

YEMEN

**Despite significant reform,
human rights violations persist**

*Amnesty International
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INTRODUCTION

In this submission, prepared for the Universal Periodic Review (UPR) of Yemen in January-February 2014, Amnesty International assesses the implementation of a number of recommendations that Yemen accepted in its previous review, including in relation to strengthening co-operation with UN mechanisms, taking steps to establish an independent national human rights commission, women's rights, and birth registration.

Despite a number of initiatives to strengthen the national human rights framework, Amnesty International notes that these are undermined by the failure of the authorities to ensure compliance and accountability.

The organization also raises concerns about specific human rights violations, including excessive use of force by the security forces during protests, human rights abuses in the context of armed conflict, arbitrary detention, torture and ill-treatment, enforced disappearances and extrajudicial executions, discrimination against women and girls, and the death penalty.

Amnesty International also makes a number of recommendations for action by the government to address these concerns.

FOLLOW UP TO THE PREVIOUS REVIEW

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

Amnesty International regrets that Yemen rejected recommendations to become party to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),² to 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 International Covenant on Civil and Political Rights (ICCPR).⁴ It also regrets that Yemen gave no clear response to recommendations to ratify 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 recommendations it accepted 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 been left unimplemented by the Yemeni authorities. Discrimination and violence against women do not seem to have been addressed in either law or practice.¹⁰ Child marriages, especially of young girls, continue to take place 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, adequate training of the judiciary and good practices for 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.

NORMATIVE AND INSTITUTIONAL FRAMEWORK IN YEMEN

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 the victims. 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 which 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 and Other Cruel, Inhuman or Degrading Treatment or Punishment, to investigate and prosecute human rights violations.

PROMOTION AND PROTECTION OF HUMAN RIGHTS 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 secession are ongoing.

In 2011, when mass protests took place in Sana'a and other cities, the 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

In recent years, armed conflicts in Yemen 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. These 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 is unclear whether they died in US drone strikes or attacks by Yemeni forces, and no investigations have been held into these incidents.

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 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 were 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 have been subjected 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.

Most of the detainees held in relation to the protests in 2011 were released without charge, many soon after arrest, but some only after long periods of incommunicado detention. However, the fate and whereabouts of some of them remains unknown and Amnesty International is concerned that they may be subject to enforced disappearance.

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, the 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) relating to marriage, divorce, custody of children and inheritance. The law also 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 under the age of 15 to be married 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 endure in Yemen. 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 only 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 own choice against the wishes of their family 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, including to offences that do not involve lethal violence, such as drug offences, “communicating” with foreign countries, and to “offences” such as consensual same-sex or extra-marital sexual relations, which, according to international standards, should not be criminalized.¹³

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, i.e. individuals who were 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 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:

National human rights framework

- To repeal Law No. 1 of 2012 and to ensure that no person, whether acting in an official capacity or not, is immune from prosecution;
- To agree to the establishment of an international, independent and impartial investigation into human rights violations during the events of 2011;

- To establish an independent, impartial and thorough commission of inquiry, with international experts and assistance to ensure its effective functioning, to investigate human rights violations committed prior to 2011, including extrajudicial executions, enforced disappearances, torture and other ill-treatment, and arbitrary detention;
- To 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;
- To 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, to bring the perpetrators to justice in fair trials and without recourse to the death penalty.

Excessive use of force during protests

- To 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;
- To make public, as a matter of urgency, clear instructions on the use of force, including the use of firearms, and to provide rigorous operational training to all law enforcement personnel deployed to police demonstrations on the rules of engagement fully consistent with international human rights standards.

Abuses in armed conflict

- To ensure that government forces participating in armed conflict, including the 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;
- To promptly, impartially and thoroughly investigate, in accordance with international standards, all evidence indicating that state or non-state actors have committed violations of international human rights and humanitarian law during recent armed conflicts; and to ensure that in cases where there is sufficient admissible evidence that individuals ordered or carried out war crimes or other crimes under international law that these individuals are prosecuted in proceedings that meet international standards on fair trial and without recourse to the death penalty;
- To fully implement the UN Guiding Principles on Internal Displacement and to take all other necessary measures to fulfil the rights of internally displaced people in Yemen, by for instance taking appropriate measures to ensure their safe return 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

- To 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;
- To 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;
- To release immediately and unconditionally anyone held solely for the peaceful exercise of their rights to freedom of conscience, expression, association or assembly;
- To end enforced disappearances by immediately disclosing the whereabouts of all those detained, ensuring that they are officially registered and their families and lawyers notified;

- To end torture, other ill-treatment and incommunicado detention and to ensure that all detainees currently held by the security forces are held in officially recognized places of detention, that they are given prompt and regular access to their families, to any necessary medical care and a lawyer of their choosing, and that they 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

- To become a party to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW);
- To remove reservations to Article 29(1) of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW);
- To 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 to ensure that the new constitution reinforces this;
- To amend the Personal Status Law and to amend or repeal provisions on “immoral” behaviour to ensure that they conform to international standards and do not impact on women in a discriminatory way;
- To protect women and girls from domestic violence, and to ensure that violence in the family is fully investigated and those responsible are held to account;
- To 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

- To 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, to ensure full compliance with all international standards on the use of the death penalty, and to enforce the prohibition of the death penalty for juvenile offenders;
- To 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, to 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; and to give the benefit of the doubt in disputed cases so the individual is treated as a juvenile offender.

