



YEMEN

AMNESTY INTERNATIONAL SUBMISSION FOR THE UN UNIVERSAL PERIODIC REVIEW

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FOLLOW UP TO THE PREVIOUS REVIEW

In its first UPR in 2009, Yemen accepted 125 recommendations, rejected 14 and gave no clear position on three.¹

Amnesty International regrets that Yemen rejected recommendations to become party to the Optional Protocol to CEDAW,² impose a moratorium on executions, or progressively and significantly reduce the use of the death penalty with a view to abolishing it,³ and ratify the Second Optional Protocol to the ICCPR.⁴ It also regrets that Yemen gave no clear response to ratifying the International Convention for the Protection of All Persons from Enforced Disappearance.⁵

Amnesty International welcomes steps taken by Yemen, especially since 2012, to improve the overall human rights situation of the country by implementing some of the accepted recommendations in the first UPR in 2009, in particular, strengthening co-operation with UN mechanisms,⁶ taking steps to establish an independent national human rights commission,⁷ advancing the role of women in society and decision-making,⁸ and taking concrete steps towards ensuring effective birth registration.⁹

However, Amnesty International regrets that key accepted recommendations have gone unimplemented by the Yemeni authorities. Discrimination and violence against women do not seem to have been addressed in law and practice.¹⁰ Child marriages, especially of young girls, are ongoing and a draft law to impose a minimum age of 17 has not been approved since it was introduced in 2009.¹¹ Juvenile offenders continue to be executed largely because of the lack of birth certificates, judicial training and good practices of determining age.¹² Furthermore, violations and abuses by security forces and armed non-state actors, often committed in the context of armed conflict, have resulted in unlawful killings and injuries, enforced disappearances, arbitrary detention, and mass displacement of civilians.

THE NATIONAL HUMAN RIGHTS FRAMEWORK

Since 2012, Yemen has seen a series of initiatives and draft laws to improve the human rights framework in the country, mainly proposed by the Legal Affairs Ministry and the Ministry of Human Rights. A vast restructuring of the country's security and armed forces is under way which is partly aimed at improving oversight. Currently a national dialogue is providing an opportunity for many Yemenis to debate important national issues, including long-standing concerns related to human rights and the redesign of political institutions, and will pave the way for a new constitution.

However, these initiatives are imperilled by the failure to take action to promote accountability and provide redress for victims of abuses. Two key measures that could have contributed to this are effectively blocked; a draft transitional justice law that would provide some form of reparation to victims of past violations is on hold and a decree to set up a commission of inquiry into violations committed during 2011 has not been implemented. The most serious obstacle to accountability remains Law No. 1 of 2012, on the Granting of Immunity from Legal and Judicial Prosecution, which was passed on 21 January 2012 and provides "complete immunity from legal and judicial prosecution" for former President

Saleh and immunity from criminal prosecution for all those who worked under him during his rule. This law is in breach of Yemen's obligations under international law, including the Convention against Torture, to investigate and prosecute human rights violations.

THE HUMAN RIGHTS SITUATION ON THE GROUND

Excessive use of force during protests

In the south of the country, largely peaceful protests, mainly organized by the Southern Movement (a loose coalition of political groups, many of whom call for the peaceful separation of southern Yemen), have been met with excessive force by the security forces, resulting in the killing and injury of hundreds of protesters since 2007. These practices show no sign of abating, as demonstrations calling for succession are ongoing.

In 2011, when mass protests took place in Sana'a and other cities, security forces responded with brutality. Hundreds of peaceful protesters were killed and thousands injured by security and military forces including the Central Security Forces and the Republican Guard. The exact numbers of those killed or injured is not known.

The authorities have failed to set up thorough, independent and impartial investigations into these events.

Abuses in armed conflict

Armed conflicts that have taken place in Yemen in recent years have seen gross violations of international humanitarian law and human rights law by state and non-state armed groups, and caused the internal displacement of thousands of people, most of whom have yet to return to their homes.

