

**fidh**

International Federation for Human Rights



# YEMEN

## In the name of national security ... human rights violations in Yemen

Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty. Article 3: Everyone has the right to life, liberty and security





## Foreword

This report on the situation of human rights in the framework of the fight against terrorism in Yemen was prepared by Nabeel RAJAB (President of the Bahrain Center for Human Rights) and Sherif AZER (Egypt), both mandated by FIDH.

It was compiled from interviews conducted in Sanaa in August 2009 by both mission experts, which met with lawyers, journalists, representatives of civil society engaged in defending human rights, members of political parties and of the Parliament as well as representatives of the Ministry of Human Rights.(see Annex I: List of those interviewed). FIDH deeply regrets the lack of cooperation of the Yemeni authorities which ignored FIDH's repeated requests for meetings prior to the arrival of the FIDH delegates. The FIDH fact-finding mission initially planned in January 2009 was postponed upon the request of the Yemeni authorities, that asked for further time in order to organize meetings with relevant authorities and national institutions, therefore one of the FIDH mission members didn't get the visa she applied for. FIDH agreed upon this request. However since this date and until the mission organised in August 2009, several initiatives to enter into contact with the Yemeni authorities in order to concretely organize key meetings with Yemeni authorities were ignored. Upon their arrival in Sanaa, the FIDH delegation only managed to meet with representatives of the Ministry of Human Rights, Ministry of Foreign Affairs and Office of the General Prosecutor.

The National Organization for Defending Rights and Freedoms (HOOD) has contributed to the present report by providing an analysis of the legal context of the fight against terrorism .

The first conclusions of the fact-finding mission were shared with the experts of the UN Committee against Torture (CAT) in November 2009. The report submitted to the Committee focused on monitoring the implementation of the previous CAT's recommendations pertaining to human rights violations in the context of campaigns against people accused of terrorist or security offences<sup>1</sup>. In their provisional recommendations released in December 2009, CAT's independent experts on the basis of the information provided by FIDH and its member and partners organisations in Yemen, called upon the Yemeni government to “ (...) take all necessary measures to ensure that its legislative, administrative and other anti-terrorism measures are compatible with the provisions of the Convention (...) [and] to provide information on the content and status of the draft anti-terrorism [law] (...)”.<sup>2</sup>

The authors of the present report warmly thank everyone who contributed to this report, for their testimony and for the hospitality and confidence they have shown. They thank the entire team of Sisters Arab Forum for Human Rights (SAF) and Hood for the organisation of their mission, their ongoing assistance throughout the duration thereof, and for their valuable assistance in collecting information

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<sup>1</sup> See the report , [http://www2.ohchr.org/english/bodies/cat/docs/ngos/FIDH\\_Yemen43.pdf](http://www2.ohchr.org/english/bodies/cat/docs/ngos/FIDH_Yemen43.pdf)

<sup>2</sup> See CAT/C/YEM/CO/2. The concluding observations released by the UN Committee against torture are provisional. Despite the absence of a delegation from the State party, the examination of the report took place but the Committee asked Yemen to answer some questions before releasing its final recommendations.

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## Introduction

Following an attempted terrorist attack on a flight to Detroit (USA) by a Nigerian allegedly linked to "Al Qaeda" in Yemen on December 25, 2009, the international community and in particular, the United States administration decided to boost its aid to Yemen in order to help combat what it described as a growing terrorist threat.

Anti-terror campaigns were initiated in Yemen in 1997 following a car bombing in Aden in January 1997 allegedly organized by a terrorist group<sup>3</sup>. Since that date, Yemen has faced regular terrorist attacks. The bombing of the American Destroyer USS COLE in the port of Aden which killed 17 sailors in October 2000 marked the start of a formal cooperation between US and Yemeni military and security services, a partnership that was reinforced after the events of September 11<sup>th</sup>. In November 2002, the Yemeni authorities remained silent on what was considered by some as a violation of Yemen's territorial sovereignty when a U.S. missile strike killed a top associate of Osama bin Laden who was travelling by car in northwest Yemen. Initially holding 108 Yemeni captives in Guantanamo, the Yemen-US cooperation also focused on the transfers of suspects from the Guantánamo Bay detention centre to Yemen. In January 2010, 89 of the 198 detainees remaining in Guantanamo are Yemeni nationals. This is mainly due to the failure of American and Yemeni governments to reach an agreement for the security arrangements for the captives<sup>4</sup> following their repatriation.

After a relatively calm period, terrorist acts re-emerged in recent years to increasingly target foreign embassies, companies and tourists. In 2008, several attacks were attributed to Al Qaeda and its supporters including a bomb attack in September near the US embassy in Sana'a which killed 16 people including civilians.

Since the launch of its anti-terror campaigns, Yemen has an increasingly dismal human rights record. In its encouragement of Yemen to fight terrorism, the international community largely overlooks Yemen's human rights breaches. This international pressure undoubtedly reinforces the Yemeni government's security-centred strategies that have grown more repressive over time. In its 2003 report, Amnesty international stated that "Yemen-US relations bear direct relevance to the deterioration of the human rights situation in Yemen since the 11 September 2001 events"<sup>5</sup>. Security forces in Yemen embarked on mass arrests, detention and deportations of foreign nationals with total disregard for rule of law and Yemen's international human rights obligations<sup>6</sup>. These severe human rights violations have added to an endemic practice of incommunicado detention and torture, arbitrary arrest and enforced disappearance.

In the aftermath of an assault by the "Aden-Abyan Islamic Army" against tourists in Abyan in December 1998, a Specialized Criminal Court (SCC) was established with the jurisdiction over crimes such as highway robbery, abduction of foreigners, attacking members of the judiciary or abducting officials or their family members, membership in an armed group seeking to attack public property or citizens, harming oil installations and theft by armed groups of means of transportation.

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<sup>3</sup> Colonel Taiseer Saleh ; (Yemeni Army), " Yemen strategy to combat global terrorism", USAWC Strategy project research, U.S. Army War College, Pennsylvania, March 2006.

<sup>4</sup> Mark Falkoff (March 12, 2008). "Guantánamo Attorneys Say Detainees Will Not Be Tortured If Returned to Yemen". Center for Constitutional Rights. <http://www.ccrjustice.org/newsroom/press-releases/guant%C3%A1namo-attorneys-say-detainees-will-not-be-tortured-if-returned-yemen>. Retrieved 2008-05-11. The specific issue of the repatriated ex-Guantanamo detainees in Yemen was not specifically addressed in this document. For further information, see Hood's website.

<sup>5</sup> See Amnesty International's (AI) report. *Yemen: The Rule of Law Sidelined in the Name of Security. September 2003* <http://www.amnesty.org/en/library/asset/MDE31/006/2003/en/084dc66b-d6a7-11dd-ab95-a13b602c0642/mde310062003en.html>

<sup>6</sup> See Amnesty International's (AI) report. *Yemen: The Rule of Law Sidelined in the Name of Security. September 2003* <http://www.amnesty.org/en/library/asset/MDE31/006/2003/en/084dc66b-d6a7-11dd-ab95-a13b602c0642/mde310062003en.html>

Notably, in 2004, a new law broadened the court's jurisdiction to include vaguely worded crimes against national security<sup>7</sup>.

Since its creation, the Court has tried hundreds of suspects accused of belonging to terrorist groups. Dozens have been sentenced to death. These exceptional courts, which do not meet fair trial standards,<sup>8</sup> are also increasingly used also to prosecute people for their active participation in demonstrations which had erupted in the South of the country, as well as journalists and human rights activists. For example, on the 11<sup>th</sup> of June 2008, the Yemeni Specialized Criminal Court sentenced Abdelkarim Al-Khaiwani, editor in chief of "Al-Shoura" to six years in prison. Al-Khaiwani was tried for his coverage of the war in the Saada province and therefore accused of supporting terrorism and belonging to a terrorist cell<sup>9</sup>.

The fight against terrorism in Yemen comes as part of a broader campaign by the state to tackle two major internal political crises i.e. mass protests in the South of Yemen, and the Saada war (see below), seen as serious threats to national security. Strong similarities have been recorded in the way suspects of terrorist offences are dealt with and those accused of crimes against national security or by extension, against national unity<sup>10</sup>. Regarding the internal armed conflict (Saada war) which has opposed the Yemeni army to the armed group known as al-Huthi rebels, the occasional use of the term of "terrorists" by the Yemeni authorities for qualifying these rebels contributes to increased confusion about the state's current policies and efforts.

In all cases, suspects fall within the competence of security and intelligence services that are entitled to extensive powers and have become infamous for their disregard of human rights. In a prevailing climate of impunity, if suspects ever do appear before a court, their case is tried before a specialized criminal court which does not provide guarantees of independence and impartiality and falls far short of international fair trial standards.

Furthermore, the vague concept of crimes "against national security" permits the arrest, detention and sometimes trial of supporters of the unarmed political movement in the South - named the Southern Movement- as well as journalists, academics, and other opinion-makers who denounce the violations against this movement or perpetrated in the context of the Saada war. Thousands of Yemeni citizens have endured arbitrary arrests and detentions including for exercising their right to peaceful assembly and free expression and tens of unfair trials before the SCC have been recorded.

Thus, the fight against terrorist threats and by extension threats to national security is increasingly used in Yemen as a pretext to stifle all forms of opposition. The upcoming adoption of the draft Anti-terrorism law which contains no safeguards for the legitimate exercise of the rights to freedom of expression, association and assembly will probably pave the way for the ongoing and routine violation of fundamental freedoms to continue unabated.<sup>11</sup>

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<sup>7</sup> Republican Decision on Law no 391 for the Year 1999 Regarding the Specialized Criminal Court, art.3, and Republican Decision on Law no 8 for the Year 2004 Regarding the Specialized Criminal Court, art.1. See Human Rights Watch, Disappearances and Arbitrary Arrests in the Armed Conflict with Huthi Rebels in Yemen, 24 October 2008.

<sup>8</sup> In its provisional concluding comments released in December 2009, the UN Committee against torture raised concerns about these ongoing severe human rights violations. See CAT/C/YEM/CO/2

<sup>9</sup> Article 19, 7 August 2008, Open Letter to the President of Yemen.

