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YEMEN

Empty promises: Government commitments and the state of human rights in Yemen

I. INTRODUCTION

Nearly three years ago an Amnesty International delegation visited Yemen and held talks with the Yemeni government. These talks were wide-ranging, frank and held in a spirit of co-operation. They included ways of addressing human rights violations, such as arbitrary arrest, torture, disappearances and the detention of women prisoners beyond the end of their sentence. The government of Yemen made a number of commitments to protect and promote human rights. Since that time Amnesty International has continued to monitor the human rights situation in Yemen. This report presents both the positive steps the government of Yemen has taken towards fulfilling its commitments of 1996 and the gaps that are yet to be filled. But most importantly it puts on the record evidence that human rights violations, of precisely the type the government pledged to end, are continuing. Arbitrary arrest and detention, including of prisoners of conscience, and torture continue to be reported. "Disappearances" remain uninvestigated. The practice of detaining women beyond the end of their sentence appears to still take place. Other human rights violations also continue. The death penalty is still imposed, often after trials which fail to meet international standards for fair trial. Killings, resulting from the excessive use of force, still take place. In 1996 the government of Yemen clearly expressed its desire to take concrete action on human rights violations. But in 1999 little appears to have changed. This report concludes by making concrete recommendations for action which the government of Yemen should take immediately to close this gap between rhetoric and reality.

II. THE GOVERNMENT'S COMMITMENTS

In particular these commitments focused on addressing arbitrary arrest and detention, torture, some cases of "disappearances" and human rights violations against women. In addition the government undertook to consider the development of a general, pro-active program for the prevention of human rights violations and to inform the organization of any steps it had taken to fulfill any of its commitments.

1. Arbitrary arrests on political grounds

Amnesty International has documented dozens of cases of arbitrary arrest and detention on political grounds in Yemen since 1990. Politicians, religious scholars and journalists are often targeted for arrest. Many are prisoners of conscience. They are routinely detained for days, weeks or even months before being released, usually without charge. Such arrests are carried out by different branches of the security forces, in particular the Political Security (PS), which acts beyond any judicial control or supervision.

During talks in 1996 the authorities acknowledged that the PS should be made accountable to the law and that consideration had been given to creating a public prosecution office to specifically supervise their activities. The then Attorney General agreed as a minimum to issue a circular with immediate effect to all arresting authorities, particularly the PS, to remind them that arrests can be carried out only in full compliance with the requirements contained in the Constitution and the Code of Criminal Procedures (CCP). These requirements include that arrests are prohibited except by judicial warrant or in cases of *flagrante delicto*, that is, in the act of committing a recognizable crime; that suspects must be informed of the reason for arrest; that detainees are guaranteed the right of access to a lawyer and relatives within 24 hours; and that any arrested suspect must be brought before a judge or prosecutor within 24 hours of arrest.¹ It was also agreed that the circular would remind all arresting authorities that violation of these safeguards is a criminal offence punishable by imprisonment, and that offenders will not escape punishment.

In 1998 a visiting Amnesty International delegation asked the new Attorney General about this commitment. He presented the delegates with a document entitled “General Instructions to the Public Prosecution to Apply the Code of Criminal Procedures”. This document, issued in 1998, reminds members of the prosecution to abide by existing regulations concerning, amongst other things, investigation of criminal offences, arrest and detention. As in the past Amnesty International recognises and welcomes the many legal safeguards for the protection of human rights which exist within Yemeni law, many of which are repeated in the document General Instructions to the Public Prosecution to Apply the Code of Criminal Procedures. However, this document has not fulfilled the commitment made by the government in 1996, that such a reminder would be issued to “all arresting authorities”. Most importantly, this was to include one of the agencies responsible for many of the human rights violations documented by Amnesty International, namely the PS. Amnesty International has sought clarification from the government on this issue, however by May 1999 no reply had been received. It would seem that no concrete steps have been taken to bring arbitrary arrest and detention on political grounds to an end. Such practices to continue to this day and examples are detailed below.

2. Torture

¹ For an analysis of the PS’ lack of accountability and of laws governing arrest and detention in Yemen see Amnesty International’s report Yemen: **Ratification without implementation: the state of human rights in Yemen**, March 1997, AI Index: MDE 31/01/97.

Torture and death in circumstances which suggest that torture was a contributory factor continue to be widely reported. In 1996 the government acknowledged that torture took place but stated that this was not a result of deliberate policy. In response to Amnesty International's recommendations to investigate allegations of torture, provide redress for victims and prevent future torture, the then Attorney General made a commitment to establish a torture monitoring unit in his office. Amnesty International welcomed the initiative and recommended that such a unit should play a direct role in investigating all cases of alleged torture and that the unit's investigations should be conducted in accordance with both Yemeni law prohibiting torture and international human rights standards. In particular, investigations should be prompt, be guided by the principles of independence and impartiality, and any findings should immediately be made public. Amnesty International also recommended that the unit should take a preventative role including making itself known to the public and security forces alike, with explicit directives making clear that torture is a crime and offenders will not escape punishment, in accordance with Yemen's obligations under Article 4 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture).² The unit should also conduct regular, as well as unannounced, visits to detention centres to interview detainees about their treatment and it should ensure that detainees are given an independent medical examination upon arrest and regularly during detention.³

The former Attorney General wrote to Amnesty International in response to its publication in 1997 of the report *Yemen: Ratification without implementation: the state of human rights in Yemen*. In this letter, of July 1997, he stated:

“The General Prosecution established an administrative unit in the office of the Attorney General. Its function is to pursue cases of complaints of torture and raise them with the Attorney General for him to pursue legally and follow proceedings personally.”

However, the letter provided no details of the activities of the unit, of any investigation into torture it had carried out, of public information or directives it had issued, or of any visits to detention centres.

² Article 4 of the Convention against Torture states “1. Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture. 2. Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.”

³ For more details on Amnesty International's recommendations for the Attorney General's suggested torture monitoring unit see Amnesty International's report *Yemen: Ratification without implementation: the state of human rights in Yemen*, March 1997, AI Index: MDE 31/01/97.

In 1998, the new Attorney General told Amnesty International delegates that such a unit did not exist. The reason, he explained, was that as Attorney General, he already has the remit to investigate allegations of torture. Amnesty International wrote to the government requesting clarification of the mechanisms in place for investigation of torture in Yemen, but by the end of May no reply had been received. Despite assurances that mechanisms are in place to investigate allegations of torture the reality paints a rather different picture, as the examples detailed below show.