Armed group Ansar al-Shari'a committed gross human rights abuses during its control, from February 2011 until June 2012, of parts of the Abyan and Shabwa governorates. They included summary killings and punishments, including hand amputations and flogging on those they accused of "crimes" or who did not conform with their beliefs. During an offensive launched in April 2012 against Ansar al-Shari'a, government forces carried out indiscriminate and disproportionate attacks resulting in civilian deaths and injuries. US forces used unmanned drones to attack suspected supporters of al-Qa'ida in Abyan province and elsewhere, apparently with the consent of the Yemeni government. Some civilians were reported to have been killed but it was unclear whether they died in US drone strikes or attacks by Yemeni forces, and no investigations were held.

Hundreds, possibly thousands, of civilians were killed during the conflict in the northern Sa'da region in late 2009 and early 2010, which involved heavy aerial bombardment by Yemeni and Saudi Arabian forces. In 2012 reports emerged that the Huthi armed group, after taking control of most of Sa'da in early 2011, had unlawfully killed or forcibly expelled dozens of members of families they perceived to oppose them, as well as destroying and confiscating the property of some of them.

Arbitrary detention, torture, enforced disappearances and extrajudicial executions

Hundreds, possibly thousands, of people suspected of involvement in the anti-government protests in 2011 or ongoing protests in the south or of links with the Huthi armed group or armed Islamist groups have been subjected to arbitrary detention in recent years. While many have been released without charge soon after their arrest, many others have been held for prolonged periods without charge or trial, including weeks or months in incommunicado detention, where they are often subject to torture or other ill-treatment. Some have been convicted and sentenced to prison terms, often after unfair trials in Specialized Criminal Courts and remain imprisoned.

Among those held in relation to the protests in 2011, some were subjected to enforced disappearance. Most had been released in early 2012, but the fate or whereabouts of some individuals remains unknown. Most detainees have been released without charge, many soon after their arrest, but some after long periods of incommunicado detention.

Many were arrested and detained by Political Security and National Security agents, who operate their own detention centres and rarely comply with the legal requirement under Yemeni law to produce a warrant prior to carrying out an

arrest. They also generally ignore other legal safeguards, including the right to challenge the legality of one's detention and the right to contact one's family and have a lawyer present during interrogation. Others were detained by the Central Security Forces, the Criminal Investigation Department and the Republican Guard.

Since 2009 Yemeni armed forces and security forces have killed scores of people suspected of links to al-Qa'ida or other armed groups outside of armed conflict situations, some in circumstances suggesting that no attempt was made to arrest them and that the killings amounted to extrajudicial executions. Security forces also appear to have resorted to summary killings of several Southern Movement activists; Amnesty International documented four such cases in 2009-2010.

Rights of women and girls

Women and girls in Yemen face severe and widespread discrimination in law and practice. Discriminatory provisions in Yemeni law require amendment to ensure conformity with Yemen's international human rights obligations. These include provisions in the Personal Status Law (Law No. 20 of 1992, as amended in 1997 and 1999), which covers matters relating to marriage, divorce, custody of children and inheritance. It contains numerous discriminatory provisions that severely constrain women's lives and facilitate early and forced marriage and other abuses against women and girls. It allows girls to be married under the age of 15 with their guardian's consent as long as the marriage is not consummated before they reach puberty.

The Penal Code also reinforces the very low status that women and girls in Yemen endure. For example, it provides lenient punishments for men who commit "honour killings", the murder of a female relative for perceived "immoral" behaviour, including *zina* – sexual relations outside of marriage. Article 232 provides that a man who murders or injures his wife or her partner having caught them committing adultery should receive a maximum prison sentence of one year or a fine. In most other murder cases, the punishment is death.