<sup>10</sup> According to reliable sources, prior to the draft of the anti-terrorism law, the Yemeni government worked on a project law entitled Law on the fight against terrorism and threats on the national unity. This project was finally replaced by the draft Anti-terrorism Law.

<sup>11</sup> See Annex II. Unofficial translation of this draft Law in English.

## ***The political context of an increasingly securitarian and repressive policy***

In addition to a perceived terrorist threat, the Yemeni government faces two internal political crises which erupted respectively in 2004 and in 2007. While the authorities and other parties to these conflicts failed to negotiate a political solution, these conflicts have grown dramatically to become an enormous political and economic burden which is gradually weakening the government.

Since June 2004 the North-western Yemeni governorate of Saada, a mountainous region bordering Saudi Arabia, has been the scene of a vicious armed conflict between the national army and a group calling itself "The Believing Youth" (al-Shabab al-Mumin). Six successive violent clashes (the last of which occurred in August 2009 and for the first time involved direct Saudi military intervention) have resulted in thousands of casualties, the internal displacement of an alleged 200,000 citizens and enormous destruction. The rebels are usually referred to as "Huthis" after their successive leaders, Husayn al-Huthi and, who was succeeded by his father Badr al-Din Al Huthi and brothers Yahya and Abd al-Malik al-Huthi, after his death in September 2004.

To date, the Huthi rebels remain a rather obscure group, both because of their own incapacity to communicate a clear agenda<sup>12</sup> (and because of the Yemeni government's success in restraining the access of independent analysts to the Saada region and therefore imposing its own reading of the conflict. Within the dominant discourse, the rebels are portrayed as a violent, anti-Western and remote group supported by Iran and seeking to restore the regime of the Zaydi imamate that prevailed in the North Yemeni highlands prior to the 1962 republican revolution. More nuanced accounts depict the Huthis as part of a wider, though marginal, movement of Zaydi revival. This movement, which emerged in the 1980s, seeks to defend Zaydi identity, a branch of Shia Islam distinct from Twelver Shias dominant in Iran, from what it often perceives as a Sunni-backed offensive supported by the Yemeni elites (most of whom may be Zaydi in origin but prefer to refer to a general Muslim identity).

While critical of the Yemeni government's siding with the United States in the "Global War on Terror", the Huthis should not be assimilated to terrorist groups like al-Qaeda and its affiliates as they have never ostensibly targeted Westerners or even the Jewish populations residing in northern Yemen. Their own history and references also clearly distinguish them for Sunni Jihadi groups. The Huthis are genuine actors in the current Yemeni context: the main causes of the conflict are to be found in historical grievances linked to an ill-solved civil war in the 1960s and a persistent culture of violence and arms proliferation that has never been seriously challenged by the central government through development policies. This violence is also fuelled through the development of a war economy which has embedded economic incentives within among the army and the rebels (particularly through the smuggling and concealment of weapons) and because of particular power struggles inside the regime<sup>13</sup>.

Since 2007, the Yemeni authorities are facing a new front of protest in the southern regions of the country. This has been aptly described here: "North and South Yemen –as called at this time period- united as one country in May 1990, but fought a brief civil war in 1994 in which the north prevailed. Southern Yemenis contend that central authorities then dismissed many southerners from the army and government employment and denied southern Yemen its fair share of national resources. Protests in 2007, initially led by retired military officers calling for increased pensions or reinstatement, quickly grew to encompass demands for more jobs, less corruption, and a greater share of oil revenues. Subsequently, the protests have been led by the Southern Movement, a loose gathering of protest leaders whose demands have escalated to include secession and formation of an independent state »<sup>14</sup>.

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<sup>12</sup> For example persistently shouting their famous slogan "God is Great! Death to America! Death to Israel! Curse upon the Jews! Victory to Islam!" does not provide understanding of their practical objectives.

<sup>13</sup> For further analysis, see the report of the International Crisis Group, *Yemen: Defusing the Saada Time Bomb*, 25 May 2009.

<sup>14</sup> Report of Human Rights Watch, « Yemen: End Harsh Repression in South. Shooting of Unarmed Demonstrators, Attacks on Media », December 2009.

## I. Prevalence of the use of torture and other ill-treatment

*"I write you from Political Security hell where I have been since my abduction over three years ago – the whole time not knowing what charges are against me. In fact, no body here knows what the charges against me are. One time I was told I am a terrorist, the next I am a spy or an embassy agent. I have requested to be put on trial but they tell me they don't have any evidence against me. I say, then deport me to my country or any country, even Israel. Allow me visitations or let me call to ask about my wife and children. But all this is forbidden here. A few days ago they let my wife send me some food but I have been deprived of seeing her for more than three years. Throughout them I have seen the unthinkable; things that are not heard of even in Guantanamo. I am in an isolated cell with no sun or air, the chains on my legs weigh no less than 10 kilograms – the same chain restrains my hands. I don't know what damage has happened to my feet because of it. The food is not fit for a dog, and the clothes I was given are rotten, I almost die of the cold. Degradation and torture, physical and mental, is beyond imagination- I never imagined that this occurs here in Yemen. I urge you all to move to resolve my case, ask them to put me on trial or even execute me, it would be better than what I am in right now- or send me to any country. Ask them what my case is, and why they deprive me from seeing my wife and children. I am ready to accept any solution, even if it is the death penalty.*

*And peace-  
Gamal Hamam*

This letter summarizes the deterioration of the human rights situation in Yemen in the past few years. Forgotten prisoners, illegal abductions and enforced disappearances; arbitrary arrests and detentions; solitary imprisonment isolated from the outside world; torture and ill-treatment; deprivation from legal and medical assistance; violations of the rights to freedom of expression; persecution of sectarian identities or political views based on security grounds.

There has been a consistent degradation of human rights since the inception of the so-called “war on terror” in 1997. The level and intensity of violations in this context especially acts of torture, arbitrary arrests and enforced disappearances notably increased after the bombing of the American Destroyer USS COL in October 2001: hundreds of people were detained and tortured. Following the September 2001 attack, the number of arrests significantly increased. As of today, it is unknown how many persons the government held on suspicion of terrorist affiliations or activities. Security-related detainees are mainly held in security agencies' premises: In its provisional concluding observations released in December 2009; the UN Committee against Torture<sup>15</sup>, stated that “The State party should submit information on the exact number and location of places of detention used by the Political Security Department and other security forces, and the number of persons deprived of liberty in such facilities“. It also expressed concern at the absence of a central register for persons held in detention.<sup>16</sup>

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<sup>15</sup> The supervisory body of the Convention against Torture, ratified by the state of Yemen.

<sup>16</sup> CAT/C/YEM/CO/2.



## *Definition of torture*

The Yemeni Constitution prohibits torture<sup>17</sup>. It affirms that crimes of physical or mental torture during arrest, detention or imprisonment is a crime not subject to a statute of limitations. It punishes all those who participate in acts of torture, as well as those who order or practice it<sup>18</sup>. However, the definition of torture under the Yemeni legal framework is ambiguous and not in conformity with the United Nations Convention Against Torture (CAT), despite its the Committee against Torture's explicit recommendation in this regard<sup>19</sup>.

During a meeting with the FIDH delegation in August 2009, the Deputy Minister for Human Rights stated that the ministry had submitted a proposal to the Cabinet to adopt a categorical definition of torture but it remains uncertain whether the ministry's suggestions will have any resonance in the government's decisions. The government of Yemen did not ratify the Optional Protocol to CAT; another disregard of the CAT committee recommendations of 2004 which was reiterated in 2009 as well as those made by the Universal Periodic Review committee in September 2009<sup>20</sup>.

Since Yemen's last review by CAT in 2004, allegations of torture have noticeably increased. In the framework of an expanding "war on terror" and the intensification of clashes in Saada's region- the security situation has greatly deteriorated resulting in an even more systematic torture policy. A member in the Parliamentarian Committee on Rights and Liberties, describes torture in Yemen as being more institutionalized and organized than in the past. The two visit requests submitted by the UN Special Rapporteur on Torture, first in 2005 then in 2007, have gone unheeded. Most cases of torture documented by the FIDH delegation were perpetrated by the 3 known security organs: the Central Authority for Political Security, the National Security Authority and the Department of Anti-Terrorism under the Ministry of Interior.

## *Torture : a widespread practice in Security services facilities*

The practice of torture is widespread in Yemeni prisons, in particular in State Security prisons, and the evolving sophistication of the methods of torture is grave cause of concern, as is the disregard of allegations of torture brought forth by prisoners during trials.

The state institutions have become associated with far reaching human rights violations: torture and ill treatment, abduction and forced disappearance, arbitrary detention and kidnappings, all this against a background of impunity. The most infamous security organization is the Central Authority for Political Security- known as Political Security- which was created by presidential decree No 121 of 1992 to identify and combat political crimes and acts of sabotage. This organ is the main perpetrator of the violations documented during the FIDH mission. This authority has also targeted journalists, political activists, human rights defenders and clergymen. According to its founding

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<sup>17</sup> Article 47 b of the Constitution « No individual can be arrested, searched or detained unless caught in the act (*in flagrante delicto*) or served with a summons from a judge or the Public Prosecutor, which is necessary for the progress of an investigation or the maintenance of security. No person can be put under surveillance unless in accordance with the law. Any person whose freedom is restricted in any way must have his dignity protected. Physical and psychological torture is prohibited. Forcing confessions during investigations is forbidden. The person whose freedom is restricted has the right not to answer any questions in the absence of his lawyer. No person may be imprisoned or detained in places other than those designated as such and governed by the law of prisons. Physical punishment and inhumane treatment during arrest, detention or imprisonment are prohibited. » <http://www.parliament.gov.ye/dostoor/part2.htm>

<sup>18</sup> Article 47e « Physical or psychological torture at the time of arrest, detention or jail is a crime that cannot be prescribable. All those who practice, order, or participate in executing, physical or psychological torture shall be punished. »

<sup>19</sup> CAT/C/YEM/CO/2, para. 7.

<sup>20</sup> A/HRC/12/13

statutes, the Director of Political Security should hold a position of Minister, under the direct supervision of the President of the Republic.

