

YEMEN: CRACKING DOWN UNDER PRESSURE

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Cover photo: A window riddled with bullet holes following a raid by security forces in Yemen.

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TIMELINE

1839 - Aden (south Yemen) comes under British rule.

1918 - Ottoman empire collapses and north Yemen gains independence under Imam Yahya.

1948 – Imam Yahya assassinated, and succeeded by his son Ahmad.

1962 - Imam Ahmad dies; army officers seize power in northern Yemen and establish the Yemen Arab Republic (YAR), sparking civil war in northern Yemen between advocates of an imamate, backed by Saudi Arabia and advocates of the Republic, backed by Egypt.

1967 – British rule of Aden ends; Southern Yemen formed and later named the People's Democratic Republic of Yemen (PDRY).

1972 - Border clashes between YAR and PDRY; ceasefire brokered by the League of Arab States.

1978 - Ali Abdullah Saleh named President of YAR.

1979 - Renewed fighting between YAR and PDRY.

1986 - Thousands die in south in political clashes. A new government is formed.

1990 – North and South unite, creating the Republic of Yemen with Ali Abdullah Saleh as President and Ali Salim al-Beidh, former President of the PDRY, as his deputy.

1991 - Yemen votes against UN Security Council's resolution to use force against Iraq in Gulf War, leading to expulsion of hundreds of thousands of Yemeni workers from Gulf states and a halt to most international aid.

1994 – Deep grievances over unification reach boiling point with southerners citing discrimination against them; the armies of the former YAR and PDRY, having failed to integrate, engage in sporadic fighting at the former border. In July, northern forces take control of Aden; secessionist leaders, including Ali Salim al-Beidh, flee abroad and are sentenced to death in their absence.

2000 – In October, US naval vessel *USS Cole* bombed in Aden.

2001 – In November, President Saleh tells US President George W. Bush that Yemen is a partner in the fight against terrorism.

2002 – In October the supertanker *Limburg* is badly damaged in an attack off the Yemeni coast.

2004 – In June-August, government troops in the north fight supporters of dissident Shi'a cleric Hussain Badr al-Din al-Huthi, who is killed in September.

2007 – In July, a suicide bomber kills eight Spanish tourists and two Yemenis in Ma'rib governorate. In August, protests led by retired soldiers begin in the south against Sana'a government.

2008 – Mass protests continue in the south. In March-April, several bomb attacks on police, official, diplomatic, foreign business and tourists. In September, an attack on the US embassy in Sana'a kills 16 people, including six assailants. Qatar brokers a mediation agreement between the Huthis and the government but within the same year it fails to hold.

2009 – In June, nine foreigners abducted in Sa'dah region; three are later found dead and two others, both children, are released in 2010. In August, the army launches operation "Scorched Earth" against Huthis – the sixth round of fighting in Sa'dah. In November, the Sa'dah conflict spills into Saudi Arabia, which joins the conflict against the Huthis. In December, al-Qa'ida in the Arabian Peninsula claims responsibility for the failed attack on a US airliner bound for Detroit.

2010 - In February, the government and Huthis reach a ceasefire agreement.

1. INTRODUCTION

“... States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law.”

Unanimous UN General Assembly resolution, December 2009¹

Yemeni authorities are abandoning human rights in the name of security. Internationally, tough action is being demanded from the government to combat al-Qa'ida supporters based in Yemen. Inside Yemen, the state is being challenged by growing calls for secession in the south and an intermittent conflict with a rebel movement (known as the Huthis) in the north whose latest round last year forcibly displaced over a quarter of a million people. In late 2009 Yemen's powerful neighbour Saudi Arabia deployed its armed forces against the Huthis when the conflict spilled across its borders. Neither internal nor external pressures, however, can justify or excuse the human rights violations for which the Yemeni government is responsible.