3. “Disappearances”

Hundreds of victims have “disappeared” since the late 1960s in the former Yemen Arab Republic, the former People’s Democratic Republic of Yemen (PDRY) and the current Republic of Yemen. People have “disappeared” following arrest by security forces or militia, particularly during or in the wake of political power struggles. Large-scale “disappearances” occurred during the civil war which broke out in May 1994, and in January 1986 in the former PDRY when a 10-day civil war broke out between different factions of the Yemeni Socialist Party.

In 1996 Amnesty International submitted a detailed memorandum to the government regarding its concerns and including a total of 169 cases of prisoners who had “disappeared” in Yemen since 1970. The then Attorney General undertook to investigate cases of those reported to have “disappeared” since 1994. Of the 169 cases 27 fell into this category. Despite repeated requests for clarification of these cases Amnesty International has to date received no further information.

4. Human rights violations against women

During the 1996 talks the then Attorney General agreed to look into human rights violations against women, and in particular to order the immediate release of any women detained without charge or not charged with a recognizably criminal offence. The then Minister of Foreign Affairs proposed the establishment of an association to provide assistance to women prisoners. Amnesty International has to date received no clarification of any investigation into the detention of women beyond the expiry of their sentence and, when visiting Yemen in 1998, delegates were able to establish that this practice is continuing, unabated.

5. Pro-active human rights program

In 1996 the government of Yemen agreed to consider a pro-active human rights program. Amnesty International suggested that such a program should reflect the directions of the World Conference on Human Rights held in Vienna in 1993 and the UN Conference on Women held in Beijing in 1995.

The Vienna Declaration and Programme of Action (Vienna Declaration) of 1993 recommends, amongst many other things, “that a concerted effort be made to encourage and facilitate the ratification of and accession to international human rights treaties and protocols adopted within the framework of the United Nations.”⁴ Yemen is a state party to most major

⁴ Vienna Declaration and Programme of Action, 1993, section II, Article 4.

human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR), to which it became a state party in 1987, and the Convention against Torture, to which it acceded in 1991. As a state party to the Convention on the Rights of the Child (CRC), Yemen submitted its second periodic report to the Committee on the Rights of the Child in 1998. The government has also co-operated with the United Nations Working Group on Enforced or Involuntary Disappearances (WGEID).⁵

Importantly, the Vienna Declaration also urges governments “to incorporate standards as contained in international human rights instruments in domestic legislation and to strengthen national structures, institutions and organs of society which play a role in promoting and safeguarding human rights.”⁶

In addition to such safeguards as already exist in Yemeni law the government announced plans to implement a series of reforms concerning the legal and the judicial system. A program of reform, including plans to enhance the independence of the judiciary and to implement training initiatives for judges, was endorsed by the Council of Ministers in 1997. The composition of the judiciary was substantially changed in 1998, including a reduction in the number of Supreme Court judges. A new law has been drafted governing the legal profession. Amnesty International has called on the government to ensure that the existing legal safeguards against human rights violations are both maintained and built upon as a result of this ongoing legal review.

The government has also taken steps, though somewhat limited, with regard to the establishment of national institutions working in the area of human rights. In 1998 the government of Yemen established the Supreme National Committee for Human Rights. The government also established the Non-Governmental Organizations and Human Rights Committee. The mandate of the first committee includes liaising between human rights organizations and the government and monitoring the government’s progress in implementing its human rights obligations under international law. The committee is headed by the Minister of Foreign Affairs. It also comprises the director of the Office of the President, the Ministers of Legal and Parliamentary Affairs, Social Security and Social Affairs, Justice, and Interior, the Attorney General, the director of the central headquarters of Political Security and the president of the Council for Judicial Investigation. The Non-Governmental Organizations and Human Rights Committee comprises journalists, academics and other professionals and acts as part of the President ‘Ali ‘Abdullah Saleh’s Consultative Council. The committee is known to have carried out its own investigations into human rights violations but the documents it produces cannot be published. They can only be submitted to the President for consideration.

⁵ See section III, part 3 below.

⁶ Vienna Declaration, section II, Article 83.

The composition of the Supreme National Committee for Human Rights and the role of the Non-Governmental Organizations and Human Rights Committee mean that neither institution complies with the Principles relating to the status and functioning of national institutions for protection and promotion of human rights, adopted by the UN General Assembly in resolution 48/134 of 1993 (the Paris Principles).⁷ Other steps which the government has taken in this regard include some human rights awareness-raising measures. Activities undertaken by the government include, for example, the publication of stamps and works of art specifically designed to mark the 50th anniversary of the Universal Declaration of Human Rights (UDHR). Although the government had agreed to inform Amnesty International of any steps it had taken to fulfill any of the commitments made in 1996, the organization has received no other information on a pro-active human rights program, and specifically what steps may be envisaged to ensure that legal safeguards are implemented.

III. AMNESTY INTERNATIONAL'S CONTINUING CONCERNS

⁷ The Paris Principles state "The composition of the national institution and the appointment of its members, whether by means of an election or otherwise, shall be established in accordance with a procedure which affords all necessary guarantees to ensure the pluralist representation of the social forces (of civilian society)". The principles go on to say that national institutions should have effective co-operation with or should include the presence of non-governmental organizations, trade unions, concerned social and professional organizations. Of government departments the Principles state "if they are included, these representatives should participate in the deliberations only in an advisory capacity". Concerning the role of national institutions the Principles state that they should be able to "submit to the government, parliament and any other competent body, on an advisory basis either at the request of the authorities concerned or through the exercise of its power to hear a matter without higher referral, opinions, recommendations, proposals and reports". The principles go on to say that such an institution may decide to publicize any of its submissions.

Despite Yemen's ratification of international human rights treaties, the human rights safeguards which are incorporated into its domestic legislation, and measures such as the establishment of national human rights bodies, the truth remains that human rights violations continue. Safeguards concerning arrest, detention and fair trial continue to be routinely violated, in the absence of effective and independent judicial supervision of arrests and detention. Such violations occur in particular when arrest and detention is carried out by the PS. Although torture is illegal and despite Yemen being a state party to the Convention against Torture, torture is practised by the security forces. Since 1994 at least six people are understood to have died in circumstances which suggest that torture was a contributory factor. This is facilitated by the climate of impunity fostered by the continued practice of holding prisoners in prolonged incommunicado detention. Like arbitrary arrest, incommunicado detention occurs, in violation of Yemen's own legal safeguards. "Disappearances" remain uninvestigated. The practice of detaining women prisoners beyond the expiry of their sentence appears to still take place in violation of the Convention on the Elimination of all forms of Discrimination against Women (CEDAW). The practice is also extended to juveniles, in violation of CRC. In addition to those violations on which the government agreed to take steps, other serious violations continue. The death penalty continues to be imposed and carried out, often after trials which fall short of international standards. In practice defendants may be denied access to legal assistance, and defence lawyers are routinely denied access to relevant trial documentation, denying the defendant the right to adequate time and facilities to prepare a defence.⁸ Cases of extrajudicial killings, or at least excessive use of force resulting in death, have been documented as recently as 1998.