The National Security Authority also carries the stigma of violation and impunity. Created by presidential decree No. 261 of 2002, this authority is affiliated and accountable to the President of the Republic. With reference to its founding statutes, the National Security Authority aims at guaranteeing the safety of the country, protecting its national security from external threats and safeguarding the rule of the republic and its interests. Its competencies also include combating acts of sabotage and antagonism which threaten the security and safety of the Republic. While seemingly mandated to tackle external threats to the country's security, in practice the past years have seen the power and activities of this authority were similar or overlapped directly with those of Political Security- whose jurisdiction lies in internal politics and security.

The Department of Anti-Terrorism in the Ministry of Interior is the third organ dealing with security issue and is also known for human rights violations.

Various forms of torture have been reported to FIDH and its members and partners in Yemen: hanging prisoners by the arms and lifting them up while hands are chained; beating their hands and feet with a metal stick after suspending them from above; forcing them to stand for long durations carrying heavy weights; binding their legs with heavy chains; electrocuting different parts of the body; unclothing the prisoners, beating their heads on the walls and other parts of the body. Despite the risks for their own security and their family, numerous victims agreed to speak about the violations they were subjected to .

Mohamed Abd Al Rahman Abdallah, an unemployed 21-year-old male was arrested on 15<sup>th</sup> July 2008 by the Political Security and was subjected since to severe forms of torture: beating of his body and genitals, punches, kicks and slaps on the face that led to breaking his teeth. He was beaten on the soles of his feet with an electric cable while being suspended by his arms, with his arms tied behind his head. He was threatened with rape repeatedly and to confirm the seriousness of the threat he was almost disrobed as his torturers asked how he would prefer to be raped. On another occasion a gun was placed to his head while he received threats that his brains would be shot at if he did not cooperate with the political security officers. In fact the trigger was actually pulled – only to reveal that there was no ammunition in the gun. Abdallah recounts that torture episodes usually start around midnight and end at sunrise. Torturers are usually unidentifiable, masked men, and the victims are frequently blind folded as well.

In a public seminar in Sanaa on 23<sup>rd</sup> April, 2007, Sha'ef Ali Al Heimy spoke about his detention and torture that started on 24<sup>th</sup> January 2007 when he was arrested by National Security officers on suspicion that he had stolen one of the officers' mobile phone. Al Heimy recounts events of a full month of torture, despite threats from his torturers that they would capture and torture his family members if he spoke out. He said in the seminar, with torture marks still apparent on his body, "I was forced to take off my clothes, I was electrocuted, hot water was thrown on my body, I was beaten with a metal stick. They made me drink urine then rammed a piece of soap in my mouth for several days. They took out the piece of soap and taped it to my lips. Sometimes the interrogators would put a shoe in my mouth. They would hit me on my ears with heavy army shoes; I have become deaf in my left ear. I was left thirsty without food or drink for 3 days. "

Yasser Abd Al Wahab Al Wazeer an engineer was beaten thoroughly during his detention in June 2008. The violence was directed on his right leg, on which he had undergone two surgeries before his arrest. Former prisoners who had seen Al Wazeer before their release claim that he can now barely walk on his right leg.

**"(...) no exceptional circumstances whatsoever can be invoked as a justification for torture", UN Committee against torture's recommendation; Review of Yemen, December 2009.**

Nasser Saleh Mohamed Gabran (27 years) was detained by the Anti-Terrorism department on suspicion of relation to Huthi groups. He was held in a cell no larger than 2x1 meters, where two

other inmates were already detained. His arms were bound behind his back while he was made to carry heavy objects above his head with his legs spread open until his leg muscles cramped and he collapsed. His head was banged into the wall from the front and the back alternatively until he lost consciousness. His legs were suspended and tied to a stick to beat the soles of his feet with an electric cable – they became swollen and black. The swelling remained for three months after his release. Gabran's suffering was used to intimidate and scare others: he would be beaten, humiliated and dragged to and from interrogation in front of other prisoners.

Inducing sectarian animosity among detainees is another form of ill-treatment the Yemeni state agents employ. The strategy consists in holding detainees from rival or different sectarian backgrounds in the same cell and inciting violence between them, even arming some of them with sticks. The FIDH delegation met a victim of this form of set-up that pitted Hashimite Zaidi detainees against others suspected of belonging to Al Qaeda factions. To punish his "lack of cooperation", Nasser Saleh Mohamed Gobran, a Zaidi, was detained with a large number of prisoners accused of belonging to Al Qaeda where prison officials used sectarian differences and sensitivities against Gobran.

### *Hostage-taking of relatives” : an additional method to further intimidate or coerce suspects*

One practice that distinguishes Yemeni security institutions from its counterparts in other parts of the world is detaining and keeping relatives of "wanted" individuals as hostages for years at a time. They are kept hostage until suspects turn themselves in. Several international instruments express deep condemnation of hostage taking. This is explicitly denounced in the International Convention against Hostage Taking which states that state parties should punish any person who commits an offence of hostage as defined in the convention.

In addition, such arrests are arbitrary and may represent a form of collective punishment, prohibited under international law (punishment of a group of people for the crime of one). It is contrary to the due process principle, where each individual receives separate treatment based on their individual circumstances as they relate to the crime in question. The UDHR provisions relating to the right to fair trial are based on the principle that criminal responsibility is individual, and never collective.

Security organs continue to imprison suspects' relatives as hostages until the targeted suspect appears: children and the elderly are not exempt from this practice. In some occasions the hostage is a notable religious figure or trader who had "sponsored" the release of a suspect on the condition that they would be returned, and were unable to secure the suspect's return. Security agencies may release suspects in cases where evidence is insufficient to incriminate them; however – even after the accused is proven innocent- with the condition that prisoners will return whenever called upon. In cases where the released prisoner's "sponsor" is late or fails to secure his return, that sponsor is imprisoned instead as a hostage to pressure the original prisoners to surrender. This practice has caused many Yemenis to fear asking about their missing friends and relatives in various prisons, in dread of the retribution security officials may inflict.

Early morning, 19<sup>th</sup> July 2007, three brothers were arrested - Amir, Mo'az and Mohamed- sons of Abdallah Thabet Mohsen Al Abab. There were no warrants for their arrest, and they were not informed of any charge against them. In fact, security was really after their elder brother, Adel Thabet Mohsen Al Abab, a professor of Arabic language and wanted for charges of belonging to Al Qaeda factions. His three brothers were arrested simply because Adel was not home when they arrived. Their elderly father was also arrested and released two days afterwards, but Adel's younger brothers remain hostages pending his capture at the time of writing this report.

Security forces pay no heed to hostages' age or to other considerations. Occasionally they may be minors or aged individuals. On 23<sup>rd</sup> February 2009, Ahmed Mohsen Yehia AlMehfeli- a child of 15 years – was asleep with 11 members of his family when their home was bombarded by officers

from the Anti-Terrorism department. They grabbed Ahmed from the arms of his father and shot bullets in the air. Ahmed was taken in the place of his brother, Omar (18) who had fled the house before they arrived. They dragged Ahmed away in the midst of his family screams and tears without telling them he would be taken to the department of Anti-Terrorism. They found out his place of detention one month and a half later when he was able to call them to inform them of his location. His family was allowed to visit him three months after his "arrest". Without the least consideration for his halted education, or the fact that he is a minor held in a prison for adults, the family was told that Ahmed would remain in prison until Omar takes his place.

In a seminar organized by human rights organizations in Sanaa on 23<sup>rd</sup> April 2007, Amal Al Huthi appealed for the release of her 13-year-old brother Amin Abd Al Qader Al Houthi who was abducted in front of his home in Sanaa. Local human rights group report that many members of the Huthi family have been abducted and imprisoned, kept as hostages by Security forces.

In light of these issues, the UN Committee against torture said in 2009 that {Yemen} should, as a matter of priority, **discontinue its practice of holding relatives of alleged criminals as hostages, and punish the perpetrators.**

### *Incommunicado detention*

Far from taking "all appropriate measures to abolish de facto incommunicado detention" as recommended by CAT's experts in 2004, the Yemeni authorities seem to turn a blind eye on this recurrent punitive measure.

As the legal basis for this practice is upheld<sup>21</sup> this punitive measure remains widely used and can be imposed at the discretion of prison administrators, as one of the applicable disciplinary measures against prisoners who violate prison regulations. This punishment also entails depriving the prisoners from joining group sports and other collective activities, correspondence or buying consumer products.

While disciplinary measures that the prison administration levies should not last longer than 2 weeks, this rule is rarely abided by: it is not rare that prisoners spend months or years in solitary confinement to pressure them into cooperating with security institutions. For instance, on July 29<sup>th</sup>, 2007 three brothers Ameer (31), Mo'az (24) and Mohammed (25), all sons of Abdallah Thabet Mohsen Al Abab were arrested by Political Security forces in Sanaa and detained in solitary confinement for 2 months, rather than the legally permissible 2 weeks. Abdel Hameed Ahmed spent 8 months of his 2-year detention in solitary confinement. His solitary cell in the Political Security prison was no larger than 1 meter by 2. Egyptian citizen Gamal Hammam was imprisoned by National Security forces and remained in solitary confinement from his arrest in 2004 until he was transferred to the Egyptian authorities in March 2007.

Four Cameroon citizens: Mouafo Ludo, Pengou Pierpe, Mechoup Baudelaire and Ouafu Zacharie, sent a letter to the national committee for the defence of rights and freedoms of the Parliament on August 13<sup>th</sup> 2004 describing their abduction from Sanaa Plaza hotel in March 1995 by Political Security forces and their consequent imprisonment in a solitary cell underground for years without appearing before a judge. Ten years after their abduction, in 2005, Minister of Interior Rashad al Eleimy acknowledged

The UN CAT specifically addressed this issue in 2009 and asked Yemen to "take all appropriate measures to abolish incommunicado detention and ensure that all persons held incommunicado are released, or charged and tried under due process"; and further asked the State party should submit information on the exact number and location to "provide an update on the case of four nationals of Cameroon — (...) — who have been detained incommunicado and without legal process in Sana'a since 1995".

