



HOUSING AND LAND RIGHTS NETWORK

Habitat International Coalition

Stakeholder submission to the Universal Periodic Review of the Republic of Yemen

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Introduction

Yemen ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) on 9 May 1987. This submission to the UPR process addresses the rights and Yemen's corresponding obligations to respect, protect and fulfill rights enshrined in ICESCR's Article 11, which provides that States Parties recognize "the right of everyone to an adequate standard of living..., including adequate food...and housing, and to the continuous improvement of living conditions."

ICESCR obliges Yemen also to respect, protect and fulfill "the fundamental right of everyone to be free from hunger" and to take measures individually and through international cooperation in order "to improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources."

Yemen is one of the poorest countries in the Middle East/North Africa region (MENA). Yemen is ranked 154th on the Human Development Index (HDI),¹ which places it among medium human development countries. Since reunification in 1990, Yemen's relative position on the HDI index has remained steady, with very slow progress toward attaining the MDG goals. The country has one of the highest population growth rates globally (2.9%), with the population expected to double to around 40 million in 2035.

Poverty was increasing across Yemen, even before the 2011 uprising. However, the estimated 42% poverty rate (2009) is estimated to have risen to 54.5% at the end of 2011. This has been accompanied by an increase in the number of female-headed households.

The Rights to Food and Water

Especially considering Yemen's function as a food-importing country, the State is obliged to take special care "to ensure an equitable distribution of world food supplies in relation to need." In the same light, other State Parties to ICESCR are obliged to ensure that Yemen is able to meet these obligations through their own treaty obligations to respect, protect and fulfill the same rights to adequate livelihood, housing and food extraterritorially.

Experts say Yemen should become self-sufficient in the production of wheat. However, Yemen has imported 3.2 million MT of cereals (mostly wheat in addition to rice and maize) annually since 2007,² with 95% of consumed cereals and 85% of food generally were imported in 2008.³ Commercial wheat imports reached a record high in 2012 at 2.9 million MT; which is 6.5% more than 2011.⁴

The total severely food-insecure households declined from 31%, in 2011, to 27%, in 2012, for the 11 governorates covered by the WFP's Food Security Monitoring System. This slight improvement in food security is attributed to a combination of continued humanitarian assistance, as decrease in food prices in 2012 from 2011, and households' increased use of credit to purchase food. In December 2012, about 45% of Yemeni households purchased food on credit, which represents an increase from 33% at the end of 2011.⁵

The food-security outlook for the first half of 2013 is slightly worse than in 2012, since the factors of food insecurity are expected to persist, aggravated by the impact of poor prospects for local agricultural production. Agricultural output is estimated to be some 8% lower than 2012, and 10% below the last five year average.⁶

Water and sanitation are chronic problems. On average, each Yemeni has access to only 140m³ of water per year for all uses; whereas the Middle East average is about 1,000m³ a person annually. The political instability of the country since 2011 has interrupted efforts to address water poverty. Nonetheless, demand for water is expected to exceed supply by the early 2020s, and Yemen's poverty and geography make impractical the prospects of building desalinization plants.

Among the factor impeding food security and sovereignty in Yemen are the shortage of water and the concentration of some 1/3 of Yemen's agricultural production in growing *qāt*, a mildly narcotic shrub. This is a serious problem in Yemen, where water poverty is endemic and population growth is high. Yet almost 45% of all water in Yemen is used to cultivate a plant that feeds no one.⁷

The Right to Livelihood, Housing and Land Grabbing

The human rights dimensions of land are particularly linked with the human rights to adequate livelihood, including housing⁸ and food⁹ under ICESCR. These related human rights aspects of land are in addition to the human right "to own property property alone as well as in association with others" and the guarantee that "No one shall be arbitrarily deprived of his property."¹⁰

The most significant State-level violations of rights to livelihood for small-producing Yemeni farmers, and the human right to secure and sovereign food access for the country as a whole, is the series of domestic land grabs across Yemen.

Already in 2008, Yemen's parliament investigated illicit acquisitions of public and private lands, especially in the provinces of Hudaida and Aden, by high-ranking government and military officials in the regime of former Yemeni President Ali Abdallah Sālih. The fact-finding committee's 500-page report (2008) revealed how 15 military and political figures used their

coercive power to appropriate much of the lands in five governorates: Aden, Dhala, Ta'iz, Abyan, and Lahj. That report urged then-President Sālih to decide between patronizing his known entourage of 15 loyal land-grabbing accomplices, or instead seek legitimacy with Yemen's 22 million citizens.

