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Yemeni authorities must investigate killings and restore justice and accountability

The Yemeni authorities must ensure that a thorough, impartial and independent investigation is promptly carried out into the assassination of Dr Ahmad Sharafeddine, a prominent representative of an opposition group in the National Dialogue Conference (NDC) and a Professor of Law at Sana'a University, who was killed Tuesday morning on his way to a session of the NDC a few hundred meters from a security checkpoint, said Amnesty International.

Dr Ahmad Sharafeddine's assassination occurred five days before the formal conclusion of the NDC and within three months of the assassination in Sana'a of another NDC member and parliamentarian Dr Ahmad Jadban who also represents the same opposition group. On the day of Dr Sharafeddine's assassination, the son of 'Abdelwahab al-Ansi, Secretary General of al-Islah Party who is also a member of the NDC, was also targeted but survived the assassination attempt in the Yemeni capital. In December, Dr Yaseen Nu'man, a prominent politician and representative of the Yemeni Socialist party in the NDC, survived a similar assassination attempt in Sana'a.

The Yemeni authorities have persistently failed to uncover the facts about, and hold perpetrators accountable for the spate of killings and assassination attempts, including the brazen attack targeting the Ministry of Defence in December that led to the killing of nurses and medical doctors as well as security officers. The failure to carry out independent and impartial investigations extends to the campaign of assassinations of security officers, killings of civilians by Yemeni security forces and in US drone strikes and other attacks.

Soon after Tuesday's assassination, the authorities announced the establishment of an investigation committee to look into Sharafeddine's killing. The formation of the committee headed by the Ministry of Interior is the authorities' typical response to major security incidents. Numerous investigation committees have been formed since 2012 but not a single one of them have been successful in uncovering the truth, identifying suspects and referring them for prosecution.

A crucial flaw that all investigation committees suffer from is their lack of independence and impartiality. Typically these committees are headed by ministers, senior security officers or other officials of the executive branch, including from agencies that may be implicated in the incident under investigation. Members appear to be chosen on the basis of their political affiliation rather than their competence and independence.

This is contrary to international standards. Principle 9 of the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions states: "There shall be thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints

by relatives or other reliable reports suggest unnatural death in the above circumstances.” Principle 10 explains the investigation must have all the necessary powers and resources to carry out an effective investigation. And Principle 11 states that if existing mechanisms are inadequate, “Governments shall pursue investigations through an independent commission of inquiry or similar procedure. Members of such a commission shall be chosen for their recognized impartiality, competence and independence as individuals. In particular, they shall be independent of any institution, agency or person that may be the subject of the inquiry. The commission shall have the authority to obtain all information necessary to the inquiry and shall conduct the inquiry as provided for under these Principles.” States may seek international expertise and resources in order to fulfil these requirements.

The abject failure of Yemen’s investigation committees to adhere to international standards and carry out effective investigations are a reflection of the larger failures of the transitional authorities to carry out meaningful reforms of the security forces and the judiciary. Multiple security agencies continue to operate in Yemen, some of them lacking any effective, independent oversight. The judiciary itself, although on paper autonomous and protected from executive interference, suffers in practice from lack of autonomy and capacity.

Tuesday’s assassination and the authorities’ inadequate response raises serious concerns about the transitional government’s ability to deliver justice, accountability and reparation to the many victims of numerous cases of gross human rights violations since 2011, let alone for victims of earlier violations. It also raises fears that in the absence of the political will, the authorities will resort to compromises at the expense of a meaningful transitional justice law that delivers real justice and ends decades of impunity.

Amnesty International reiterates its call on the authorities in Yemen, and in particular President Abd Rabbu Mansour Hadi, to fulfil their obligations under international law, the 2011 Gulf Cooperation Council (GCC) Initiative and Implementation Mechanism and UN Security Council Resolutions 2014 and 2051, to, among other things, reform the security forces and the judiciary, and set up comprehensive, independent and impartial investigations consistent with international standards into human rights violations, including the setting up of a commission of inquiry into the events of 2011.

Background

In 2011, hundreds of peaceful protestors were killed during the popular uprising that ended the three-decade rule of the former Yemeni President, Ali Abdullah Saleh. The popular uprising paved the way for a Gulf Cooperation Council initiative and a power-transfer agreement, by which a new president, former Vice-President Abd Rabbu Mansour Hadi, along with a “government of national reconciliation”, were mandated to implement a two-year transition, during which they were to organize a national dialogue and take steps towards transitional justice, among other initiatives.

Despite a 2012 decree to establish a commission of inquiry to investigate human rights violations committed during 2011, no such body has yet been formed. Similarly, while a transitional justice law has been drafted, it is yet to be enacted; the current draft promises to secure some form of reparation for the victims and survivors of past human rights violations, but only for the period between January 2011 and February 2012, rather than – as previous drafts had indicated – for the period since 1990, an issue of particular concern to the majority of victims of gross human rights violations. This draft was widely rejected by a number of political parties in Yemen’s transitional government and it was agreed that a new law based on the recommendations made by the transitional justice working group in the NDC will be enacted.

The transitional agreement also stipulated a program of reform of state institutions, such as the security forces and judiciary, which was nominally launched by the authorities in late 2012. With the exception of reshuffling of heads of army units and security forces, these core state institutions responsible for previous gross human rights violations have endured with no significant change, signalling the lack of willingness or inability of the Yemeni authorities to carry out serious reforms that would restore justice and accountability.

Recent gross violations have raised concerns about Yemeni authorities’ competence and failure to conclude investigations into more recent killings by the security forces, including in the south of Yemen. An investigation committee that was formed to examine the killing by security forces of over a dozen people and the injuring of many more in a large demonstration in Aden on 21 February 2013 has yet to announce its findings or refer the case to the courts for judicial investigation and prosecution. Similarly, the authorities have demonstrated inadequate response to the killing of at least a dozen of peaceful mourners including children and wounding of over 20 on 27 December in al-Dale’ when it claimed that it targeted militants. Security forces had shelled a public school where the mourners had gathered for the funeral of a southern activist killed earlier in the week by security forces.

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