Marriage of girls under 18 is common and has included girls as young as eight. Such marriages typically lead to the girl's withdrawal from school and, in some cases, have led to death or injury because of complications during childbirth. Women who assert their right to marry a partner of their choice against the wishes of their families risk physical violence and restrictions on their freedom of movement. In some cases, women and girls, particularly those living in rural areas, are forced into marriage, sometimes through the threat of violence.

The death penalty

The Ministry of Legal Affairs has initiated discussions to reduce the scope of the death penalty. However, the death penalty continues to be applied to a wide range of offences in Yemen, including to offences not involving lethal violence such as drug offences, "communicating" with foreign countries and to "offences" such as consensual same-sex or extramarital sexual relations, which, according to international standards, should not be criminalized.³³

Executions are usually carried out by shooting. Hundreds of people are believed to be under sentence of death in Yemen, including men, women and juvenile offenders, individuals under 18 at the time of their alleged offence. In 2010, according to official sources, at least 62 people were executed and 27 sentenced to death. In 2011, at least 41 people, including one woman, were executed and at least 29 men, including three foreign nationals, were reportedly sentenced to death. In 2012, at least 28 people were executed. The true number is believed to be much higher.

Despite being prohibited by both national and international law, executions of juvenile offenders continue to take place, usually because of disputes over the individual's age at the time of the alleged crime. In some cases this is because the individual lacks a birth certificate. In such disputes, the Yemeni authorities have been relying on biased medical examinations that fall far short of international standards. A medical examination committee is currently being formed by the Ministry of Justice.

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of Yemen to:

National human rights framework

- Repeal Law No. 1 of 2012 and ensure that no person, whether acting in an official capacity or not, is immune from prosecution;
- Agree to the establishment of an international, independent and impartial investigation into human rights violations during the events of 2011;
- Establish an independent, impartial and thorough commission of inquiry, with international experts and assistance to ensure it functions effectively, to investigate human rights violations committed prior to 2011, including extrajudicial executions, enforced disappearances, torture and arbitrary detention;
- Ensure that full reparations are provided to victims and survivors of violations of international human rights and humanitarian law, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition, as defined by international law and standards;
- Put in place procedures to empower any investigative commission to make information available to relevant judicial or law enforcement bodies and thereby enable them to investigate crimes under international law and other grave human rights violations, including extrajudicial executions, enforced disappearances, torture and arbitrary detention, and, where there is sufficient admissible evidence, bring suspected perpetrators to justice in fair trials and without recourse to the death penalty.

Excessive use of force during protests

- Issue orders to all security forces with immediate effect not to use live ammunition against protesters who do not pose a risk to the lives of others;
- Make public, as a matter of urgency, clear instructions on the use of force, including the use of firearms; all law enforcement personnel deployed to police demonstrations should be given rigorous operational training and clear rules of engagement fully consistent with international human rights standards.

Abuses in armed conflict

- Ensure that government forces participating in armed conflict, including the Yemeni army, other security forces and any tribal groups allied to the government, are fully aware of and comply with their obligations under international humanitarian law;
- Ensure prompt, impartial and thorough investigations, in accordance with international standards, of evidence indicating that any state or non-state actors committed violations of international human rights and humanitarian law during recent armed conflicts; in cases where there is sufficient admissible evidence that individuals ordered or carried out war crimes or other crimes under international law ensure they are prosecuted in proceedings that meet international standards on fair trial and without recourse to the death penalty;
- Fully implement the UN Guiding Principles on Internal Displacement and take all other necessary measures to fulfil the rights of internally displaced people in Yemen, by for instance taking appropriate measures to ensure the safe return of people who have been displaced to their homes if they so wish, including rebuilding homes and infrastructure, and providing education, health and other vital services.