Yemen also faces a dire economic situation.² Around a third of its 24 million people suffer chronic hunger³ and nearly half live on less than US\$2 a day.⁴ Some 43 per cent of children aged under five are undernourished,⁵ reflected by the ubiquitous street children begging or selling their cheap wares, and young people suffer extremely high levels of unemployment. Millions of Yemenis are still suffering the consequences of their government voting against the UN Security Council's resolution to use force after the 1990 invasion of Kuwait by Iraq,⁶ which led to most international aid being cut and hundreds of thousands of Yemeni workers being expelled from Gulf states, primarily Saudi Arabia. All these factors have left Yemen ranked 140 out of the 182 countries listed on the human development index, a comparative measure of life expectancy, education and standard of living.⁷ With the country's few natural resources, including oil and water, fast running out, prospects for growth and future development look bleak.



Children in old Sana'a © Amnesty International

The impoverished Yemeni state has been unable to meet the needs of its fast growing population, or to exercise effective control over large areas of its territory that are instead controlled by tribes possessing firearms and other weapons. In a country where carrying weapons is a rite of passage for most young men, literally millions of firearms are held and in circulation.⁸

The external pressures on the Yemeni government jumped up a gear on and after 25 December 2009, when Umar Farouk Abdulmutallab, a Nigerian man said to have received training with al-Qa'ida in Yemen, apparently tried to blow up a US airliner bound for Detroit. US officials were subsequently reported to be looking at ways to expand military and intelligence co-operation with Yemen.⁹ In early 2010, the US government announced a US\$155.3 million security assistance package for Yemen, with US\$34.5 million earmarked for Yemen's Special Operations Forces to carry out counter-terrorism operations.¹⁰ However, there was little or no evidence of any concern about the impact such security operations can be expected to have on human rights. This was highlighted in April 2010 when the US government authorized the killing of al-Qa'ida suspect Anwar al-Awlaki, a US citizen said to be hiding in Yemen, saying that he posed a direct threat to the USA.¹¹ As will be explained in greater detail later, targeted killings outside the context of a specific and ongoing armed conflict constitute extrajudicial executions.¹² In May 2010 it was reported that US military and intelligence agencies had stepped up surveillance operations in Yemen using reconnaissance aircraft, satellites and signal intercepts to track al-Qa'ida targets, and were providing some of the information to Yemen's security forces.¹³

The main security fear for many people in Yemen, however, is to be caught up in the government's repressive and sweeping response to the protests in the south and conflict in the north. Despite government allegations, there appears to be no convincing evidence linking either the Huthis or the loose coalition of groups and individuals known as the Southern Movement to al-Qa'ida. Both appear to be popular movements stimulated by anger at perceived discrimination by the government and other local grievances.

Militants suspected by the government of being affiliated to al-Qa'ida and other Islamist armed groups, on the other hand, have indeed committed serious human rights abuses in Yemen, including lethal attacks against people. Such attacks are to be condemned and those responsible must be brought to justice. The government has a duty to protect people on its territory from such attacks, but in doing so it must ensure that the measures it employs comply fully with international human rights law and standards. In practice, however, it has increasingly resorted to unlawful means, including enforced disappearances, unlawful killings, arbitrary detention and excessive use of force – violations largely carried out by unaccountable security agencies that report directly to the President. People alleged to be linked to al-Qa'ida have been targeted for extrajudicial execution, sometimes leading to the killing of other people, including children, who were not being targeted. Hundreds, possibly thousands, of people have been detained for long periods without charge or trial. Some have disappeared. Some have been tortured. Some have been condemned to death or long prison terms after unfair trials.

In the conflict in the northern Sa'dah region, hundreds, possibly thousands, of civilians were killed in 2009-2010, many as a result of apparently indiscriminate attacks and other violations of international humanitarian law. The sixth round of fighting in late 2009 and

early 2010 was particularly intense, involving heavy aerial bombardment by Yemeni security forces and the Saudi Arabian military, many civilian casualties and the displacement of around 280,000 people. In the south, security forces are alleged to have targeted for extrajudicial execution people prominent in the Southern Movement and have killed or injured hundreds of protesters during peaceful demonstrations. Since February 2010, when a ceasefire was agreed with the Huthis, the government appears to have directed more of its energies and forces against the secessionist movement in the south and people alleged to have links to al-Qa'ida, who it claims are concentrated in or near that region.