<sup>21</sup> Article 34 of the Prisons Regulations Act No. 48 of 1991

their existence after a member of the Parliament asked him to validate or deny the story. He stated that they would be referred to courts soon on charges of "forming a gang targeting the national economy" through committing acts "including drugs, money laundering and counterfeiting currencies" . Today, after 10 years of incommunicado and arbitrary, none of them have been tried or presented to the General Prosecutor.

## II. Enforced disappearances, arbitrary arrests and detentions

The Yemeni Constitution (Article 48d) states that « at the time of arrest, the accused may designate a person to be immediately notified of the arrest and of any court order extending his detention. Should the arrested person be unable to designate a specific person, his relatives or whoever it may concern, should be notified »<sup>22</sup>.

However arbitrary arrests and/or enforced disappearances in Political Security detention centers for months or even years before arraignment are common in flagrant violations of the international human rights standards and the Constitution of Yemen (Art. 48 see infra)<sup>23</sup> .

The cases of persons detained for prolonged periods without any charge or trial are numerous. The UN Working Group on Arbitrary Detention (WGAD) issued several opinions on arbitrary detentions in Yemen in the framework of measures countering terrorism over the past years.

The National Security authority and the department of Anti-terrorism in the Ministry of Interior underwent significant developments at the end of 2002. The latter partnered with the Political Security Authority to carry out unconstitutional waves of arrests, detaining hundreds of suspects and their relatives for long periods of time. Cases of enforced disappearances may last a few months, or several years. According to the information received, on occasion, some suspects were extrajudicially executed.

Al-'Ezzy Saleh Ahmed Rageh Al Omar (30) disappeared when he was arrested without a warrant on May 7<sup>th</sup> 2005. Two months after his arrest his family found out he was detained by Political Security for unknown charges.

Many cases of detention were recorded during the events known as the "Bani Hashish events" in May 2008, when a group of Huthis seized Rajam Mountain in Bani Hashish district (40 kms North East of the capital Sanaa). Violent clashes with the armed forces led to casualties on both sides. The conflict triggered a wave of arrests by the government in an effort to contain the situation. This campaign was not limited to those who participated in the violence but extended to whoever happened to be in the area at the time, as well as to family members of the suspects.

The CAT Committee expressed concerns and called upon Yemen to take all necessary measures to **counter enforced disappearances and the practice of mass arrest without a warrant and arbitrary detention without charges and judicial process**; (...) to clarify to the Committee whether the powers of the various security forces and agencies to arrest and detain are prescribed by the relevant legislation. Furthermore, (...) to take all appropriate steps to ensure the application of relevant legislation, to reduce further the duration of detention before charges are brought, (...).

Yehia Ali Abdallah Luqman and his nephew Ibrahim Mohamed Ali Luqman were arrested while they were in the Bani Hashish area in May 2008 and were not heard from for 3 months after the Bani Hashish events. Their family discovered that they had suffered some wounds during the conflict.

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<sup>22</sup> Unofficial translation.

<sup>23</sup> Unofficial translation

They are held in a Political Security detention center in deteriorating health conditions as their wounds and the shrapnel on their bodies have not been tended to medically.

In another case, Abd Al Rahman Yehia Al Ahgy, also arrested during his stay in Bani Hashish, was found by his family after three months of searching. When they found him his body was swollen, he was unable to speak, and shrapnel fragments still remained in his head. His injuries have received no medical attention.

Families who search for their loved ones are sent away by Security officers who deny their presence in the facilities. Meanwhile, the disappeared person is relentlessly subjected to psychological and physical torture and ill-treatment. Interrogation and questioning occur amidst a context of sustained isolation and solitary confinement. Suspects' statements are extracted in this framework of enforced disappearance and complete separation from society or even fellow inmates. When and if suspects do appear in court, judges usually neglect to investigate the legality of their prior detention.

Illegal methods used by Security officers to catch suspects have been denounced by Yemeni and international human rights groups. To cite but one instance, Mohamed Ahmed Al Muftah, a man in his mid-40s, was driving his car with his children as three cars appeared, blocking the road suddenly and forcing him to swerve over the side walk. A group of armed men wearing civilian clothing came out of the cars, opening fire at the car and destroying it completely. The children were injured and their father, struck by fear and disbelief and still unsure about the safety of his children, was arrested without a warrant and taken to the Political Security prison. He was not visited there by any General Prosecution representatives and only met them after he was released in September 2007. This is not uncommon: most prisoners in security organ prisons do not meet any judicial body before they are released.

Yasser Abdel Wahab Al Wazeer already mentioned, left his house to pray on the afternoon of 5<sup>th</sup> June 2008. When he did not return that evening his wife, Alaa Al Shamy, tried to contact him on his mobile phone repeatedly, but it was switched off. Accompanied by some family members, Al Shamy approached police stations to ask about her husband but did not succeed in finding his whereabouts or possible reasons for his arrest. The family was notified that Yasser was in a Political Security prison after three and a half months of searching. They received a phone call from Political Security to inform them of his detention. and has not returned since. He has been in a Political Security prison for over a year. His family was notified of his detention by Political Security only after three and a half months of searching for him. He was not allowed to appear before a court or the General Prosecution. At the time of writing the report, Yasser was still detained in Political Security prison without any legal justification.

On December 29<sup>th</sup> 2007 a Yemeni human rights organization<sup>24</sup> was informed by the family of Delmi Ali Delmi (30) of his disappearance since his return from Syria at the end of 2006. The family stated that they had heard of his return and that he is suspected to be detained by Political Security, but had been unable to see him or communicate with him. The situation remained that way until the end of 2008.

On February 22<sup>nd</sup> 2009, Political Security forces in the capital abducted a young man called Hussein Nasser Ali Almoroula from the streets of San'aa. He was hidden from his family and deprived all forms of communication. His family was only informed of his location in early July 2009.

In January 2005, the Department of Anti-Terrorism arrested Abdallah Abd El Mo'ez Taha Al Hatar (23) on suspicions of involvement with Al Qaeda factions. By the end of August 2009 he had not been transferred to a court or General Prosecution or be informed of the charges against him.

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<sup>24</sup> Information received by HOOD

The arrest of Taha Hassan Ali Al Seheily (25) in November 2004 also occurred without a warrant or any judicial decision. He was detained in several prisons including Qahza prison in Sa'dah governorate, the Political Security and Central prisons in Ta'izz and the Central prison in San'aa. Taha El Seheily, imprisoned five years to date, has still not appeared before any judicial body.

According to Category III of arbitrary detention as defined by the WGAD, "the total or partial non-observance of the international norms relating to the right to a fair trial" makes detention arbitrary. Fair trial guarantees include among others "pre-trial" rights, access to court, trial within a reasonable time (cf. Article 14 of the ICCPR). The Yemeni authorities largely failed to ensure the respect of these guarantees in contradiction with international human rights standards and the Yemeni law as well. Article (48) of the Constitution of the Republic of Yemen upholds that: « i. The state shall guarantee, for its citizens, their personal freedom, dignity, and safety. The law shall specify cases of depriving a citizen of his freedom. No one may be deprived of his freedom except under a ruling by a competent court » (see below).

In addition, prisoners' relatives often fear approaching detention centers or inquiring about reasons of detention, due to the likelihood of suffering retaliation from security officers who are known for acts of revenge and arresting relatives who persistently search for their loved ones. On 21<sup>st</sup> July 2007, Mohamed Ahmed Ali Al Hamati was for repeatedly asking about his brother, who had been arrested by Political Security forces in the capital.

### *Extended detention without charges and/or trial*

According to the Yemeni Constitution, security forces have the right to detain suspects for 24 hours before referring them to the Public Prosecution, which could renew the detention for a further 7 days.<sup>25</sup> The delay before appearing in court before a judge may reach 45 days, and the court can renew the detention period for a duration not exceeding six months. The Constitution stipulates that all those arrested on suspicions of committing a crime must appear in a court within 24 hours of their arrest wherein the judge or public prosecutor must inform him/her of the reasons of their arrest, question them, and provide them with the opportunity to give a statement. A decision to continue detention or release the detainee must be made immediately, and under no circumstances can public prosecution hold detainees for longer than 7 days without a judicial decision.<sup>26</sup> The law states that the maximum duration of pre-trial duration, whose conditions and proceedings are outlined in the penal code, is 6 months.

These legal provisions are rarely abided by. Detainees are imprisoned for months or years without appearing in court or before the Public Prosecutor, or even meeting their lawyers and relatives. Ali Saleh Tayseer, Deputy Minister of Human Rights and Alsayed Ahmed Aljandebi, President of the Technical Office of the Public Prosecutor attempted to justify the non-compliance of security forces

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<sup>25</sup> Article 47e and 48 c of the Yemeni Constitution.

<sup>26</sup> Article 76 of the Code on Criminal Procedures : Anyone who is temporarily arrested, due to being suspected of committing a crime shall be presented to the Judiciary within 24 hours from the time of the arrest at most. The Judge or the member of the Prosecution shall advise him of the reason for the arrest and to interrogate him and allow him to make his defenses and protests; they shall also issue an order with cause for his provisional arrest, or else release him. Article 189: The arrest warrant issued by the General Prosecution is effective for only seven days after its issuance following the arrest of the suspect, or his hand-over to the General Prosecution, if he is arrested by before; the implementation of the arrest warrants or summons or arrest issued by the General Prosecution shall not be honoured after the lapse of six months following their issuance, unless otherwise extended Article 190: If the General Prosecution felt the need for extending the provisional arrest of a subject, it must, prior to the expiry of the period of arrest show the papers to the Judge of appropriate jurisdiction to issue the appropriate instructions which he considers to appropriate after hearing the statements of the General Prosecution and the suspect. The judge may extend the arrest period or periods as necessary but it shall not exceed a total of forty-five days. Article 191: If the investigation is not yet finalized even after the end of the period of provisional arrest mentioned in the previous article, the General Prosecution shall present the papers to the Appellate Court in the governorate of appropriate jurisdiction, while is in session in the Court Chamber, to issue its orders after hearing the statement of the General Prosecution and the suspect. It may extend such arrest for periods that do not exceed in total forty-five days if that would be in the interest of the investigation or the release of the suspect under bail, or without bail..Available on: <http://www.unhcr.org/refworld/docid/3fc4bc374.html>

with Yemeni law during their meeting with FIDH. Their reasoning indicated that security institutions are distracted from factors such as the maximum duration of detention due to the massive amounts of cases they deal with. They denied, however, that such “distractions” have led to months or years of illegal detention.