ENDNOTES

¹ Human Rights Council, *Report of the Working Group on the Universal Periodic Review of Yemen*, A/HRC/12/13, 5 June 2009; and Human Rights Council, *Report of the Working Group on Universal Periodic Review of Yemen Addendum*, A/HRC/12/13/Add.1, 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 A/HRC/12/13, recommendation 94.1 (Portugal).

⁵ A/HRC/12/13, recommendation 93.3 (Argentina).

⁶ A/HRC/12/13, recommendation 91.24 (Germany).

⁷ A/HRC/12/13, recommendation 91.9 (Algeria and Jordan).

⁸ A/HRC/12/13, recommendation 91.34 (Bahrain).

⁹ A/HRC/12/13, recommendation 91.6 (Norway).

¹⁰ A/HRC/12/13, 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>).

ANNEX

AMNESTY INTERNATIONAL DOCUMENTS FOR FURTHER REFERENCE¹

Yemen: National dialogue should prompt action on redress for victims, 18 March 2013, (Index: MDE 31/010/2013)

Yemeni forces unleash deadly force on protesters, 21 February 2013, (Index: PRE01/088/2013)

Yemeni authorities 'ignored pleas' to save prisoner from execution, 13 February 2013

Conflict in Yemen: Abyan's darkest hour, 04 December 2012, (Index: PRE01/592/2012)

Yemen: Human rights agenda for change, 25 September 2012, (Index: MDE 31/012/2012)

Yemen must end intimidation of southern activists, 30 August 2012, (Index: MDE 31/010/2012)

Yemen can no longer delay taking concrete steps to improve its human rights situation, Written statement to the 21st session of the UN Human Rights Council (10-28 September 2012), 24 August 2012, (Index: MDE 31/011/2012)

Yemen: Two years on, journalist still behind bars after alleging US cluster bomb use, 15 August 2012, (Index: PRE01/394/2012)

Yemen's immunity law: Breach of international obligations, 30 March 2012, (Index: MDE 31/007/2012)

Yemen: Submission to the UN Human Rights Committee: 104th Session of the Human Rights Committee, 12-30 March, 2012, 23 February 2012, (Index: MDE 31/006/2012)

Yemen: One year on since the start of mass protests, 03 February 2012, (Index: MDE 31/002/2012)

Yemen: Immunity law deals blow to victims of abuses, 23 January 2012, (Index: MDE 31/001/2012)

Yemen urged to reject amnesty law for President Saleh and aides, 09 January 2012, (Index: PRE01/012/2012)

¹ All of these documents are available on Amnesty International's website:
<http://www.amnesty.org/en/region/Yemen>

Yemen transition tainted by 'immunity' law, 24 November 2011, (Index: PRE01/591/2011)

UN Security Council resolution falls short, 22 November 2011, (Index: PRE01/542/2011)

Yemen: No immunity for serious violations under President Saleh, 17 October 2011

Yemeni women attacked while celebrating Nobel Peace Prize win, 10 October 2011

Yemen violence surges as protesters are killed, 19 September 2011, (Index: PRE01/464/2011)

Deadly attack on Yemeni protesters undermines reform, 28 April 2011, (Index: PRE01/230/2011)

Yemeni president must be held accountable over rights violations, 27 April 2011

Yemen: Moment of truth for Yemen, 06 April 2011, (Index: MDE 31/007/2011)

Yemen warned over use of deadly force ahead of fresh protest, 24 March 2011, (Index: PRE01/157/2011)

Yemen authorities must act over sniper killings of protesters, 18 March 2011

Yemeni protesters killed in violent attacks, 14 March 2011

Yemen: Security forces block access to hospital, 26 February 2011, (Index: PRE01/088/2011)

Yemen urged to halt escalating crackdown after two reported killed in the capital, 23 February 2011

Yemen must rein in security forces as protests are violently repressed, 14 February 2011, (Index: PRE01/062/2011)

Yemeni activists fear worsening clampdown amid protests, 24 January 2011

Yemen: Cracking down under pressure, 25 August 2010, (Index: MDE 31/010/2010)

Yemen: Security at what price? 25 August 2010, (Index: MDE 31/011/2010)

Yemen authorities accused of complicity in tribal extrajudicial execution, 02 August 2010

Yemen's dark side: Discrimination and violence against women and girls, 25 November 2009, (Index: MDE 31/014/2009)

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