A second parliamentary committee, formed in April 2010, addressed 400 encroachments on land in Hudaida Province, favoring 148 long-standing political, economic, religious and tribal leaders. There, armed gangs reportedly deployed to consolidate the theft of 63% of Hudaida's agricultural lands taken from local producers.¹¹

The director of the Lands Authority in the western city of Hudaida was decommissioned days after the publication of formal charges of 46 counts of looting and reselling of land in the Hudaida Province.¹² Another figure implicated in grabbing hundreds of feddans of agricultural land in south Yemen is Maj. Gen. Mohammed Ali Mohsen al-Ahmar, where he also established a mineral water factory on an area of the usurped agricultural lands. At least 63 prominent military and political figures of the former regime have been identified among those responsible for dispossessing lands of southern Yemen since 1994.¹³

In 2012, after Sālih's fall, parts of the 2008 report's details were leaked. The excerpts confirmed the theft of 1,357 houses and 63 government properties in Aden alone. The problem gained such severity in the southern region as to spark a resurgence of the movement to secede from north Yemen.

Land and the Rule of Law

The Yemeni Constitution provides in Article 6 that "The Republic of Yemen confirms its adherence to the UN Charter, the International Declaration of Human Rights, the Charter of the Arab League, and generally recognized norms of international law." Neither the Constitution nor national legislation provide for the human right to housing or land. Article 7 provides for "The protection of, and respect for private property as inviolable, except in the case of public need or interest with fair compensation provided according to the law." The Constitution's Article (8) recognizes "all types of natural resources and energy sources in or above the ground, or in the territorial waters, or continental extensions as the exclusive economic zone and property of the State, which is to ensure their exploitation of the public interest."

The legal framework regulating the land management in Yemen resides in four main legislative acts: Law 21/1995 related to State land and real property, Law 21/1992 on private property, Law 20/1995 regulating urban planning, and Law 14/2002 Civil Code.¹⁴ These laws provide loopholes that enable the State and influential people to appropriate the landed property. They lack sufficient protections to guarantee the property rights for vulnerable and marginalized persons. As a consequence, the State and public officials have been able to violate land and housing rights by confiscations, forced evictions and demolishing homes.

In the period 2008–12, the government announced a program to distribute land and housing to target the youth and low-income sector. However, the result of the regulations were not sufficiently specific to ensure that the subsidized housing and land reached the targeted beneficiaries, thus resulting in corruption and injustice in distribution. Officials intermediated by

functioning as a “wasta” (connection) and themselves acquired housing and lands. In May 2013, the head of the ad-hoc committee in addressing the land issues in the south, declared that 60,000 plots has been distributed twice by official documents in the area in Dar Sa’ad in Aden to al-`Anad in Lahj provinces.¹⁵

Continuing Land Disputes

A weak and inadequate land tenure administration in the State remains a constant factor in conflict that has grave human rights consequences for Yemenis. The most commonly cited initial cause of tribal conflict is dispute over land, with about 58% of recent disputes initially arising over the use of land. Land disputes are also the most frequently cited cause of the conflicts that started in the last five years, but about another 39% of new conflicts are reported to have stemmed from some form of disputes over land and related resources.¹⁶

Habitat International Coalition’s Housing and Land Rights Network (HIC-HLRN) has monitored and recorded housing and land rights violations in its on-line Violations Database (VDB). The following cases illustrate the continuum of housing and land rights violation that has persisted since the uprising and political transformation:

- New reports indicate that Yemeni armed groups have appeared as new actors involved in land grabbing, specifically in the south since May 2012 in pursuit of more land and resources¹⁷;
- In February 2013, the Prime Minister Muhammad Sālih Bāsindwa dismissed out the director of land administration body in al-Hudaida Province on the basis of his involvement in land grabbing and corruption¹⁸;
- Also in February 2013, some military officers, including the commander of the Republican Guard Brigadier General Ahmad `Ali `Abdullah Sālih and 11 other officers, conducted land grabs and destroyed homes of citizens in A’shash and Qurman villages, killing two¹⁹;
- In April 2013, two sheikhs of al-Hūthy tribes, killed themselves in clash armed on ground of land dispute belongs to number of displaced persons from Sa’āda who resisted joining al-Hūthy group²⁰;
- In one day in May 2013, 13 persons are died in clashes over land use in six areas (Zamar, Ta’iz, Sana’a, `Ibb and al-Baydha’).²¹