The responsibilities of the General Prosecution put forth by law include monitoring prison conditions and records, as well as direct communication with prisoners and securing the immediate release of those who are illegally detained<sup>27</sup>. There are indeed General Prosecution offices in governorates' central prisons to guarantee the legality of any detention process.<sup>28</sup> It is therefore all the more alarming to consider the Prosecutor's silence and indeed deliberate efforts to conceal prolonged and illegal arrests and violations occurring in detention centers. The failure of the Prosecution to uphold the law and its implication in perpetrating violations is resulting in illegal detention for years. These concerns are reinforced given the fact that many high-level officials in the Public Prosecution come from military and security backgrounds. Over the past years, hundreds of "suspects" who were detained for months or years were never informed of the charges against them.

Definitely Yemen failed to “take immediate steps to ensure that arrests and detentions are carried out under independent and impartial judicial supervision” as recommended by the CAT Committee in 2004. In 2009, the Committee addressed more concrete recommendation in calling upon Yemen “to establish a national system to monitor and inspect all places of detention and to follow up on the outcome on such systematic monitoring. It should also ensure that forensic doctors trained in detecting signs of torture are present during these visits”, and “to clarify whether the Political Security Department, the National Security authority and the Department of Anti-Terrorism under the Ministry of the Interior are under the control of the civil authorities, and whether the Prosecutor-General has access to the said detention centres, military prisons and private detention facilities”. It concludes that “the State party should formally prohibit all detention facilities that do not come under State authority”.

### III. Disregard for fair trial guarantees and widespread impunity

#### *Illegal interrogation by Security officers and leniency of the Judiciary*

Security institutions have multiplied in recent years and their powers have stretched considerably.

Political Security and National Security are granted the legal right to carry out large scale investigations and their officers enjoy the same authorities as judicial enforcement officers<sup>29</sup>, as per Article (7) of the founding document of the Political Security organ and Article (5) ii of Decree No. 262 of 2002 which describes the structure and functions of the authority for National Security. Alarming, these provisions allow security institutions privileges that match those usually reserved for judicial institutions while also creating a framework of impunity in which they can operate (cf. infra).

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<sup>27</sup> Article (13) of the Code of Criminal Procedure, No. 13 of 1994, states that « Anyone who is aware of any person having been arrested without any legal justification or in a place that is not set up for such arrests, shall immediately inform the General Prosecution thereof. The member of the General Prosecution shall immediately move [to the place of arrest] and release the detainee without any justifiable cause. If the arrest is under due process of Law than he shall be moved to one of the penal institutions. In all cases, report shall be written of the measures that are taken. » (unofficial translation).

<sup>28</sup> General Prosecution Act, Article 7(e)

<sup>29</sup> These officers are identified according to the 84th article of the Yemeni Code on Criminal Procedures law and consist of 9 categories, including members of the General Prosecution and various divisions of police officers, as well as employees such as Political Security and National Security officers.



However, as Judicial Enforcement Officers, Political Security and National Security officers are legally delegated as under the supervision of the General Prosecution and derive their power thereby. But the control exercised by the General Prosecutor on Judicial Enforcement Officers is lenient and porous if there at all. The Political Security organ detains people for years without bothering with orders from judges or the General Prosecution. The location of detention is concealed for several months and may exceed one year in some cases.

In fact, according to Yemeni law, Security and police officers may only question detainees in cases of non-grave crimes for which the penalty would not exceed 3 years imprisonment. They are thus not entitled to do so in grave crimes whose penalties may surpass 3 years imprisonment, which must be directly investigated by the General Prosecutor. The law does not ascribe Intelligence or Security agents the right to investigate the case or interrogate the suspect, based on the legal distinction between interrogating a defendant and collecting evidence. Interrogating a suspect implies conducting detailed questioning that will be associated to the defendant; evidence collection does not go beyond transcribing the arrested person's testimony without any questioning. Interrogating a suspect should lie exclusively in the jurisdiction of members of the general Prosecutor, as prescribed in Article 117 of the Code of Criminal Procedure ("the member of the General Prosecution may delegate a Judicial Enforcement Officer to carry one or more tasks in the investigation of a crime, except the interrogation of the suspect"...).

In effect, it follows therefore that the so-called "Evidence Collection Records" is data collected by questioning defendants illegally because in violation of the legal jurisdiction of law enforcement officers and constitutes a breach of the Code of Criminal Procedure. These invalid records do in fact reach the competent Prosecution (State Security Prosecution) which fails to question their legitimacy and instead, endorses the substance permitting its use against the defendant. In further annihilation of the suspect's rights, they are usually not transferred to a pre-trial detention center monitored by the General Prosecution<sup>30</sup>, but remain under the iron clench of the same Security organ- thereby ensuring the threat of repeated torture and prolonged imprisonment if suspects attempt to change or amend their statements.

In a further violation of the national constitution, interrogations carried out by Security and intelligence organs, or even ordinary police, usually do not occur in the presence of the suspect's legal counsel.

### *Admissibility of confessions obtained under torture*

Despite the constitutional guarantees (Art. 48 b)<sup>31</sup> and provisions of the Code on Criminal Procedure regulating the general proceedings for conducting arrests (Art. 70 to 83) which prohibit the infliction of physical or psychological harm to procure a confession or for any other reason, no investigations were ordered to support those who claimed during trials that they had been tortured in detention.

Yemeni courts do not appear to take allegations of torture seriously, investigate them or have forensic physicians validate them. Examining the reasoning for court decisions in cases where torture claims were made indicates that such allegations are not taken seriously by judges. For example, one defendant, Taha Ali Mohamed Al Hada', 20 years, is reported<sup>32</sup> as saying "That he was arrested in Mareb and deprived of sleep and a bed for 3 days, that he received threats that his nails would be pulled out, was transferred to Political Security in Sanaa. He stayed there for 5 months without investigation: he was the youngest in the group and the one who suffered the most

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<sup>30</sup> Except in rare occasion in particular, at the stage of the ruling for appeal.

<sup>31</sup> Art. 48 b stipulates that « Physical and psychological torture are prohibited. No one may be forced to give a confession during an investigation. Anyone whose freedom is restricted has the right to remain silent and to speak only in the presence of an attorney. No one may be jailed or detained in places other than those governed by the law regulating prisons. Physical punishment and degrading treatment at the time of arrest or during jail or detention are prohibited » (unofficial translation).

<sup>32</sup> Criminal case No. 13 for 1438 AH of the Specialized Criminal Court; Court Order No. 13 dated 7/11/2007.

torture."

The testimony of Bandar Mohamed Mohsen Al Akoo', 20 years, noted in the court reasoning, reads<sup>33</sup>"He replied that he has signed and impressed his fingerprint on many things he didn't know under conditions of mental and physical torture, the prosecution was permitted to read his statement from the prosecutor's investigation...after that he was asked by the court if he signed the prosecutor's statement, he said he was interrogated by the prosecution inside the headquarters of Political Security, he had been moved, blindfolded, by the same officers of the national security- he recognized their voices."

While the trial records and the decisions produced by exceptional courts document the existence of torture allegations raised by the defendants, there is nothing that indicates whether the judge had any reaction and ordered any investigations to authenticate the claims or was simply satisfied to hear the stories. The disregard demonstrated by judges toward the possible occurrence of torture raises serious questions about their integrity and independence from political and security organs. This doubt is fortified by the fact that many positions of leadership in judicial institutions are taken up by individuals from security or military backgrounds.

In the light of this situation, the UN CAT asked Yemen in 2009, to take the steps necessary to **ensure that confessions obtained under torture or duress are inadmissible in court**. It also requested "information (...) whether any officials have been prosecuted and punished for extracting such confessions".

### *Impunity for those responsible of torture*

It is impossible to refer an officer working under the National or Political Security institutions to a normal judicial court - civil or criminal - thus people working for those institutions enjoy a status that is entirely separate from other police organs. Their employees can be pursued only before military courts, completely lacking transparency and independence, effectively depriving afflicted parties from true legal recourse and creating a setting in which violations can be committed with no fear of consequence.

Despite the prevalence of torture allegations against Political Security, National Security and Anti-Terrorism forces, and as illustrated by the question of the UN CAT; information concerning alleged legal proceedings against state officials for torture is unavailable. Even representatives of the ministry of Human Rights argued that there had in fact been torturers who faced legal recourse. Both failed, however, to cite any names or other facts and figures about these alleged cases. Neither could they present a single verification of the claim that such prosecution has ever occurred. It is expected that perhaps some rare individual cases were tried for torture or ill treatment, but those cases did not involve individuals working under the security bodies dealing with cases pertaining to national security, political security and terrorism).

Victims of human rights violations rarely submit complaints against torturers in fear of the revenge that might be inflicted upon them by these security organs. Many released prisoners are threatened that they and their families will be captured and tortured if they speak out about the suffering they endured. It should be noted that such acts of revenge have in fact taken place in some instances where threats of retribution were made against former victims of torture.

Sha'ef Ali Al Heimi was detained on January 24<sup>th</sup> 2007 by National Security forces and endured a month of continuous and systematic torture. In a rare occurrence, he was bold enough to disclose the details of his torture in a public seminar organized by human rights organizations, despite the threats of revenge on him and his family made by his torturers before his release. After the seminar he was arrested again and referred to a criminal court where he was accused of heading a gang of thieves who posed as security agents. He stayed in jail for 4 months before the court released him.

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<sup>33</sup> Ibid

It is therefore unsurprising that most victims of crimes committed by security institutions whom the FIDH delegation met seemed extremely fearful. Many of them asked the FIDH delegates not to disclose their names to protect themselves and their families from acts of revenge such as that which befell Al Heimi.

Another obstacle to bringing torturers to justice is the impossibility of identifying them: victims are often blindfolded while they are being tortured, and the perpetrators may also be masked. The absence of a specialized authority in Yemen to receive complaints against security organs and police officers poses another serious challenge to the implementation of justice.