1. Prisoners of conscience and arbitrary arrest

Political opponents of the government are often targeted for arrest and detention. They include politicians, religious scholars and journalists. Despite existing safeguards contained in Yemeni law and in the Constitution, many are arrested without judicial warrant and denied access to lawyers. They are routinely detained for days, weeks or even months before being released, usually without charge. Most are prisoners of conscience. Such arrests are carried out by different forces, such as the PS, the Republican Guard and *al-Bahth al-Jina'i* (Criminal Investigations). The PS is only accountable to the Office of the President of the Republic. Suspects arrested by the PS are routinely held in incommunicado detention and are denied the opportunity to challenge the legality of their detention.⁹

⁸ Principle 1 of the United Nations Basic Principles on the Role of Lawyers (Basic Principles) establishes the right to assistance at all stages of criminal proceedings, including interrogations. Principle 21 establishes the right of the accused and their counsel to access to appropriate information, including documents, information and other evidence that might help the accused prepare their case.

⁹ For an analysis of the PS' lack of accountability and of laws governing arrest and detention in Yemen see Amnesty International's report Yemen: **Ratification Without Implementation: the state of human rights in Yemen**, March 1997, AI Index: MDE 31/01/97.

In September 1998, **Dr al-Murtada bin Zayd al-Muhatwari**, imam of the Badr mosque in Sana'a, was arrested, at night, by members of the PS and the Republican Guard. In contravention of the law he was arrested without a warrant, neither was he arrested in *flagrante delicto*. The arrest followed a public speech Dr al-Murtada bin Zayd al-Muhatwari had made in which he was critical of the government. He was apparently detained for nothing more than expressing his opinions. He was released without charge in November 1998.

Some politicians have been repeatedly targeted for arrest. **Muhsin Ahmed al-'Amudi**, a prominent member of the political opposition party *Rabitat Abnaa al-Yaman* (The League of the Sons of Yemen) was reportedly arrested at the end of July 1997 at 3 am by a group of armed men. He was taken to a PS prison where he was questioned in connection with bomb attacks in 'Aden and accused of having links with an opposition group in London. He was held in incommunicado detention for 20 days, denied access to a lawyer or to a doctor, and his family were refused permission to visit him. He was released in early September 1997. However in November 1997 he, and at least three others, were re-arrested, reportedly in connection with a campaign and a demonstration against government policy to administratively divide the province of Hadramout. Arrested in the early hours of the morning, he was taken to a military camp where he was detained for seven days. During this time he was not informed of the reason for his arrest and was denied access to a lawyer. He was then transferred to Manoora prison in al-Mukalla where he was detained for a further 31 days before being released without charge.

Journalists and editors of newspapers, especially opposition newspapers, have also been targeted for arbitrary arrest, often in association with particular articles they have written or published. In March 1999 '**Abd al-Latif Kutbi 'Omar**, editor-in-chief of the weekly opposition newspaper *al-Haq* (the Truth), was reportedly arrested in Sana'a, at night, by armed officers of *al-Bahth al-Jina'i* without a warrant. He was not informed of the reason for his arrest but was reportedly questioned about an article he had published, about alleged plans to establish United States of America military facilities on the Yemeni island of Socotra. 'Abd al-Latif Kutbi 'Omar was released after four days without being informed of any charges against him.

Ali Haitham al-Ghareeb, a lawyer and contributory writer for a number of publications, was arrested, at night, on 3 March 1998. He was arrested by five PS officers, who failed to produce an arrest warrant. Ali Haitham al-Ghareeb was informed that he was being arrested in connection with an article he had written about relations between north and south Yemen. He was taken to the PS prison in 'Aden. The next day he was allegedly brought before a prosecutor, charged with inciting division through his writing and was ordered to spend a further four days in prison. He was taken to the central prison in 'Aden and was released four days later.¹⁰

¹⁰ Judicial proceedings against Ali Haitham al-Ghareeb and against *Al-Ayyam* (the Days) newspaper, in which this article was published, were reportedly ongoing at the time of writing. No further details are available.

2. Torture

Torture and death in circumstances which suggest that torture was a contributory factor continue to be widely reported. Torture is a criminal offence in Yemen, under provisions of both the Constitution and the Penal Code.¹¹ As a state party to the Convention against Torture Yemen has an obligation to take legislative, administrative, judicial or other steps to prevent torture from occurring; to ensure that prompt and impartial investigations take place whenever there are reasonable grounds to believe that an act of torture has been committed; and that victims of torture have “an enforceable right to fair and adequate compensation.”¹² Despite such commitments, torture continues to be practised in Yemen, in detention centres, police stations and prisons throughout the country.

Methods of torture and cruel, inhuman or degrading treatment documented by Amnesty International since the unification of Yemen in 1990 include:

- ◆ Beatings all over the body, including with rifle butts, iron rods, cables and sticks
- ◆ Rape, sexual assault, threat of rape of the victim or his or her relatives in his or her presence
- ◆ Electric shocks applied to the body of the victim
- ◆ “Kentucky Farruj”: suspension from a metal bar inserted between the hands and knees which are tied together
- ◆ Victim being urinated on
- ◆ Victim being walked on while being made to lie naked on slabs of concrete
- ◆ Lengthy solitary confinement, in at least one case for six months
- ◆ Victim being shackled for lengthy periods
- ◆ Burning with cigarettes
- ◆ “*Falaqa*” (beating on the soles of the feet)
- ◆ Victim being doused with cold water
- ◆ Suspension of the victim, sometimes upside down, from the ceiling or window of detention cells while subjected to different forms of torture
- ◆ Whipping and lashing
- ◆ Sleep deprivation and being kept in adverse weather conditions
- ◆ Victim being tied to chair or bound with ropes while being subjected to other forms of torture
- ◆ Forced head shaving and insults
- ◆ Forcing victims to repeatedly crouch and stand, causing severe leg pain

¹¹ For more details on the Yemeni laws on torture see Amnesty International’s report Yemen: **Ratification without implementation: the state of human rights in Yemen**, March 1997, AI Index: MDE 31/01/97.

¹² See Convention against Torture, articles 2, 12 and 14.