Arbitrary detention, torture, enforced disappearances and extrajudicial executions

- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance, making the declarations under Articles 31 and 32 to recognize the competence of the Committee on Enforced Disappearances;
- Amend the provisions of the Code of Criminal Procedures to prevent prolonged detention without criminal charge, currently permitted for a period of up to six months;
- Release immediately and unconditionally anyone held solely for the peaceful exercise of their rights to freedom of conscience, expression, association or assembly;
- End enforced disappearances by immediately disclosing the whereabouts of all those detained, ensuring that

they are officially registered and their families and lawyers notified;

- End torture, other ill-treatment and incommunicado detention and ensure that all detainees currently held by any security force in Yemen are held in officially recognized places of detention, given prompt and regular access to their families, to any necessary medical care and a lawyer of their choosing, and are promptly brought before a competent judge as required by Yemeni law and charged with an internationally recognizable criminal offence, or released.

Rights of women and girls

- Become a party to the Optional Protocol to CEDAW;
- Remove reservations to Article 29(1) of the CEDAW;
- Bring all laws, practices, policies and procedures into full conformity with international human rights law and standards with respect to the full equality of men and women and ensure that the new constitution reinforces this;
- In particular, amend the Personal Status Law and amend or repeal provisions on “immoral” behaviour to ensure that they conform to international standards and do not impact in a discriminatory way on women;
- Protect women and girls from domestic violence, and ensure that violence in the family is fully investigated and those responsible are held to account;
- Ensure that forced marriages are prohibited in all cases; in the case of the marriage of a child under the age of 18, the state must establish that the child gives full, free and informed consent and has sufficient mental capacity to fully comprehend the consequences and obligations of marriage and that they are not forced to withdraw from school.

The death penalty

- Impose an official moratorium on executions with a view to abolition of the death penalty, as called for by UN General Assembly resolution 65/206 (2010);
- Pending abolition, ensure full compliance with all international standards on the use of the death penalty, and enforce the prohibition of the death penalty for juvenile offenders;
- Review all death penalty cases, including those ratified by the President, with the aim of commuting them to prison terms, or providing a new and fair trial without resort to the death penalty;
- In cases where the age of alleged juvenile offenders is in dispute, apply a full range of appropriate criteria consistent with the principle that the best interests of the child shall be a primary consideration as required by the Convention on the Rights of the Child, and in line with UN Human Rights Council resolution 19/37 of 23 March 2012 on Rights of the Child; give the benefit of the doubt in disputed cases so the individual is treated as a juvenile offender.

¹ Report of the Working Group on the Universal Periodic Review (A/HRC/12/13) on 5 June 2009, and Report of the Working Group on Universal Periodic Review, Addendum (A/HRC/12/13/Add.1) on 23 September 2009.

² A/HRC/12/13/Add.1, recommendation 93.1 (Netherlands).

³ A/HRC/12/13, recommendations 94.3 (Sweden, Italy, and Netherlands), 94.4 (United Kingdom), 94.5 (Canada), 94.6 (Mexico), 94.7 (Hungary), 94.8 (Netherlands and Brazil).

⁴ Ibid., recommendation 94.1 (Portugal).

⁵ Ibid., recommendation 93.3 (Argentina).

⁶ Ibid., recommendation 91.24 (Germany).

⁷ Ibid., recommendation 91.9 (Algeria and Jordan).

⁸ Ibid., recommendation 91.34 (Bahrain).

⁹ Ibid., recommendation 91.6 (Norway).

¹⁰ Ibid., recommendations 91.31 (United Kingdom), 91.22 (Canada), 91.45 (Germany), and A/HRC/12/13/Add.1, recommendations 93.10 (Norway), 93.12 (Sweden) and 93.13 (United States).

¹¹ A/HRC/12/13, recommendation 91.96 (Canada), and A/HRC/12/13/Add.1, recommendations 93.6 (Austria) and 93.11 (Netherlands).

¹² A/HRC/12/13, recommendations 91.55 (Canada), 91.56 (Mexico), 91.57 (Hungary), and 91.58 (Denmark).

¹³ See Amnesty International, *Yemen's Dark Side: Discrimination and violence against women and girls* (Index: MDE 31/014/2009), November 2009 (<http://www.amnesty.org/en/library/info/mde31/014/2009>).