### *Restricted access to Security agencies' facilities*

The General Prosecution, the authority mandated to monitor prisons and the legality of the detention of prisoners, appears not to have carried out its role with integrity and independence as many prisoners remain in detention for months or years without appearing in front of the General Prosecution or any judicial body.

Despite the fact that many of those who have been detained by Security organs claim they were subjected to torture or humiliating treatment by Security Forces, no judicial or parliamentary proceedings have been taken to inquire in such allegations and no human rights organizations are permitted to enter detention centers where suspects arrested in the context of the "war on terror" are being held. Security officers often warn those released from approaching human rights activists or organizations.

In its response to the Committee against Torture, dated 26<sup>th</sup> September 2005, the Yemeni government indicated that the International Committee of the Red Cross (ICRC) had visited prisoners and talked to them. However, no local<sup>34</sup> or international human rights organization has been permitted to enter the prisons run by National Security, Political Security or Anti-Terrorism authorities. It appears that the ICRC's visit occurred in 2004, i.e- before the Committee against Torture's review and consequent recommendations.

To date, the state of Yemen has not responded to any visit request put forth by local and international organizations. Even Yemeni members of parliament<sup>35</sup>, some of whom repeatedly requested visits to look into allegations of torture, receive no reply.

On the other hand, the government of Yemen informed CAT that an independent parliamentary committee had been established to monitor the conditions of prisoners and has produced an impartial report of its findings. Unfortunately, the FIDH delegation was unable to meet this committee, find its members or see the aforementioned report. Indeed, MP Ahmed Seif Al Hashed – member of the parliament's Rights and Liberties Committee and president of Change organization for the Defence of Rights and Liberties – denied that such a committee was ever formed. MP Al Hashed has stated that his requests to visit the National and Political Security prisons submitted in his capacity as a member of the Rights and Liberties committee were all met with no response.

The Yemeni government also indicated in its 2005 response to CAT that prisoners are allowed to meet their relatives. However, most detainees held for "security" or terrorism charges said they

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<sup>34</sup> HOOD has been denied its numerous visit requests

<sup>35</sup> Press release <http://www.anhri.net/yemen/makal/2009/pr0812.shtml>

were deprived from the right to receive visits for months. Some family members may be allowed irregular visits while separated by a large partition, consisting sometimes of metal bars, deeming conversations extremely difficult, almost inaudible.

In response to this; the CAT Committee expressly asked Yemen to “take effective measures promptly to ensure that all detainees are afforded, in practice, all fundamental legal safeguards from the very outset of their detention; these include, in particular, the rights to have prompt access to a lawyer and an independent medical examination, to notify a relative, and to be informed of their rights at the time of detention, including about the charges laid against them, as well as to appear before a judge within a time limit in accordance with international standards. It also asked to be informed “of the requirements to obtain written authorization for persons in pretrial detention to meet with their relatives and lawyers, as well as the conditions under which such authorization may be refused”.

### *Proceedings before Specialized Criminal Court: a total disregard of fair trial guarantees*

In the aftermath of the assault by the "Aden-Abyan Islamic army" against tourists in Abyan in December 1998, a Specialized Penal Court was established by the Republican Decision No. 391 of 1999. Many Yemeni legal experts consider this court as unconstitutional according to Article 150 of the Constitution of Yemen which states that, "Exceptional courts may not be established under any conditions". In 2004, a new law broadened the court's jurisdiction to include vague crimes against national security<sup>36</sup>. Such vague definition of crimes against national security has as a consequence prosecution of people for exercising fundamental liberties and in particular, freedom of expression and peaceful assembly.

Independent journalists reporting on issues related to terrorism or security issues have been victims of intimidation, judicial proceedings and even physical threats. These violations have been denounced by the UN CAT in 2009.

Following the release of an article entitled "The Bashmarga in Saada" in Al Share' newspaper on June 2<sup>nd</sup> 2006, the journalists Nayef Hassan, Mohamed Ayesh and Nabeel Al Subay' have been charged under Article 103 of the Penal Code with revealing military secrets and affecting military troops. Their trial before the SSC is pending.

In addition to have been created unconstitutionally, the functioning of the court which is not independent widely contradicts the international fair trial standards . For instance, as previously detailed, the court validates and circulates "Records of Evidence Collection" that should be rejected for their legal fallibility, and continually fails to condemn illegal procedures of arrest and detention that may last for years. The court refuses to refer allegations of torture for investigation even when the marks of violence and violation are obvious on the defendant's body, as occurred in the case of El-Heimy who was tortured by National Security officials. The Court also prevents lawyers from accessing their clients' case files despite a clear guarantee of this right in the Code of Criminal Procedures.

In the light of such systematic violations of fair trial guarantees; the UN CAT adopted in 2009, a clear stance : “ the State party **should dissolve the Specialized Criminal Court**, as the trials before this exceptional court violate basic principles for the holding of a fair trial”.

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<sup>36</sup> HRW's report, *op.cit.*

## IV. Concerns linked to the upcoming adoption of an “anti-terrorism” law

The concluding observations of the Universal Periodic Review on Yemen as well as the provisional ones of the CAT Committee stated that measures should be taken to ensure that the campaign to combat terrorism is implemented in a framework of accountability towards human rights. In 2004 the Committee against Torture observed that anti-terrorism efforts must not preclude international obligations.

Apart from Republican Decision No. 391 of 1999 establishing the Specialized Penal Court, which many Yemeni legal experts consider to be unconstitutional, there has been no national legislation addressing terrorism- pending the draft laws on Money Laundering and Funding Terrorism, the draft Anti-Terrorism law and the draft amendments to the criminal and penal code.

On August 3<sup>rd</sup>, 2008 the Yemeni government submitted a draft Anti-Terrorism law consisting of 26 articles to the Parliament which in turn transferred the draft to the specialized committee (the constitutional committee) where it remains to date. The reference for the legislation is the Arab Agreement for Combating Terrorism,<sup>37</sup> which was adopted by Arab ministers of Interior and Justice in Cairo, 1998 and ratified by Yemen the same year<sup>38</sup>. The Arab Agreement itself is widely criticized by human rights organizations<sup>39</sup>, and the draft law is expected to reflect many of the same dubious tenets. The Arab Agreement effectively disregards many rights that are guaranteed in international human rights and humanitarian law. Its definition of torture is broad, permitting manipulation and false interpretation. The violations of the rights to freedom of expression and opinion, as well as personal privacy are cause of concern. Human rights organizations have expressed their distress with the absence of legal/ judicial procedures pertaining to the arrest or detention of individuals.

Despite the concerns and recommendations raised by human rights organizations, the authorities reportedly do not intend to make any amendments to the law or even put it to public debate.

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<sup>37</sup> The Arab agreement for combating terrorism  
<http://www.alerhab.net/look/article.tpl?IdLanguage=17&IdPublication=2&NrArticle=118&NrIssue=1&NrSection=6>

<sup>38</sup> The Arab Agreement for combating terrorism was signed by Arab ministers of Justice and Interior in Cairo in 1998 and Yemen ratified in by Republican Degree No. 34 of 1999

<sup>39</sup> Amnesty International, "The Arab Agreement for Combating terrorism: A great danger to human rights"<http://www.amnesty.org.ru/library/Index/ARAMDE010012002?open&of=ARA-312>

## Conclusions and Recommendations

The present report documents the main human rights violations committed by the authorities of Yemen in fighting terrorist activities as well as crimes against national security. This report aims at recalling the Yemeni authorities the necessary compatibility of international human rights law with the fight against terrorism and other "security offences".

The international community should be aware of the serious breaches of their human rights obligations by the authorities of Yemen while countering terrorism and dealing with internal political crises. Thus the international community should adopt a clear stance towards its Yemeni partner regarding the respect of human rights and should integrate any support in a comprehensive approach of the situation in Yemen, including development strategies and economic support. In its conclusions on Yemen released on 27<sup>th</sup> October 2009, the Council of the European Union "underlines the importance of a comprehensive approach to address the security, political and economic challenges (...)"<sup>40</sup>.

Yemen remains among the Least Developed Countries in the world. The 2008 food crisis had a huge impact on the poorer parts of the Yemeni population and the global financial crisis involved a decrease in oil revenue and remittances which has contributed to unsustainable pressure on public finances. This goes along with insufficient capacities of the Yemen government to engage the necessary economic reforms and tackle corruption. As a result, the security conditions are increasingly precarious<sup>41</sup>.

Bogged down in the unresolved internal political crises, such as the prolonged and still unresolved conflict in the northern region of Saada and incidents of political violence in the South, the Yemeni authorities are unable to fulfil their duty to protect their citizens against terrorist threats.

The systematic disregard of the authorities of Yemen for their international obligations under international human rights and humanitarian law in the framework of the armed conflict against the Huthis rebels or while countering terrorism or what they often consider, arbitrarily, as security offences is of great concerns. The international community, should take all the necessary measures to ensure that its increased support to Yemen to fight terrorism does not result in giving the Government of Yemen and its security agencies a free hand to continue its current systematic disregard for international human rights standards.

FIDH ; Hood and SAF ask the international community to support Yemen in its efforts towards ensuring compatibility between human rights and the fight against terrorism and therefore to condition its military support to concrete progress in the field of the fight against impunity for extrajudicial killings, torture and enforced disappearances.

Bearing in mind that the fight against torture is a priority of the European Union under the EU Guidelines on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, FIDH ; Hood and SAF ask the EU to address the issue of the human rights violations perpetrated in the name of the fight against terrorism in the framework of its bilateral dialogue with the Yemeni authorities.

States Parties to the United Nations Committee against Terrorism should address the issue of

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<sup>40</sup> Council of the European Union, « Council conclusions on Yemen, » 2971st External relations Council meeting Luxembourg, 27 October 2009.

<sup>41</sup> See European Commission, Mid-Term Review of the EC-Yemen Development Strategy 2007-2013. Preparation of the Multiannual Indicative Programme 2011-2013. Concept note.  
[http://ec.europa.eu/external\\_relations/yemen/docs/yemen\\_mtr\\_concept\\_en.pdf](http://ec.europa.eu/external_relations/yemen/docs/yemen_mtr_concept_en.pdf)

human rights violations in framework of the fight against terrorism on the occasion of the next step of the examination of Yemen's state report, and make public the Committee's conclusions.