Torture frequently takes place while victims are being held in prolonged incommunicado detention. Denying detainees access to lawyers, doctors and family members facilitates torture and contributes to the atmosphere of impunity. Investigation of allegations of torture is more difficult where victims have been held in prolonged incommunicado detention. In cases where a person has been denied the right to visits from lawyers, family and doctors it is unlikely that there will be any independent witnesses to the physical effects of torture. The UN Special Rapporteur on torture called for a worldwide ban on incommunicado detention in 1995. He stated, "Torture is most frequently practised during incommunicado detention. Incommunicado detention should be made illegal and persons held incommunicado should be released without delay. Legal provisions should ensure that detainees be given access to legal counsel within 24 hours of detention." Incommunicado detention is prohibited by the Constitution and the CCP. According to Articles 73 and 77 of the CCP, a suspect is entitled to inform anyone they wish of their detention and to seek the assistance of a lawyer. Article 76 of the CCP and Article 47(c) of the Constitution require that any arrested suspect must be brought before a judge or the prosecutor within 24 hours of arrest. Article 47(b) of the Constitution states that a detainee may choose not to answer interrogators' questions without the presence of a lawyer. It states "The person whose freedom is restricted has the right not to answer any questions in the absence of his lawyer."

In January 1999 the Committee on the Rights of the Child considered the second periodic report of Yemen. In its concluding observations the Committee expressed concern at "the use of physical punishment, including flogging, and torture in detention centres".

(i) Investigation

In some cases victims have allegedly been tortured in order to force them to "confess" to offences. Such allegations are usually only investigated if the case against the defendant is brought to court. In such circumstances requests from the defence to investigate allegations of torture may sometimes be granted by the presiding judge, in order to allow the judge to decide whether to admit evidence, such as confessions, alleged to have been obtained under torture. However, such investigations fall far short of the government's international obligations under the Convention against Torture. Investigations ordered by a judge in the context of court proceedings usually consist only of a medical examination of the defendant. They do not include questioning of witnesses to the alleged torture or questioning of those alleged to have committed the torture. Some methods of torture, such as electric shock torture, forced repeated exercise and sleep deprivation leave few, if any, physical signs, rendering a medical examination insufficient to establish the credibility of the claims of torture. In addition, such investigations fail to meet the requirement that they be carried out "promptly" as by the time the case has reached court many months may have elapsed since the alleged torture took place, and since visible signs of some methods of torture would have healed. The result is that judges may decide that confessions alleged to have been obtained as a result of torture are admissible as evidence, without a thorough investigation into the allegations having been carried out.

If the victim is not charged with an offence and therefore not brought to court Amnesty International knows of no effective mechanism to which he or she can complain, and have the complaint independently and impartially investigated. Amnesty International is aware of one case where the relatives of a victim of torture, who died in custody in 1994, and their lawyer initiated a court case about his death.¹³ However it is not aware of any perpetrators of torture who have successfully been brought to justice and punished. Similarly it knows of no effective mechanism from which victims of torture can claim redress.

Even deaths in custody where there is strong evidence to suggest that torture was a contributory factor can go uninvestigated. The government is failing to meet its obligations under the Convention against Torture to ensure that allegations of torture are promptly and impartially investigated.

(ii) Cases of torture

One victim, arrested in September 1997 in connection with bomb explosions, described his experience to the Sira Court of First Instance in 'Aden, in March 1998. During cross examination **Ahmed Sa'id Bazara'a**, a communications engineer, was asked why he had given contradictory confessions at different stages of his interrogation. He replied:

“All the statements I made are untrue and I had no idea who represented Criminal Investigations and who represented the Prosecution.”

When asked what had led him to confess to such serious crimes he answered by describing the various kinds of torture to which he had been subjected:

¹³ See Amnesty International's report Yemen: **Ratification Without Implementation: the state of human rights in Yemen**, March 1997, AI Index: MDE 31/01/97.

“At first I was suspended from my feet, which they beat violently with various types of sticks and hoses...Then they used what they called “exercise nine”, which is to have us stand up and sit down repeatedly. My legs were so swollen I couldn’t recognize them. They made me do this five to seven hours a day, blindfolded.”¹⁴

The judge presiding over this case ordered that Ahmed Sa’id Bazara’a and some of his co-defendants, who also alleged that they had been tortured, be seen by a doctor in order to look into the matter. This examination took place approximately five months after the alleged torture had taken place. The conclusion of the doctors, presented to the court, was that they found no evidence to corroborate the allegations of torture. The confessions, which Ahmed Sa’id Bazara’a and others claimed were obtained as a result of torture, were consequently admitted as evidence against them. In October 1998 Ahmed Sa’id Bazara’a was sentenced to two and a half years’ imprisonment for his alleged part in causing explosions in ‘Aden. No thorough and independent investigation into his allegations of torture is known to have taken place.¹⁵

Another victim described to Amnesty International delegates how he was arrested in November 1997 by army officers. He was handcuffed and taken to a military compound in the town of al-Mukalla. On arrival he was placed in leg shackles and then locked inside a steel freight container. Being made of steel, his “cell” was extremely hot during the day and then cold at night. He was detained in this manner until his release nearly a month later. He did not have access to a lawyer, doctor or his family. Although his handcuffs were sometimes removed to allow him to pray, the leg shackles, which left the victim scarred, were not. Throughout his detention the victim was questioned once in relation to his political activities. He was not charged with a recognizably criminal offence. Amnesty International considers such a method of detention to constitute cruel, inhuman or degrading treatment in clear violation of Yemen’s obligations under the Convention against Torture.

Another victim alleged that he and others arrested with him were repeatedly tortured after being arrested in August 1997 in connection with bomb explosions in ‘Aden. The victim was arrested in the village of Hard, near the border with Saudi Arabia. He, and the others arrested with him, were taken to the PS prison in ‘Aden, via several other prisons. The victim and several others were allegedly denied access to lawyers, doctors and their family during the period of their interrogation. The victim describes how he was tortured in the PS prison in ‘Aden:

¹⁴ Verbatim court proceedings were published by *Al-Ayyam* newspaper. This testimony was published on 18 March 1998.

¹⁵ Ahmed Sa’id Bazara’a and others sentenced in this case were reportedly released in March 1999 under a presidential amnesty.

“They tied my hands with rope or [sometimes] cloth. My knees were placed between my hands and poles inserted behind my knees and over my hands. This method is known here as “handul”. Then two soldiers pushed me from every side. Then they placed the ends of the pole on two chairs which resulted in my head going down backwards, then they beat me with a stick on my bare feet. This was done during questioning – to push me to confess.”

The victim was eventually released without charge more than six months later, in March 1998. No steps are known to have been taken to investigate these allegations of torture.

