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Human rights situations that require the Council's attention

Written statement* submitted by the Cairo Institute for Human Rights Studies, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[13 February 2012]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Revoke reprehensible immunity laws in Yemen

The Cairo Institute for Human Rights Studies (CIHRS) expresses its deepest concern regarding the continuously deteriorating human rights situation in the Republic of Yemen, fostered by an environment of legalized immunity granted to perpetrators of alleged War Crimes and Crimes against Humanity. Considering the bloody warfare launched by state lead troops against peaceful protestors throughout the past year, and in light of the ongoing human rights violations, we view with great concern the Parliament's decision to pass a law granting immunity to President Ali Abdullah Saleh and high officials. We consider this as a step towards embedding impunity in a new Yemen in addition to being a real obstacle to the creation of the state that Yemenis have aspired to and sacrificed for: namely one that respects and promotes the rule of law.

On January 21, 2012, the Yemeni Parliament approved a law granting Saleh, along with his aides, domestic immunity from all political crimes committed during his 33 years as president. Given that last year's crimes can be considered political, Saleh and his aides are granted illegal blanket immunity from serious international crimes. Amid wide national dissent, the law came as a part of the deal that Saleh struck by signing the Gulf Cooperation Council's (GCC) initiative in November 2011. The initiative, with its clauses permitting the amnesty, received the support of numerous states and bodies, including the U.S. and the EU, in addition to the backing of UN Secretary General Ban Ki-moon and his Special Adviser for Yemen Jamal Benomar. However, we regard the passing of this legislation a clear violation of national and international law and demand that it be revoked immediately. The impunity clause would impede and obstruct future negotiations within Yemen to ratify the ICC Rome Statute as aspired to by several Yemeni groups.

The continuous attempts by Saleh's government to quell the revolution in Yemen has resulted in the death of around 270 individuals, who either died in protests or due to random shelling across the country. In addition to the over 15,000 injured over the past year, there are numerous documented cases of enforced disappearances, arbitrary detentions, and allegedly torture in detention facilities in Yemen, especially in camps run by Central Security Forces, the Republican Guard, and the Air Force. Over 22 children have been killed and some 800 others injured, in addition to the illegal use of children in armed conflict. The media has been targeted, with journalists killed, detained, and assaulted, and offices raided and closed. Human rights defenders also faced numerous violations, including assassinations.

That is in addition to the collective punishment of the population through continuously cutting off communications, electricity, fuel shortages, food scarcity, premeditated governmental attacks against medical personal, attacks against local volunteers, crippling and halting the work of national and international humanitarian NGOs, and the random shelling of civilian populated areas. Additionally, according to the UNHCR, "By August 2011, some 100,000 IDPs were registered in the south, in addition to the 299,000 IDPs already in the north."¹

Some of the massacres that the Saleh government committed throughout the past year, and for which president Saleh and his officials should carry full political and criminal responsibility, include the killing of some 53 peaceful protesters on March 18 in Taghyeer Square in Sanaa by government led militias; the killing of another 15 protesters in Taiz by the Republican Guard on May 30, some of which were burnt to death; and, even after Saleh

¹ 2012 UNHCR country operations profile – Yemen, UNHCR, <http://www.unhcr.org/pages/49e486ba6.html>

presumably entered negotiations to leave office, the massacre of at least 26 protesters on September 18 by security officers and snipers in Sanaa's Taghyeer Square. Moreover, the random shelling of populated areas has resulted in additional human rights catastrophes.

Shortly after the UN Security Council unanimously voted on October 21 on Resolution 2014² demanding that the killings and other human rights violations in Yemen be halted, dozens of clashes erupted in the country leaving dozens dead and hundreds wounded. In November alone, around 35 were killed in random shelling in Taiz. On November 11, at least 17 people were killed and dozens wounded in random shelling by Saleh's forces across Taiz. Hospitals and houses were also reportedly shelled in the attack. Even as Saleh makes use of his diplomatic immunity and travels to the U.S. for medical treatment, the country remains in a highly unstable security situation, as noted in the High Commissioner's report on the OHCHR visit to Yemen from June 28- July 6,³ and human rights violations are yet to be halted.

