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Yemen: National dialogue should prompt action on redress for victims

As Yemen today embarks on an ambitious six-month period of national dialogue, Amnesty International calls on the authorities to give a clear signal that swift progress will be made on key civil society demands by unblocking two key components of the process of transition: the transitional justice law and commission of inquiry.

The urgent need to bring these two initiatives aimed at providing redress to victims of abuses to a satisfactory conclusion is underlined by the fact that today also marks the second anniversary of the “Friday of Dignity” killing of some 50 protesters and bystanders in Sana’a’s “Change Square”. As is the case for the hundreds of others killed during the uprising of 2011, the victims of 18 March 2011 have so far been denied truth, justice or reparations.

While the national dialogue will address a wide range of national issues of great significance, including the redesign of the country’s political institutions and the drafting of a new constitution, Amnesty International believes that its success will rest, at least in part, on promoting accountability, to ensure that one of the key demands that brought Yemenis onto the streets in 2011 is given the importance it merits.

The current draft of the Transitional Justice and National Reconciliation Law would, if enacted, provide some form of reparation to victims and survivors. However, it emphasizes forgiveness as an element of reconciliation and would not provide justice for victims of past human rights violations. Previous drafts had indicated that the temporal mandate of the law would be the period since the unification of Yemen in 1990, with a recognition that violations committed prior to 1990 might be investigated in the event that their consequences persisted. Amnesty International is concerned that the latest draft of the law limits the period of investigation to between January 2011 and February 2012. The organization urges the authorities to amend the draft law to ensure that it delivers justice by providing for criminal accountability, by granting victims and their families access to full reparations and the full truth about past crimes.

In a positive development, a commission of inquiry was officially announced by Presidential Decree 140 on 22 September 2012 to investigate human rights violations committed during the course of 2011. However, since then no action seems to have been taken to form the commission, raising serious concerns about the willingness of the authorities to follow through on their original commitments. Amnesty International calls for the establishment of an international, independent and impartial investigation into human rights violations during the events of 2011.

Perhaps the most serious obstacle to accountability, however, remains Law No. 1 of 2012 on the Granting of Immunity from Legal and Judicial Prosecution. Passed on 21 January 2012, it provided “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 – whether in civil, military or security positions – in connection with “politically motivated acts” carried out during the course of their official duties. Amnesty International considers the law to be in breach of

Yemen's obligations under international law to investigate and prosecute human rights violations. Under international law, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which Yemen is a state party, Yemen is obliged to investigate and prosecute anyone suspected of such crimes where there is sufficient admissible evidence. Amnesty International urges the authorities to repeal the law.

Despite these serious concerns, Amnesty International recognizes the achievements of the transitional authorities in multiple areas in the face of ongoing challenges in the country. The authorities have made efforts to promote the representation in the national dialogue process of women, youth and groups with particular grievances against the central Yemeni authorities, such as southerners. They have acknowledged problems faced by minority groups and the need to protect and promote their rights. They have initiated potentially encouraging steps to restructure the army and security forces and ensure the incorporation of mechanisms of accountability in their operations. And they have embarked on a number of legal reforms to bring Yemen's laws more into line with international standards and initiated the creation of a national human rights commission.

For its part, Amnesty International has detailed a set of recommendations which it believes the transitional authorities should take to improve the human rights situation in Yemen and hopes these will contribute to the debate framed by the national dialogue process. In particular, the authorities should initiate immediate steps to end unlawful killings and abuses in those parts of the country where armed conflict ensues. They should put an immediate end to the use of the death penalty and executions, including of juvenile offenders. They should take further steps to promote the rights of women and girls, to deal adequately with internationally displaced people, to treat humanely refugees and asylum-seekers, to end mistreatment by the security forces during arrest and detention, including by strengthening judicial oversight of them, and to ensure the independence of the judiciary. For more details on these recommendations and related concerns, please see *Yemen: Human rights agenda for change* (Index: MDE 31/012/2012), issued in September 2012.

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