Perhaps the most striking example of the government’s failure to live up to its commitment to investigate allegations of torture is the case of **Wadi’ Hilal al-Sheibani**, who died in custody in late 1997. Like the victim above, Wadi’ Hilal al-Sheibani was arrested in the village of Hard, near the Saudi Arabian border in August 1997 by PS officers, reportedly in connection with the same bombings in ‘Aden. He was taken, via several other places of detention, to Solaban military prison in ‘Aden, where he was denied access to his family or to a lawyer, for the full period of his detention, from August until his death at the end of September. During this time he was allegedly subjected to beatings, suspended upside down, beaten and given electric shocks.

According to an official medical report dated 1 October 1997 Wadi’ Hilal al-Sheibani died of head injuries. The family was informed of his death and was told by officials that he had committed suicide. For more than a year the family refused to collect and bury the body of Wadi’ Hilal al-Sheibani, demanding that an investigation into his death be carried out. Members of the family met with the Attorney General to request detailed information about the circumstances surrounding Wadi Hilal al-Sheibani’s death; however none was forthcoming.

When Amnesty International delegates raised this case with the Attorney General in 1998, they were told that Wadi’ Hilal al-Sheibani had committed suicide in prison. No details of how this conclusion had been reached nor of an impartial and independent investigation into the death were presented to the delegates. The government had offered the family financial assistance, but had emphasized that this was not compensation. Amnesty International also wrote to the government on more than one occasion requesting an investigation into the death and that the findings of such an investigation should be made public. Despite strong evidence that Wadi’ Hilal al-Sheibani died as a result of torture and despite the Attorney General’s assertion that he has the remit to investigate allegations of torture, no action appears to have been taken on this case.

3. “Disappearances”: failure to investigate

Hundreds of victims have “disappeared” since the late 1960s in the former Yemen Arab Republic (YAR), the former People’s Democratic Republic of Yemen and the current Republic of Yemen. People have “disappeared” following arrest by security forces or militia, particularly during or in the wake of political power struggles. The most recent large-scale “disappearances” were during the civil war which broke out in May 1994 following disagreement over power-sharing between leaders of the former YAR and those of the PDRY. Hundreds of people “disappeared” following arrest by military personnel, the PS or militia groups. Most of them re-appeared when the war ended in July 1994. However dozens are believed to remain unaccounted for.

Article 3 of the Declaration on the Protection of All Persons from Enforced Disappearance requires Yemen to take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced “disappearance”. The Declaration also requires the Yemen authorities to thoroughly and impartially investigate all allegations of “disappearance”. The government has acted contrary to the provisions of the Declaration by failing to investigate cases of “disappearances”.

Farazdaq Fu’ad Qaied, for example, “disappeared” shortly after being arrested on 5 May 1994 in Kharaz area, near Lahj Province.¹⁶ Shortly after his arrest his mother was able to locate him and visited him in prison in Sana’a in July 1994. However, when she returned to visit him again a few weeks later she was told that her son was not held there. In 1996, when the government undertook to investigate such cases, Amnesty International provided the then Attorney General with the home address of the victim’s mother in order to facilitate his contact with her to seek further information and to keep her informed of the progress of his investigation and the findings. When Amnesty International delegates visited the mother of Farazdaq Fu'ad Qaied at her home in ‘Aden in 1998, more than two years after the former Attorney General’s commitment to investigate such cases of “disappearances”, they asked if she had been contacted by the Attorney General concerning the “disappearance” of her son. She had not.

Amnesty International was encouraged however, to learn, in 1998, that the government of Yemen had agreed to co-operate with WGEID. The Working Group visited Yemen in August 1998, holding talks with a number of government officials, as well as with representatives of local human rights organizations, non-governmental organizations and relatives of some of the “disappeared”. On the basis of this visit the Working Group recommended that the government of Yemen acknowledge those “disappearances” which had taken place in 1986, establish a data-base to clarify outstanding cases, pay relatives of the “disappeared” compensation and take steps to ensure that “disappearances” do not occur in the future.

¹⁶ For details of the case of Farazdaq Fu’ad Qaied see Amnesty International’s report **Yemen: Ratification without implementation: the state of human rights in Yemen**, March 1997, AI Index: MDE 31/01/97.

Whilst welcoming such cooperation and any steps the government may take to implement the recommendations made by the Working Group, Amnesty International regrets that the government appears to have taken no action on its commitment of 1996. Amnesty International has repeatedly asked the government of Yemen for details of the steps it has taken to fulfill its commitment to investigate cases of disappearance in 1994. However no such details have been received. Amnesty International also regrets that no steps appear to have been taken to investigate other cases of “disappearance”. The failure of the government to undertake a thorough investigation of “disappearances”, to bring the perpetrators to justice and to compensate victims and families amounts to a continuing violation of its obligations under the ICCPR and the Convention against Torture.

4. Women detained beyond the end of their sentence

Although all citizens of Yemen are guaranteed equality by the Constitution human rights violations are perpetrated against women, as a result of their gender. Such discriminatory practices are in contravention of CEDAW and other international treaties such as the ICCPR. Women also occasionally fall victim to the violations mentioned elsewhere in this report, however some violations are based on sexual discrimination sustained by customs and formal legal rules.

The practice of indefinite detention of women prisoners until a male guardian will collect them is a particular example of a human rights violation based on gender. This practice indicates that Yemen is failing to fulfill its primary obligation under CEDAW, namely the elimination of discrimination against women. Furthermore, the government is failing to accord these women prisoners the right to equality before the law as guaranteed in Article 15 of CEDAW. The indefinite detention of women prisoners also violates Article 9 of the ICCPR which prohibits arbitrary detention. Indefinite detention occurs in cases of “moral” offences such as *zina* (adultery or fornication)¹⁷ and *khilwa*, defined in the draft penal code in force in the former YAR as an unjustified meeting between an adult male and an adult female who are not close relatives. The new Yemeni penal code does not proscribe *khilwa* as a crime. However, when Amnesty International delegates visited a prison in the town of Ta’iz, in 1998, they were able to conduct interviews with a number of women who appeared to have been detained on suspicion of *khilwa*. Other women in the prison were being detained beyond the expiry of their sentence.