The current political atmosphere continues to be characterised by the complexity of Yemen's tribal structure, the interference of foreign non-state and state actors, deep-rooted territorial cleavages (South-North), and psychological wounds of repeated civil wars fostered by Saleh's governments during the past three decades. Yet, it is doubtful that the Gulf Initiative, which entered into force after it was signed by the Yemeni vice-president and the opposition Joint Meeting Parties (JMP), or the immunity law, which came as a result, will successfully end the conflict in Yemen. CIHRS has repeatedly called on the international community to withdraw their support for the security and military strategies of Saleh's government to end the tribal conflict in the country. Social and political negotiations have proven to be useful in unifying the opposition and tribal positions during the past year. The UN should foster social demands of the various minorities in the country to reach a solid position.

Domestically, under Article 153 of the Yemeni constitution, the Yemeni Supreme Court can rule the law unconstitutional, while internationally any country can claim universal jurisdiction for the international crimes that Saleh has committed while in office, after his diplomatic immunity ends by the end on February 21, 2012.

Despite what seemed as a UN endorsement of the GCC initiative, the UN High Commissioner for Human Rights Navi Pillay expressed her complete rejection of the immunity law while the UN Special Adviser to the Secretary-General for Yemen, Jamal Benomar, said "I am pleased that immunity law has been modified but it does not go far enough. The scope of the law is still too broad. The UN cannot condone a broad amnesty that covers UN classified crimes against humanity, genocide, war crimes, gross violations of human rights, and sexual violence,"⁴ Regional human rights groups and prominent civil society actors, including Nobel Peace Prize laureate Tawakkol Karman, went further condemning this law, which prioritizes Yemen's "stability" as a geopolitical ally of the Gulf countries and the U.S. in the Gulf of Aden and their fight against Al-Qaeda, over the atrocities committed during Saleh's 33-year rule. We further stress that principles of transitional justice and human rights cannot be achieved in an environment that fosters impunity and disregards accountability. Despite the numerous massacres and violations that have been committed against peaceful civilians, only the events of March 18 were referred

² S/RES/2014 (2011): <http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/YEMEN%20S%20RES%202014.pdf>

³ A/HRC/18/21 (2011): <http://www.ohchr.org/Documents/Countries/YE/YemenAssessmentMissionReport.pdf>

⁴ As quoted in "Yemen grants Saleh immunity to try to end crisis", Reuters. January 21, 2012. <http://af.reuters.com/article/worldNews/idAFTRE80K0B520120121>

for domestic investigations following public pressure. Authorities have held over 70 individuals on charges, but it remains unknown whether security forces are included among the defendants or not. In this regard, the UN Human Rights Council resolution on Yemen⁵ that notes the Yemeni government's announcement that it will conduct the proper investigations and inquiries into the committed violations is neither reasonable nor comprehensible, especially in light of the government's direct involvement in committing such crimes and its blatant unwillingness to conduct fair and independent investigations.

Therefore, CIHRS calls upon the members of the Human Rights Council to:

- Retract any acknowledgement of the amnesty law and call upon the government of Yemen to revoke this unconstitutional law that blatantly violates international law.
- Demand that the continuous human rights violations in Yemen are immediately stopped, especially considering the upcoming presidential elections in February 21, and establish an independent international investigation mandated to investigate all alleged international crimes committed in Yemen since the beginning of protests in 2011.
- Allocate the proper budget and staffing required for an OHCHR country office in Yemen that can provide logistical support to the Yemeni government, civil society organizations (including human rights NGOs), and political parties willing to engage positively in a transitional justice process.

⁵ A/HRC/18/L.32 (2011) <http://daccess-dds-ny.un.org/doc/RESOLUTION/LTD/G11/163/67/PDF/G1116367.pdf?OpenElement>