***FIDH, HOOD and SAF urge the Government of Yemen to:***

***On human rights and the fight against terrorism:***

- Ensure the full conformity of anti-terrorism measures with Yemen's human rights obligations as recommended during its UPR. In particular, amend the draft Anti-terrorism and Money Laundering and Funding Terrorism laws, in a way that guarantees the protection of human rights, including as regards the absolute prohibition of torture and the procedures related to the detention of suspects;
- Invite the Special Rapporteur on the promotion and protection of human rights while countering terrorism in order to benefit from his advisory services and technical assistance, in particular on the necessary amendments to the draft Anti-terrorism Law and Money Laundering and Funding Terrorism Law;
- Cooperate with international and national human rights NGOs engaged in defending human rights in particular, on this issue.

***On torture, impunity and the rule of law:***

- Implement the recommendations issued by the UN CAT;
- Immediately investigate allegations of torture in a thorough and impartial manner (including those raised in this report) and ensure the those responsible are brought to justice;
- Immediately end the practice of holding relatives of alleged criminals as hostages in order to obtain the rendition of the later to the police;
- Dissolve the Specialized Criminal Court, as it is contrary to Article 150 of the Constitution of Yemen;
- Ensure that allegations obtained under duress are systematically considered inadmissible before the courts;
- Establish a mechanism to ensure effective protection of victims and witnesses of human rights violations, in particular victims of torture;
- Amend the definition of torture to ensure its full compliance with the UN Convention against torture;
- Ratify the Optional Protocol to the Convention Against Torture and the International Convention for the Protection of All Persons from Enforced Disappearance;
- Invite the UN Special Rapporteur on Torture who submitted two visit requests to Yemen in 2005 and 2007 but has received no reply

***On conditions of detention:***

- Take measures to effectively end the practice of *incommunicado* detention, as previously recommended by the Committee against Torture. In particular, ensure that relatives of

detainees are promptly informed about their whereabouts;

- Allow visits of all detainees by independent bodies, including local human rights NGOs;
- Ensure that the General Prosecution monitors efficiently and independently all places of detention throughout the country;

***On guarantees of fair trial:***

- Adopt a clear definition of crimes “against national security” in order to prevent prosecutions of people for the legal exercise of fundamental freedoms;
- Ensure immediate access of detainees to legal representation, including for detainees held by the Political Security Department, according to the recommendation accepted by Yemen during its UPR and previous recommendation by the CAT;
- Ensure the subordination of security services to the Public Prosecutor, in particular their respect of maximal duration of pre-trial detention and delays of indictment;
- Release all prisoners detained without charges for an unlawful period of time, or ensure their indictment and trial in a timely manner.

***On the internal political crises and armed conflict:***

- Negotiate an immediate ceasefire in Saada and open a process of dialogue with all parties in order to find a political solution to this military conflict;
- Fully respect human rights and international humanitarian law, and in particular, to take all measures necessary to protect civilians and to allow civilians wishing to escape from the conflict to reach places of safety, to facilitate access for the UN and NGOs to areas where internally displaced are gathered and to urgently allow emergency medical and humanitarian relief to reach those internally displaced;
- Establish a comprehensive political dialogue involving all regions and all elements of Yemeni society and in particular, with the Southern Movement.
- Take all necessary steps to ensure that all persons, including those monitoring human rights, are protected from intimidation or violence as a result of their activities and exercise of human rights guarantees,

***FIDH, HOOD and SAF urge the International Community to***

***On human rights and the fight against terrorism:***

- Recall to the Yemeni authorities their human rights obligations even while countering terrorism and threats to national security, in particular the right to defence, the right to a fair trial and the right not to be detained in full respect of Yemen's international obligations;
- Establish a monitoring mechanism of the compliance of Yemen with these obligations, which results would subject and guide the assistance towards Yemen on security-related matters including in the fields of counter-terrorism.



***On the internal political crises and armed conflict:***

- Pressure all parties to end the conflict and participate in mediation efforts;
- Insist on full access to war-affected regions for diplomats, journalists, and humanitarian and human rights organisations;

***More generally:***

- Address the dire humanitarian situation and provide development assistance ; focus on state building and key reforms in this field, the most important development challenges.
- Pledge reconstruction assistance for the development of Saada governorate as well as in the South as an incentive to reach durable resolutions of conflicts.

## Annex I

### ***List of Interviewed People***

#### Member of parliament:

Ahmed Saif Hashed

#### Journalists:

Naif Hassan (Al Sharie newspaper)  
Mohamed Aysh (Al Sharie newspaper)  
Nabil Subaye (Al Sharie newspaper)  
Abdul Karim Khaiwany (Al-Shoura newspaper)

#### International organisations:

Yousef Abu Ras (Country Manager of Danish Institute for Human Rights)  
Jean-Nicolas Marti (Head of Delegation - International Committee on Red Cross )

#### Political Parties:

Abdul Wahab Al Ansi ( Secretary General of Islah Party)  
Mohamed Kahtan (Member of Islah Party)  
Mohamed Al- Sadi ( Assistant Secretary General – Islah Party)

#### NGO's

Abdul Rasheed Al Faqih ( Hiwar Foundation for Democracy and Development)  
Radhia Mutawwakel ( Hiwar Foundation for Democracy and Development)  
Ezzadin Al-Asbahi (General Director - Human Rights Information and Training Center HRITC)  
Maged Al- Madhaji ( Media Officer- Sisters Arab Forum for Human Rights)  
Emad Al Jarash ( Yemeni Organization for Defending Human Rights)  
Ahmed Arman ( National Organization for Defending Rights and Freedoms, Hood)  
Mohamed Naji Alaw (HOOD)

#### Ministries and Government bodies:

Ali Saleh Taiseer ( Deputy Minister- Ministry of Human Rights)  
Ahmed Mohamed Al Jandoby ( Head of Office of General Prosecutor)  
Amb. Abdullah HAJAR (Chief of International Organizations Department, Ministry of Foreign Affairs)

#### Embassies:

Patrick Buzaud ( Premier Conseiller – Ambassade de France en Yemen)

#### Victims and Families of victims

## Annex 2

*unofficial translation*

### *Draft Law for Countering Terrorism*

#### **Preamble**

The phenomenon of terrorism is certainly not localized to a certain country; it's a problem with a global scale and a multitude of root-causes, and it's a phenomenon as entangled and diversified as its perpetrators, as terrorists use different ways of committing their respective crimes.

In an effort to counter the devastating consequences of terrorist acts, many countries have held international and regional conventions to criminalize such acts and endorse international cooperation aimed at countering terrorism. Among these efforts is the Arab Convention for Suppression of Terrorism, signed by Arab ministers of interior and justice in Cairo 1998, which Yemen ratified by law (34) for the year 1999. Also the Organization of the Islamic Council Treaty for Countering International Terrorism, of which Yemen is signatory. Among the most important articles included in the aforementioned treaties are those concerned with establishing a basis for cooperation directed at preventing and countering terrorist acts, and cooperation in exchanging information and intelligence, exchange of expertise, extradition, and delegation of Judicial power.

Yemen continues to suffer from the consequences of terrorist acts that harm the interest of the country and its nationals, and therefore is obligated to issue laws criminalizing terrorist acts and appropriately penalizing them, in accordance with article (47) of the Yemeni Constitution, which states that (Criminal responsibility is a personal one, and legal/judicial texts are the only source for defining crimes and their respective penalties)

The offences stipulated in conventions of which Yemen is signatory concerned with countering crime, and in particular countering terrorism, should be included in domestic legislation in accordance with the aforementioned conventions.

The Yemeni government thereby has prepared a bill for countering terrorism comprised of three parts; Part One is to cover Definitions and General Provisions, defining terrorism in accordance with The Arab Convention for Countering Terrorism, as *any act or threat of violence, whatever its motives or purposes, that occurs in the advancement of an individual or collective criminal agenda and seeking to disrupt order, harm public interest, harm the environment or public health or national economy, disrupt or seize private and/or public installations, prevent authorities from practicing their duties, or endangering the safety of community, and threatening stability of the state or threatening its political unity and sovereignty, hindering application of constitution and/or laws, or sowing panic among people, causing fear by harming them, or placing their lives, liberty or security in danger.*

Part Two is comprised of 12 articles, stipulating terrorist offences and their respective penalties.

Part Three covers final provisions, and is comprised of 11 articles.

**Draft Law () for the year 2008  
On Countering Terrorism**

In the name of the people.

President of the Republic.

In accordance with the constitution of the Yemeni republic, and with the endorsement of the cabinet and the parliament, the following law is promulgated:

**Part One  
Definitions and General Provisions**

Article 1: This law is to be called (The Law for Countering Terrorism)

Article 2: For the enacting of this law's provisions, each of the following terms shall be understood in the light of the definitions below:

1- Republic : The Yemeni Republic

2- Terrorism : any act or threat of violence, whatever its motives or purposes, that occurs in the advancement of an individual or collective criminal agenda and seeking to disrupt order, harm public interest, harm the environment or public health or national economy, disrupt or seize private and/or public installations, prevent authorities from practicing their duties, or endangering the safety of community, and threatening stability of the state or threatening its political unity and sovereignty, hindering application of constitution and/or laws, or sowing panic among people, causing fear by harming them, or placing their lives, liberty or security in danger.

3- Terrorist Organization: Any association, organization, center, group, gang or the likes, and any branches of the aforementioned entities established to further a terrorist agenda.

**Part Two  
Terrorist Offences and Their Respective Penalties**

Article 3: Without prejudice to incriminating clauses stipulated in standing laws, under the current law the following are to be considered terrorist acts:

1- Banditry and robbing of public and/or private properties.

2- Sabotaging roads, bridges, dams, high voltage cables, oil and gas pipes, and other installations deemed to have critical importance to national economy.