One 16-year old woman in Ta’iz prison was charged with *zina* and was reportedly sentenced to flogging by Maqina Court in Ta’iz. The court also ordered that she should then be released. However, when interviewed by Amnesty International she had allegedly been detained in prison for one year. A 19-year old woman was charged with *zina* and sentenced to three years’ imprisonment by Sabr court in Ta’iz, despite the fact that the

¹⁷ The word *zina* is often used to refer only to adultery. However in the Yemeni Penal Code it refers to both adultery and fornication.

maximum sentence for *zina*, if the person is unmarried, is one year. However, when interviewed in 1998 she had allegedly been in prison for three and a half years. In another case a 17-year old alleged that she had been in prison, having been arrested in connection with *zina*, for three years but had not yet been sentenced. Yet another woman was allegedly detained in Ta'iz prison since her arrest in July 1998, after being found sleeping in another man's house. She had previously left her husband in Ibb after he beat her. It is not clear what recognizably criminal offence she has been arrested for. The woman had also allegedly had no access to legal assistance.

Amnesty International submitted details of these and other cases to the Attorney General, asking that their cases be investigated and that any of them found to be held for reasons of gender without having been charged with or tried for a recognizably criminal offence, or who are being held beyond the end of their sentence should be freed immediately. No clarification of the cases nor details of actions taken by the government had been received by May 1999.

5. Death penalty and executions

Amnesty International's concerns extend beyond those human rights violations on which the government committed itself to take action. Amongst the organization's other concerns, which it views as equally pressing, is the use of the death penalty. Amnesty International is unconditionally opposed to the death penalty throughout the world.

Amnesty International has long-standing concerns about the use of the death penalty in Yemen. These concerns are focused on the large number of offences punishable by death, by the use of the death penalty after trials which have fallen short of international standards for fair trial, by the large number of executions which are carried out and by the large number of people believed to be facing the death penalty.

(i) Scope of the death penalty

Amnesty International has in the past expressed its concerns on the use of the death penalty in Yemen both directly to the government of Yemen and publicly. In particular the organization has focused on the inconsistency of the death penalty with international standards which guarantee the right to life, such as Article 3 of the UDHR and Article 6 of the ICCPR. Amnesty International has also expressed its concern at the large number of offences punishable by death and at the fact that many of them are vaguely worded and could easily be misused to convict people for carrying out activities which amount to no more than the peaceful expression of conscientiously held beliefs.¹⁸

¹⁸ For a detailed analysis of the scope of the death penalty and Amnesty International's comments to the government please see Amnesty International's report Yemen: **Ratification Without Implementation: the state of human rights in Yemen**, March 1997, AI Index: MDE 31/01/97.

Contrary to Yemen's obligations under international law the government recently expanded the scope of the death penalty to include the crime of kidnapping. A presidential decree issued in August 1998 said that the death penalty will apply to "any person who heads a group which engages in kidnapping (or) theft of public or private property by use of force." The UN General Assembly adopted a resolution in 1971 which stated, "the main objective to be pursued is that of progressively restricting the number of offences for which capital punishment may be imposed, with a view to the desirability of abolishing this punishment in all countries". This resolution was reaffirmed by the General Assembly in 1977. Article 6 of the ICCPR requires that the death penalty may only be imposed for the most serious of crimes. In its General Comment on Article 6 the Human Rights Committee has stated that states are obliged to limit the use of the death penalty for other than the "most serious crimes". Expanding the scope of the death penalty therefore contravenes Article 6 of the ICCPR and is contrary to current international opinion as expressed in the recent resolution of the Commission on Human Rights, passed in April 1999. Resolution 1999/61, Question of the death penalty, urges states that maintain the death penalty to "comply fully with their obligations under the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child, notably not to impose the death penalty for any but the most serious of crimes and only pursuant to a final judgement rendered by an independent and impartial competent court...To ensure that the notion of "most serious crimes" does not go beyond intentional crimes with lethal or extremely grave consequences". The resolution also calls upon all states that still maintain the death penalty "Progressively to restrict the number of offences for which the death penalty may be imposed". This stand on the use of the death penalty was also made clear in 1984 when the Economic and Social Council (ECOSOC) passed resolution 1984/50, Safeguards guaranteeing protection of the rights of those facing the death penalty. This too states that capital punishment may only be imposed for the most serious of crimes. Amnesty International expressed its concern about the expansion of the scope of the death penalty to the government of Yemen, however the organization did not receive any reply.

(ii) Executions and use of the death penalty after unfair trials

Amnesty International recorded 17 executions in Yemen during 1998. In the first three months of 1999 at least 11 executions were carried out. The organization's concerns about the use of the death penalty are heightened by examples of speedy and summary executions after trials which fall far short of international standards. Such speedy executions appear to be carried out in cases where there is strong public pressure to execute the alleged perpetrator of a particular crime.

For example **Faisal Saleh bin Zuba'a** was executed on 14 October 1998. He had reportedly been tried and found guilty of the murder of Mohammed Hayel, a popular local doctor, who was killed on 12 October. Precise details of the trial proceedings are not available, however it is clear that Faisal Saleh bin Zuba'a could not have been tried in

accordance with international standards in just two days. He, or his lawyer, could not have had adequate opportunity to prepare a defence nor an appeal.

Amnesty International has also documented the case of **Muhammad Ahmad Mislah al-Nadhiri**, a building contractor who was executed on 5 April 1997. He was sentenced to death on 31 March, after allegedly carrying out indiscriminate shootings the previous day in two schools in Sana'a, killing at least four pupils and a teacher. His sentence was reportedly upheld on 2 April by the Court of Appeal and on 3 April by the Supreme Court. The death sentence was ratified by President 'Ali 'Abdullah Saleh on 4 April. As in the case of Faisal Saleh bin Zuba'a, the speed of legal proceedings clearly indicate that Muhammad Ahmad Mislah al-Nadhiri could not have been tried in accordance with international standards for fair trial. Amnesty International is also concerned that reports that Muhammad Ahmad Mislah al-Nadhiri was suffering from mental illness at the time of the shootings could not have been thoroughly investigated in this time frame. Under Article 33(1) of the Yemeni Penal Code there is no criminal responsibility if the offender suffers from permanent or temporary insanity or a mental disability.

In another case **Jalal 'Abdullah al-Rada'i** and **'Abdullah 'Ali al-Rada'i** were executed at the end of 1997 after being sentenced to death on charges of highway robbery and murder. They were sentenced by the Court of First Instance in al-Mukalla, reportedly without any legal assistance, in disregard to international standards for fair trial. In response to questions from the press, the president of the court reportedly said, "I have speeded up the proceedings in the light of the evidence brought before me which I discussed with the judicial council. I have followed all the legal procedures required, given the defendants ample opportunity to defend themselves, and heard their statements. As for appointing a lawyer to represent them, the court is under no legal obligation to do so. The court has deemed the defendants' request [to have a lawyer appointed by the court] to be an attempt to delay the proceedings and a waste of time".¹⁹ In contradiction to the judge's assertion here, Article 73 of the CCP states that all detainees have the right to seek the assistance of a lawyer.