Those speaking out against government policies or human rights violations have also been targeted, among them journalists, human rights defenders and lawyers. Legislation and specialized courts created in the name of



Old Sana'a skyline © Amnesty International

countering terrorism and to punish media offences have been used to repress even those who merely discuss or try to report on the conflict in Sa'dah or the grievances expressed by the Southern Movement. Treasured freedoms, particularly in relation to the media and the right to demonstrate peacefully, have been arbitrarily curtailed.

The pattern of human rights violations in the name of security defies the call by the UN Human Rights Committee in 2002 for the Yemeni authorities to "ensure that the fear of terrorism does not become a source of abuse."¹⁴ It also defies the repeated calls on all states by the UN Human Rights Council, the Security Council and the General Assembly to ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law.¹⁵

The violations also signify a move away from a more positive approach to human rights by the Yemeni authorities witnessed until relatively recently, particularly in the 1990s. Yemen ratified many of the core international human rights treaties. A Ministry of Human Rights was created. New laws improved fair trial safeguards. Human rights groups and other NGOs could generally operate without hindrance. The press was among the most diverse and free in the region. This trend has now been reversed; the gains that were made in previous decades have been imperilled.

The largely uncritical international support for the anti-terrorism campaign has facilitated the Yemeni government's resort to unlawful methods not just against people suspected of links to al-Qa'ida but against all perceived opponents. On 27 January 2010, a high-level international meeting on Yemen was convened by the UK government in London. Governments represented there focused on the need to pursue those who pose a serious threat to public security, but made little mention of the need for the Yemeni government to comply fully with its

obligations under international law in that pursuit. The meeting also failed to specify measures to ensure that any military and security assistance given to Yemen would not be used to commit human rights violations.

This report sets out Amnesty International's assessment of security and human rights issues in Yemen. It does not address Amnesty International's other human rights concerns, such as violence and discrimination against women, the wider context of torture and other ill-treatment and of the application and use of the death penalty, or the detention and deportation of refugees and asylum-seekers.¹⁶

The report draws on evidence gathered during a two-week research visit to Yemen in March 2010, during which Amnesty International delegates interviewed dozens of families displaced by the conflict in Sa'dah and dozens of survivors of human rights violations and relatives of victims. All interviews were conducted in Sana'a and Aden. The delegates also spoke to numerous activists and other members of civil society, including lawyers, journalists, human rights defenders, women's and children's rights activists, as well as representatives of refugee and humanitarian organizations. Other information has been gathered from media reports, local human rights activists, NGOs, UN agencies and a variety of organizations.

The delegates were pleased to meet Ali Saleh Taiseer, the Deputy Human Rights Minister, and Dr Huda Ali Abdullatef Alban, the Human Rights Minister respectively at the beginning and end of their fact-finding visit. The two ministers stressed their willingness to assist the delegates;¹⁷ the Deputy Human Rights Minister emphasized in addition that the government was keen to work with Amnesty International to find "the correct balance between countering terrorism and upholding human rights".¹⁸ The delegates also met other state officials, including the Head of Prosecution for the Specialized Criminal Court (SCC) in Aden. However, requests for meetings with the Interior Minister and the Attorney General were not granted. Several attempts to obtain permission to attend sessions of the SCC in Sana'a were not successful and Amnesty International delegates were twice physically barred from entering the court.

During the visit, Amnesty International's delegates raised preliminary concerns with the Ministry of Human Rights. This was followed by a memorandum detailing these concerns sent to the Ministry in May. Despite the organization's request for a response, by the end of June 2010, the Yemeni authorities had not responded. Amnesty International has also written to the Saudi Arabian authorities regarding the Sa'dah conflict (see Chapter 4) and also to the US authorities regarding the Abyan attack (see Chapter 3, Unlawful killings by security forces) but, at the time of writing, had not received a response.