Land and Transitional Justice

The southern Yemen land confiscations alone reportedly amount to an area equal to all of the State of Bahrain. The Yemeni Parliament’s 2010 report warned that unlawful land acquisition would spawn new unrest in Yemen and threaten social peace for years to come.²²

Two aspects of land management are in need of deep reform in order to remedy and avoid further human rights violations in Yemen. Principally, the lack of a public policy framework with land management strategies have left the three branches of government (legislative, executive and judiciary) ill equipped to mediate disputes, regulate land use equitably, and guarantee the justice in land distribution. Rather, government defers to the tribal structure, instead of upholding the rule of law and citizenship.

In addition, the legal and legislative framework remains insufficient to ensure secure land tenure within the norms of the human rights to property, adequate housing and equitable

access to land with respect, protection and fulfillment of the human rights food and livelihood.

Yemen's transitional justice law enshrines the principle of reparation in Article 7.c, providing for "compensation and reparation for victims of human rights violations that have occurred because of conflict and political conflict as of January 2011 until the issuance of this law, or those that have occurred since 1994, including the restitution of property seized from their respective owners, regardless of whether the perpetrator is an official of the government or member of any armed formations exercising control over the regions, and to compensate the heirs of those who have perished as a result of such violations, including the requirements of education of the children of the victims."

This new law forms a theoretical basis to begin the processes required for reparation of victims and national reconciliation. HIC-HLRN offers following further recommendations for consideration in the Universal Period Review of Yemen:

- Implementation / enforcement of and comprehensive land-registry system. Landownership and land-usage issues are commonly cited as reasons for conflicts and causes of human rights violations.
- Adjudication of past and ongoing conflicts. Although much can be done to reduce the potential for future conflicts, impunity remains a dominant feature of the transition period since 2011. The government, local communities and tribal leadership must systemically investigate and adjudicate this backlog of conflicts with a view to transitional justice options, including prosecution of violators, one-off compensation payments, amnesties, reparations, rehabilitation schemes, and convening courts and special chambers where appropriate.
- International cooperation on the basis of extraterritorial obligations of States to address the need for development and humanitarian interventions that support citizenship participation and local determination;
- A program of safeguards and priority assistance to small-producing farmers, including restitution and rehabilitation of lands with the greatest possible measure of local self-determination, while addressing the deteriorating trends in food security and nutrition.
- As it is likely that both southern and northern governorates will face a deteriorating food security due to the sustained conflicts/insecurity, monitoring of government and international assistance partners should redouble efforts to periodically assess and adjust to the humanitarian needs.

Endnotes

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- ³ IRIN, “YEMEN: Food insecure face double whammy” (2 February 2009), at: <http://www.irinnews.org/report/82687/yemen-food-insecure-face-double-whammy>;
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- ⁶ Ibid.
- ⁷ “Time running out for solution to Yemen's water crisis,” *The Guardian* (27 August 2012), at: <http://www.guardian.co.uk/global-development/2012/aug/27/solution-yemen-water-crisis>.
- ⁸ CESCR, “General Comment No. 4: “The right to housing,” paras. 8(a) and 8(e).
- ⁹ CESCR, General comment No. 12: “The right to adequate food,” paras. 12 and 26.
- ¹⁰ Universal Declaration of Human Rights, Article 17.
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- ¹⁴ Title IV: Property (sections 1154–1391).
- ¹⁵ “Corruption ‘exchange’ lands in southern Yemen,” [فساد صرف الأراضي في جنوب اليمن], *HIC-HLRN News* (13 May 2013), at: <http://www.hic-mena.org/arabic/news.php?id=pW5maQ==#.UcCreTX8KYh>.
- ¹⁶ National Democratic Institute for International Affairs, “Yemen: Tribal Conflict Management Program Research Report” (March 2007), p. 12, at: http://www.hlrn.org/img/documents/NDI_ye_report_eng.pdf.
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