The above are examples of the many ways in which capital trials in Yemen fall short of international standards such as the ICCPR and the Safeguards guaranteeing protection of the rights of those facing the death penalty.²⁰ Article 14(3) of the ICCPR states, "In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:...To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing...to be informed, if he does not have legal assistance, of this right; and to have

¹⁹See, for example, *Al-Ayyam* newspaper, 13 August 1997.

²⁰ ECOSOC Resolution 1984/50

legal assistance assigned to him”. Article 4 of the Safeguards clearly stipulates, “Capital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts.” Paragraph 3 of the Safeguards prohibits execution of persons who have become insane, a standard which may well have been applicable in the case of Muhammad Ahmad Mislal al-Nadhiri above.

In 1993 the UN Special Rapporteur on extrajudicial, summary or arbitrary executions said that trials of people facing the death penalty “should conform to the highest standards of independence, competence, objectivity and impartiality of the judges, and all safeguards and guarantees for a fair trial must be fully respected, in particular as regards the right to defence and the right to appeal and to seek pardon or commutation of the sentence”.²¹ Amnesty International is concerned that, in the cases of executions detailed above, and the ongoing trials of people on death row detailed below, the government of Yemen is failing to meet its obligations under international law. The execution of a person after an unfair trial amounts to an arbitrary deprivation of the right to life, in violation of Article 6 of the ICCPR.

(iii) Death row

The number of people currently under sentence of death in Yemen is not known. However, when Amnesty International delegates met government officials in Ta’iz in 1998 they were informed that there were 79 individuals, in Ta’iz prison alone, whose death sentences have been upheld on appeal and whose cases are now before the Supreme Court, the final stage of appeal before ratification of the sentence by the President. In some cases trial irregularities indicate that the defendant has not yet received a fair trial in accordance with international standards. Amnesty International urges the government to ensure that such irregularities are addressed without fail in the Supreme Court.

Fu’ad al-Shahari is among those sentenced to death. He was found guilty of premeditated murder and was sentenced to death by the Court of First Instance in Ta’iz in November 1996. His sentence was upheld by the Court of Appeal in November 1997. The case is now pending before the Supreme Court. Fu’ad al-Shahari was found guilty of premeditated murder despite the circumstances which surrounded the killing. The killing reportedly took place in May 1996 in the town of Ta’iz while armed men were attempting to arrest Fu’ad al-Shahari without a warrant. Fu’ad al-Shahari had reportedly been stopped in his car by Captain Mohammed al-‘Ameri of the PS. He was then surrounded by armed men. A gun battle ensued, the precise details of which remain unclear. However, it is known that a number of shots were fired, including at least one by Fu’ad al-Shahari, and that Captain Mohammed al-‘Ameri was killed. After his arrest Fu’ad al-Shahari was reportedly held in incommunicado detention for one month, during which

²¹ UN Doc. E/CN.4/1993/46, para. 680

he was reportedly beaten in order to force him to confess. The existence of four different versions of his confession and of contradictory forensic evidence appears to have not been taken fully into account by the court. At the Court of Appeal it appears that Fu'ad al-Shahari did not have a lawyer and, in presenting his own appeal, was not permitted to cross examine at least some of the witnesses.

Hamoud Murshid Hassan Ahmed is also sentenced to be executed for murder. Hamoud Murshid Hassan Ahmed, born in 1962, was a captain in the Yemeni army. He was arrested on 17 July 1994, reportedly without a warrant, in connection with the murder of the arresting officer's brother. The murder had taken place in 1982 in the context of political struggles ongoing in the country at that time. In August 1994 the Ministry of Defence ordered that Hamoud Murshid Hassan Ahmed be released under a general amnesty, which covered those detained for alleged murders during the political struggles of 1982. However he was not released and in June 1995 was found guilty, on a separate charge of murder, which also took place in 1982 amidst the same political struggles. He was sentenced to death by the Court of First Instance in Ta'iz. The sentence was upheld by the Court of Appeal on 11 May 1998. His case is now before Supreme Court. Hamoud Murshid Hassan Ahmed has been convicted of a different murder from the one concerning which he was originally arrested. In addition trial proceedings show that the date of the alleged murder has not been accurately established and documentary evidence that Hamoud Murshid Hassan Ahmed may have been abroad at the time of the alleged murder appears to have been discounted without having been fully investigated.

In addition to the above two cases Amnesty International is concerned that a number of women appear to be facing charges which may carry the death penalty allegedly without adequate access to legal assistance and information about the proceedings against them. Amnesty International has called on the government to investigate these cases without delay. **Hayat 'Ali 'Abdullah, Naim Ahmed Naji and Samra 'Ubayd Fari** are all detained in Ta'iz prison. They have all been arrested in connection with murder and allegedly none of them has had access to a lawyer. Hayat 'Ali 'Abdullah, when interviewed in 1998, had been in prison for a year and a half without access to a lawyer. Samra 'Abd Fari had been in prison without access to a lawyer for a year. Amnesty International fears that these women may be just a small proportion of the people currently facing capital charges in Yemen who are denied guarantees for fair trial.

6. Possible extrajudicial killing or use of excessive force

Extrajudicial executions, including killings resulting from the deliberate use of excessive lethal force continue to be a serious human rights concern in Yemen. Dozens of people have been killed in such ways since the unification of the country in 1990. Some have been deliberately killed;²² others were shot during protests and demonstrations. Most of

²² For details of such killings please see Amnesty International's report Yemen: **Ratification Without Implementation: the state of human rights in Yemen**, March 1997, AI Index: MDE 31/01/97.

the victims did not appear to present any danger to members of the security forces when they were killed. Their deaths may have been as a result of deliberate use of excessive lethal force. The UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials state that in the dispersal of assemblies police should avoid using force, and, in cases where force is used it must be restricted “to the minimum extent necessary”.²³

In 1998 clashes between security forces and protestors resulted in dozens of killings, of both security forces and demonstrators. Most of the demonstrations were sparked by the government’s withdrawal of subsidies on basic foods and fuels. The government was acting on the advice of the International Bank for Reconstruction and Development (World Bank). The withdrawal of subsidies resulted in price increases of up to 40 per cent. A week of clashes in June 1998, mostly in Sana’a and other parts of northern Yemen, reportedly resulted in about 50 deaths. Other killings took place during demonstrations against other government policies, such as plans to administratively divide the province of Hadramout.

