Hamed Shiri and Karim Tajik, in 2007, when Mohammad was 17.

More than 100 juvenile offenders remain under sentence of death. The Iranian Judiciary continues to harass, prosecute, and detain human rights lawyers critical of the government's execution of juvenile offenders. Mohammad Olyaeifard is currently serving a one-year prison sentence imposed for speaking out against the execution of his client, Behnoud Shojai, during interviews with international media. Mohammad Mostafaei, a lawyer who represented numerous juvenile offenders on death row, was forced to flee Iran in July.

Under Iranian law, majority is attained at puberty (*bulugh*), as stipulated by its interpretation of Shari'a and as specified in Iran's 1991 Civil Code as 15 lunar years (14 years and 5 months) for boys and 9 lunar years (8 years and 8 months) for girls. Moreover, article 82 of the Iranian Penal Code establishes capital punishment as the penalty for adultery crimes (*hodud*), "regardless of the age or marital status of the

culprit." Further, since *hodud* crimes are seen as crimes against God, the Supreme Leader of Iran has no power to grant pardons in such cases. Punishment is fixed by the Quran and Sunna, and, in principle cannot be altered by any authority.

In cases of murder, Iran implements "*qesas*" punishment, under which the family of the victim holds the sole power to determine whether the accused should be executed. Iranian jurisprudence considers *qesas* a personal right of the victim's family that neither the judge nor any other authority can overrule, regardless of whether the perpetrator is a juvenile. A sentence of execution is also available for the following crimes, among others: adultery, same-sex relations, apostasy, and certain drug-related offenses.

During its Universal Periodic Review before the United Nations Human Rights Council in February, Iran rejected requests from member states to abolish the juvenile death penalty. Despite the absolute ban on execution of individuals charged with crimes that occurred while they were under age 18, government officials continue to insist Iran is in compliance with international law because it does not execute juvenile offenders until after they turn 18.

Saudi Arabia

Saudi Arabia executed at least three juvenile offenders in 2009.

January 15: Mushabbab bin Ali al-Ahmari, in Abha for killing an individual in a fight. Acknowledging that he was a juvenile offender, Saudi Arabia had merely postponed his execution until he turned 18.

May 12: Sultan bin Sulaiman al-Muwallad, a Saudi, and 'Issa bin Muhammad Muhammad, a Chadian, for offenses committed when they were allegedly 17. The two were arrested in 2004 and held at the Medina police station, where they confessed to the abduction and rape of a child, theft, and consumption of alcohol and drugs. They were sentenced by the Medina General Court in February 2008.

Saudi Arabia has neither a codified penal law establishing the acts that constitute criminal offenses nor a published official interpretation of Sharia law, which constitutes the basis for all laws in the kingdom; instead, judges have broad discretion to interpret and apply Sharia precepts in criminal cases.

Saudi courts have imposed the death penalty for a broad variety of offenses, including adultery, apostasy, "corruption on earth," drug trafficking, sabotage, political rebellion, and murder. The court can also impose the death penalty as a discretionary punishment (*ta'zir*) for any other acts it deems to be criminal. Under interpretations of Shari'a law prevailing in Saudi Arabia, murder and manslaughter (involuntary murder) are considered to be primarily offenses against a private right (*qisas*). In these *qisas* cases the deceased's family retains the right to insist on the execution of the offender, accept monetary compensation, or issue a pardon.

On November 24, 2008, the Shura Council, an appointed advisory body with some functions of a parliament, passed a measure to raise the general age of majority from 15 to 18, despite the opposition of the Council's Islamic Affairs, Judiciary, and Human Rights Committee. On October 4, 2010, the Council again debated the age of majority in the context of a draft law on protecting children from violence and neglect. The Saudi Cabinet has passed neither measure into law, and their applicability to capital punishment remains unclear. Trial judges make decisions on whether a defendant is a child based on physical signs of puberty at the time of trial and not at the time of crime. Children have been tried as adults and sentenced to death for crimes committed at age 13.

Sudan

On May 14, 2009, Sudan executed Abdulrahman Zakaria Mohammed in El Fasher, North

Darfur. He was 17 at the time of his trial in May 2007, when he was found guilty of murder and robbery. Gabriela Carina Knaut de Albuquerque e Silva, the UN Special Rapporteur on independence of judges and lawyers, said that the Supreme Court in Khartoum confirmed the death sentence in December 2008 based on two arguments. First, it found that the prohibition of the death penalty for children did not extend to *hოდud* offenses. Second, the Court found that the definition of a child should be drawn from the definition of "adult" provided in the Criminal Act, which was that "adult means any person whose puberty has been established by definite natural features and who has completed 15 years of age, and whoever attains 18 years of age shall be deemed an adult even if the features of puberty do not appear."

A January 2010 amendment to the Child Act, set 18 years as the firm age of majority, thus addressing one of the bases on which the Supreme Court had confirmed the death sentence.

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