

## Death Penalty

**Submitted by:** The Advocates for Human Rights, The World Coalition Against the Death Penalty

### MECHANISM

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**Summary:** Yemen has neither abolished the death penalty, implemented a moratorium on executions, nor has it limited the application of the death penalty to the most serious crimes.

## The use of the death penalty violates international human rights norms.

- Yemeni law imposes the death penalty for a wide range of offenses, including “violating the independence, unity or territorial integrity of the Republic,” undertaking “an act, with the aim of weakening the armed forces,” murder, drug trafficking, adultery, consensual same-sex sexual activity between adults, turning back from or denouncing Islam, and facilitating prostitution.
- Many of the offenses that carry a death sentence do not meet the threshold of “most serious” crimes within the meaning of the ICCPR Article 6(2), which requires an intentional killing.
- There are credible concerns that the reported number of executions for consensual same-sex sexual activity may not reflect the actual number of individuals executed due to secret executions of sexual minorities.
- Although the law prohibits the use of the death penalty on individuals under the age of 18 at the time of the offense, it may be difficult to determine the age of a defendant accused of a death-eligible offense due to a lack of universal birth registration. In 2021, the Government executed at least one individual who was under 18 at the time of the offense.

## Government forces have tortured individuals deprived of their liberty.

- State forces often subject individuals to torture and cruel, inhuman or degrading treatment within official and unofficial detention centers, and often after they have arbitrarily arrested or detained the individuals. They disproportionately target journalists, human rights defenders, migrants, and Baha’i and other religious minorities for arbitrary detention, torture, and other mistreatment.
- Houthi *de facto* authorities have allegedly tortured journalists in detention, holding them in solitary confinement, subjecting them to beatings, and denying them access to medical care.

**Conditions in Yemeni detention facilities do not meet international standards.**

- Civil society organizations have documented human rights violations against women in detention facilities controlled by Houthi forces. They note that reports of rape and other forms of sexual violence in detention facilities have increased.
- There are credible reports that women incarcerated by Houthi forces experience substandard conditions. These forces hold some women in secret detention centers. In addition, there may be detained women who believe they are on death row even though the crimes for which they stand accused have yet to be adjudicated.
- A recently imprisoned woman reported that shortly after Houthi forces detained her, and before any legal proceedings occurred, they took her to a dirty, overcrowded cell in the basement of a school. Interrogators beat and electrocuted her. It is believed Houthi forces arrested the woman because she expressed opposition to *de facto* authorities.

**Recommendations**

- Abolish the death penalty and replace it with a fair and proportionate sentence aligned with international human rights standards and establish an official moratorium on executions.
- Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights.
- Ensure that individuals who were under the age of 18 at the time of the alleged crime are not sentenced to death in accordance with domestic and international law, and immediately commute the death sentences of any person not proven to have been at least 18 years old at the time of the alleged offense.
- Amend the Yemeni penal code to limit the death penalty to the most serious crimes, limited to crimes in which the defendant had the intent to kill, and did in fact kill, to comply with Article 6 of the ICCPR.
- Amend the criminal code to eliminate any provisions authorizing the death penalty for consensual same-sex sexual activity between adults. Commute the sentence of any individuals currently under sentence of death for same-sex sexual activity to a penalty that is fair, proportionate, and consistent with international human rights standards.
- Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- Establish independent review for persons alleged to have been tortured by Yemeni security services.
- Increase police and government accountability measures in an effort to eliminate torture and deaths during security services custody.
- Ensure that all prison authorities adopt gender-sensitive policies in relation to women's detention, ensuring women's safety and security pre-trial, during admission to any detention facility, and while incarcerated.
- Ensure that any woman or girl who has experienced gender-based violence while in detention receives timely, gender-sensitive and trauma-informed medical care, including psychological care.