Amongst those killed during demonstrations in 1998 were **Ahmed ‘Omar Barjash**, a driver and father of 11 children, and **Faraj Murjan Ben Hammam**, a teacher with nine children. They were killed in al-Mukalla on 27 April 1998, in circumstances that suggest they were the victims of the use of excessive force or extrajudicial execution. The killings took place during a demonstration against government policies. According to eye witnesses the protestors were few in number and did not present a threat to the security forces. Members of the army, the police and the PS were present. Shots were fired during the march and both Ahmed ‘Omar Barjash and Faraj Murjan Ben Hammam were killed.

Amnesty International expressed its concern about these killings in a letter dated 11 May 1998 to President ‘Ali ‘Abdullah Saleh. The organization called for clarification of the reports of the killings and urged that an investigation into the incident be carried out. Amnesty International further urged that the findings of such investigation should be made public and anyone found responsible for the killings should be brought to justice. Amnesty International notes that the parliamentary Committee for General Freedoms and Human Rights carried out an investigation into the killings and that the committee’s subsequent report recommended that those responsible for the killings should be brought to justice. Amnesty International is not aware of any steps taken by the government to implement these recommendations and has received no response to its inquiries.

IV. CONCLUSION: AMNESTY INTERNATIONAL’S RECOMMENDATIONS

²³ Principles 13 and 14

Amnesty International has identified a consistent pattern of human rights violations in Yemen, continuing over a period of several years. Some violations, such as arbitrary arrest on political grounds and torture, are explicitly banned by Yemeni law. They continue to occur, however, because the perpetrators of such crimes are rarely, if ever, brought to justice. Similarly “disappearances” and extrajudicial killings, or the use of excessive lethal force, remain uninvestigated. No steps have been taken to tackle the practice of detaining women beyond expiry of their sentence. The death penalty remains prescribed by Yemeni law and is often carried out after trials which fail to meet international standards for fair trial. Amnesty International urges the government of Yemen to finally act on its previous commitments and to reconsider its position on other concerns. Amnesty International is calling on the government of Yemen to close the gap between its obligations under international human rights treaties and their actual implementation.

1. Political Arrest and detention

Amnesty International calls on the government to hold all arresting authorities, including the PS, to account. The government must take steps to ensure that its own regulations are adhered to so that no person is arrested and detained solely on the basis of their political, religious or other beliefs, ethnic origin, gender, or other discriminatory basis:–

- (i) Immediate steps must be taken to ensure that arrests and detention are subject to independent and impartial judicial supervision.
- (ii) All arresting authorities must be made aware that arrests can only be carried out in accordance with the existing guarantees of Yemeni law. Such authorities must also be made aware that contravening the guarantees of the Yemeni law is a criminal, and therefore punishable, offence.
- (iii) The government must take steps to ensure that all detainees have immediate access to a lawyer and doctor and the opportunity to challenge the legality of their detention.

2. Torture

The government of Yemen must take immediate steps to ensure that its own prohibition on torture, provided for in the Constitution and the Penal Code is enforced:–

- (i) The government should carry out independent and impartial investigations into all cases of torture and bring to justice anyone found to be responsible. Such inquiries should be carried out in accordance with international human rights standards, including those contained in the Convention against Torture.
- (ii) The government should put in place mechanisms which allow complaints of torture to be lodged and independent investigations to take place promptly. Such measures will contribute towards ending the climate of impunity currently enjoyed whereby many investigations into allegations of torture take place long after visible signs of torture are no longer detectable.
- (iii) All defendants must have regular access to doctors throughout their detention.

3. “Disappearances”

The government of Yemen must take measures which unequivocally condemn the use of “disappearance” as a political tool and make it clear that such practices will be subject to investigation and that anyone found responsible will be brought to justice:–

(i) The government of Yemen should honour its commitment, made to Amnesty International in 1996, to investigate all cases of “disappearance” since 1994.

(ii) Amnesty International again calls on the government to fulfill its international obligations under the UN Declaration on the Protection of All Persons from Enforced Disappearance²⁴ by investigating all cases of “disappearance” in the former Yemen Arab Republic, the former People’s Democratic Republic of Yemen and the current Republic of Yemen.

(iii) The government should take all the necessary measures to act on all the recommendations of WGEID, including the recommendations to establish a database of “disappeared” persons and to settle all remaining claims to compensation made by families of the “disappeared”; to take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced “disappearance” in any territory under its jurisdiction; to make all acts of enforced “disappearance” offences under criminal law; to ensure that persons deprived of their liberty shall only be held in officially recognised places of detention; to ensure that nobody is held in incommunicado detention; and to ensure that anyone deprived of their liberty is brought before a judicial authority promptly after detention.

4. Human rights violations against women

As in the past Amnesty International urges the government to take effective measures to end the practice of detaining women beyond expiry of their sentence and other discriminatory practices:–

(i) The government should ensure that cases of women allegedly detained beyond their sentence or detained without charge or sentence are investigated. Any women found to be held by reason of their gender should be immediately released.

(ii) The government should remind all authorities concerned with detention that detaining a women beyond the expiry of her sentence, or if she is not charged with a recognizably criminal offence, is itself a criminal and therefore a punishable offence.

5. Death penalty and executions

Amnesty International is opposed to the death penalty in all cases, as the ultimate violation of the right to life, guaranteed by Article 3 of the UDHR and Article 6 of the ICCPR. The organization urges the government of Yemen to reconsider its position on the death penalty and to take the following immediate urgent steps:–

(i) The Government of Yemen should ensure that all defendants facing the death penalty are tried in accordance with international standards for fair trial, including Article 14 of the ICCPR and the Safeguards guaranteeing the protection of the rights of those facing the death penalty.

²⁴ UN General Assembly Resolution 47/133

(ii) All defendants should have access to legal representation and adequate time and facilities to prepare a defence, as well as an opportunity to appeal the verdict and sentence and the right to seek pardon or commutation of the sentence.

(iii) The government should work progressively towards the abolition of the death penalty, in line with resolution 1999/61 of the Commission on Human Rights, Question of the death penalty and in due course should ratify the Second Optional Protocol to the ICCPR Aiming at the Abolition of the Death Penalty.

(iv) Pending abolition the government should commute outstanding death sentences and refrain from imposing further death sentences.

6. Possible extrajudicial killing or use of excessive force

(i) The government should carry out a thorough, independent and impartial investigation into the deaths of Ahmed ‘Omar Barjash and Faraj Murjan Ben Hammam and bring to justice anyone found responsible.

(ii) The government should ensure that all such killings are subject to investigations, which should be carried out in accordance with international human rights standards including the Principles for the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions. The findings of such investigations should be made public and anyone found responsible brought to justice.

(iii) The government should issue instructions to the security forces not to use force in the dispersal of demonstrations and, in all circumstances, to use force only in accordance with the provisions of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.²⁵

²⁵Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990.