- 3- Attacks, bombing, and arson of installations and facilities of public services, or directed at populated area or in locations prepared for the public, or locations assigned to diplomatic missions, investment companies, projects, and foreign development programs active within in the Republic.
- 4- Illicit use of biological, chemical, or radioactive and otherwise poisonous materials or materials hazardous to public health to compromise water resources or reservoirs or any facility of public use.
- 5- Attack or the attempt thereof on aerial, naval, or ground means of transportation.
- 6- Assault or the attempt thereof on individuals, or kidnapping them and/or keeping them hostages.
- 7- Enticing armed rebellion or the attempt thereof to hinder authorities from practicing their constitutional and legal mandate and responsibility.
- 8- Illicit transfer of arms or the attempt thereof to a portion of the population, or enticing them to carry arms to start a civil war or use arms against another portion of the population.
- 9- Using territories of the Republic to prepare and/or plan committing a terrorist offence in another country.
- 10- Recruiting others for joining a terrorist organization or committing a terrorist offence even if the perpetrator did not join said organization.
- 11- Circulation and attempted circulation of bulletins, documents, and recordings that include an enticement of violence, or committing a terrorist offence, or the possession of recording and printing equipment with the intent of use for the aforementioned purposes.
- 12- Committing any other terrorist act or activity incriminated by regional and/or international conventions and treaties for countering terrorism of which the Republic is signatory.

Article 4: Anyone who heads a gang for kidnapping, banditry, or robbing public and/or private properties is to be sentenced to death, and the same penalty is to be applied to accomplices.

Article 5: Without prejudice to any penalty more severe stipulated in current laws, a penalty of ten to fifteen years in prison is applied to all who commit the following:

- α- Establish, start, organize, or lead a terrorist organization with the intent of committing any terrorist offence.
- β- mismanage any private entity established legally for the purposes of committing terrorist acts.

The court in either case is to dismantle the organization and confiscate all of its funds, effects, tools, documents, weapons, technologies, and other equipment.

Article 6: Without prejudice to any penalty more severe stipulated in current laws, a penalty of seven to twelve years in prison is applied to all who commit any of the following:

- 1- Sabotage main roads, bridges, dams, and high voltage cables, gas and oil pipelines, and other installations deemed of critical importance to national economy.
- 2- Entice or the attempt to entice an armed rebellion among the people to hinder the authorities from practicing their constitutional and legal mandate and responsibility.

- 3- Illicit transfer of arms or the attempt thereof to a portion of the population, or enticing them to carry arms to start a civil war or use arms against another portion of the population.
- 4- Use territories of the Republic to prepare and/or plan committing a terrorist offence in another country.
- 5- Recruit others for joining a terrorist organization or committing a terrorist offence even if the perpetrator did not join said organization.
- 6- Circulation and attempted circulation of bulletins, documents, and recordings that include an enticement of violence, or committing a terrorist offence, or the possession of recording and printing equipment with the intent of use for the aforementioned purposes.

Article 7: Without prejudice to any penalty more severe stipulated in current laws, a penalty of five to ten years in prison is applied to all who commit any of the following:

- 1- Joining any terrorist organization.
- 2- Joining a terrorist organization overseas with the intent of committing a terrorist act even if it's against another country, or receiving military training or joining armed militia abroad that use military training for terrorist purposes.
- 3- Furnishing any terrorist organization with funds, weapons, explosives, or aiding and abetting any of its leaders and/or members or providing them with a place for assembly or any other means of support directed at the aforementioned organization.
- 4- Forcing or manipulating a person into joining a terrorist organization or preventing him/her from cutting ties with said organization.
- 5- Training one or more persons to use or manufacture weapons, explosives, communication devices, and military and martial skills for terrorist purposes.
- 6- Aiding and abetting perpetrators of terrorist acts, knowingly hiding or destroying items prepared for, used in, or resulting from a terrorist act.
- 7- Contacting a terrorist organization abroad or one of its agents to commit a terrorist act within the Republic.
- 8- Knowingly facilitating the escape of any detainee on account of a terrorist act.

For offences stipulated in clauses 2, 5, and 7, a penalty of ten to fifteen years in prison is applied to the perpetrator had he been an agent of the military or security forces.

Article 8: Without prejudice to any penalty more severe stipulated in current laws, a penalty of five to fifteen years in prison is applied to whomever commits a terrorist act against any of the following:

- 1- Headquarters of diplomatic missions to Yemen or residences of their heads or members.
- 2- Development organizations, foreign charity organizations, or investment companies and projects active in Yemen.

Article 9: Without prejudice to any penalty more severe stipulated in current laws, a penalty of twelve to fifteen years in prison is applied to whomever kidnaps a Yemeni or a foreign person. If the kidnapped is a female or a juvenile, the penalty applied is twenty years in prison. If the kidnapping is followed or accompanied by abuse or assault, the penalty applied is twenty five years in prison, without prejudice to laws

of equality of life, and compensation when applicable. If the kidnapping is followed or accompanied by murder or rape, the penalty is the death sentence.

- Article 10: Without prejudice to any penalty more severe stipulated in current laws, a penalty of ten to twelve years in prison is applied to whomever hijacks a means of aerial, ground, and naval transportation. The penalty is raised to fifteen years in prison if the hijacking results in wounding anyone inside or outside of the vehicle or if the perpetrator resisted the authorities while performing their duty of retaking control of the vehicle.  
The penalty is raised to the death sentence if the hijacking results in the demise of any person inside or outside of the vehicle, without prejudice to laws of equality of life and compensation when applicable.
- Article 11: Without prejudice to any penalty more severe stipulated in current laws, a penalty of ten to twelve years in prison is applied to whomever takes a person as a hostage to blackmail the authorities into compromising their duties or receiving a benefit of any kind to the perpetrator or a third party. The penalty is raised to a minimum of fifteen years in prison if the perpetrator uses or threatens the use of force or violence, or if the perpetrator impersonated a government civil or military official, or if the perpetrator used forged official documents, the same penalty is applied to whomever resists the authorities while performing their duty of freeing the hostage, and the penalty is raised to death sentence if the act resulted in the demise of a person.
- Article 12: Without prejudice to any penalty more severe stipulated in current laws, a penalty of fifteen to twenty years in prison is applied to whomever assaults or kidnaps counter-terrorism personnel while performing their duty or on account thereof, or attempts to kidnap spouses or relatives of said counter-terrorism personnel.  
The penalty is raised to death sentence if the act resulted in the demise of the assaulted or the kidnapped, without prejudice to laws of equality of life and compensation when applicable.
- Article 13: Without prejudice to any penalty more severe stipulated in current laws, a penalty of ten to fifteen years in prison is applied to whomever subjected people's life or safety to danger on terrorist intent, by compromising a water resource or reservoir through illicit use of biological, chemical, or radioactive material, or otherwise any materials that may cause death, or harms public health or environment, or the attacking, bombing, or arson of populated areas or facilities of public service.  
The penalty is raised to the death sentence if the act resulted in the demise of a person, without prejudice to laws of equality of life or compensation when applicable.
- Article 14: Without prejudice to any penalty more severe stipulated in current laws, a penalty of five to fifteen years in prison is applied to whomever practices a terrorist activity or commits a terrorist act incriminated under the provisions of regional and international conventions and treaties concerned with countering terrorism of which the Yemeni Republic is signatory.
- Article 15: Sentencing the penalties stipulated in the preceding articles does not preclude further sentencing of compensations for damage when applicable.

### **Part Three Final Provisions**

- Article 16: The aforementioned penalties are applied to solicitors or accomplices of offences stipulated in this law, and the attempt to commit said offence is punished by the same penalty even if the offence resulted in no ill consequences.
- Article 17: Any of the perpetrators who report the offence to the authorities prior to its committing is exempt from the penalties stipulated in this law, and the court may exempt the reporter from penalty if the reporting follows the offence in the case of reporter's cooperation during initial investigation that leads to arresting other perpetrators.
- Article 18: Criminal actions of aforementioned offences do not abate, nor do their respective penalties expire.
- Article 19: The public prosecution service may order monitoring all messages, documents, packages, telegrams, and all means of communications, and placing public and private places under surveillance when it's deemed beneficial for the unmasking of terrorist acts stipulated in this law.  
In all cases the order of monitoring and surveillance must have a valid reason and for a duration of a maximum of ninety days. This duration cannot be extended without an order from the court of competent jurisdiction.
- Article 20: The public prosecution service may order access to any information or data of accounts, deposits, and safes, or otherwise any banking or financial service, if it is deemed beneficial for the unmasking of terrorist acts stipulated in this law.
- Article 21: The public prosecution service may ask the court of competent jurisdiction for a confiscation order of funds of the accused, and to prevent him/her from managing them in accordance with the law.  
The management of confiscated fund is to be based on rules stipulated in civil code.
- Article 22: An accused whose funds are confiscated by an order of the court of competent jurisdiction at the behest of public prosecution service can complain to the judge who issued the order, and if the complaint is refused he could appeal to the appeal court within ten days of being informed of the refusal of said complaint.
- Article 23: The court is to indefinitely expel any foreigner from the territories of the republic if he/she is found guilty of any offence stipulated in this law.
- Article 24: The public prosecution service is not constrained by the necessity of a complaint or a request as stated in the penal code.



Article 25: Law (24) on countering banditry and kidnapping for the year 1998 is hereby repealed.

Article 26: This law is effective starting from issuing date, and is to be published in the official gazette.

Issued at the Presidency of the Republic – Sana'a

Dated: / /1429 Hijri

/ /2008 A.D

President

Ali Abdullah Saleh





# FIDH represents **155** human rights organisations on **5** continents



of person. Article 4: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms. Article 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Article 6: Everyone has the right to recognition everywhere as a person before the law. Article 7: All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination. Article 8: Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law. Article 9: No one shall be subjected to arbitrary arrest,

## ABOUT FIDH

- FIDH takes action for the protection of victims of human rights violations, for the prevention of violations and to bring perpetrators to justice.

- A broad mandate

FIDH works for the respect of all the rights set out in the Universal Declaration of Human Rights: civil and political rights, as well as economic, social and cultural rights.

- A universal movement

FIDH was established in 1922, and today unites 155 member organisations in more than 100 countries around the world. FIDH coordinates and supports their activities and provides them with a voice at the international level.

- An independent organisation

Like its member organisations, FIDH is not linked to any party or religion and is independent of all governments.

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