Amnesty International's research was hampered by limited access to parts of the country for security reasons, including the whole of Sa'dah and much of the south outside Aden. Some of the information obtained, including about alleged abuses, was difficult or impossible to verify, including because of periodic blocking of mobile phone networks and the government's denial of access to journalists and other independent observers to sensitive regions. As well, some people were unwilling to be identified as sources of information because of their fear of reprisals against them or their family by the government, their employer or their university. Nevertheless, the testimonies and information garnered provided compelling evidence of certain patterns of abuse.

The report urges the Yemeni government to stop violating human rights in the name of countering terrorism. Along with detailed recommendations included at the end of each chapter, Amnesty International is calling for:

- the government and all armed groups in Yemen to respect human rights;
- the Yemeni authorities to end their resort to arbitrary arrests and detentions, enforced disappearances, incommunicado detention and torture, excessive use of force against demonstrators, targeted killings, unfair trials and the death penalty;
- both the Yemeni and Saudi Arabian authorities to investigate and ensure accountability for alleged violations of international law by their forces during the sixth round of the Sa'dah conflict;
- the international community to press on the Yemeni authorities and all governments involved in Yemen to respect and promote human rights at all times.

2. ABUSES IN THE NAME OF SECURITY

“Secret detention is irreconcilable with international human rights law and international humanitarian law. It amounts to a manifold human rights violation that cannot be justified under any circumstances, including during states of emergency.”

Joint study on global practices in relation to secret detention in the context of countering terrorism¹⁹

HUMAN RIGHTS FRAMEWORK

The Yemeni government took significant measures to improve human rights protection during the 1990s and early 2000s. It set out many rights in the Constitution and other legislation guaranteeing the right to fair trial and criminalizing arbitrary detention and torture,²⁰ appointed a Minister of State for Human Rights and in 2003 created a specific Ministry of Human Rights.²¹ It allowed civil society to flourish; NGOs and the media could scrutinize and criticize government policy and operate largely without fear of interference or sanction. It allowed Amnesty International and other international NGOs ready access to the country and engaged in meaningful dialogue with them. Over the years the Ministry of Human Rights in particular has played a positive role in facilitating meetings with government authorities and arranging visits to prisoners of concern to Amnesty International and other organizations.

Yemen also became a state party to many key human rights treaties, both in 1990 as a result of inheriting the legacy of ratifications by the southern People’s Democratic Republic of Yemen and in the early 1990s at its own initiative. These treaties include the International Covenant on Civil and Political Rights (ICCPR);²² the International Covenant on Economic, Social and Cultural Rights;²³ the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture);²⁴ the Convention on the Rights of the Child;²⁵ the Convention on the Elimination of All Forms of Discrimination against Women;²⁶ the International Convention on the Elimination of All Forms of Racial Discrimination;²⁷ and the 1951 UN Refugee Convention and its 1967 Protocol.²⁸ It is also party to the 1949 Geneva Conventions²⁹ and their Additional Protocols I and II.³⁰

Since 2000, however, with the launch of anti-terrorism initiatives following the suicide bombing of *USS Cole*,³¹ the authorities have made institutional changes and adopted practices that have seriously eroded the human rights framework. In 2002, the government created a new security force, National Security. Like Yemen's domestic intelligence agency, Political Security, it reports directly to President Ali Abdullah Saleh and is subject to no judicial oversight.³² This effectively gives both agencies licence to operate outside the framework of the law. The third authority involved in arrests, including of political prisoners, is the Criminal Investigation Department (CID), which comes under the Interior Ministry.

In 2004 the government expanded the jurisdiction of the Specialized Criminal Court (SCC),³³ originally established by presidential decision in 1999,³⁴ allowing it to try people accused of state security offences most of which are defined in broad and vague terms. Although the court is supposed to follow the regular Code of Criminal Procedures,³⁵ it sometimes fails to do so and cases brought before it generally fall short of international fair trial standards. Activists and lawyers in Yemen have argued that the SCC is unconstitutional³⁶ and some of the latter have declined to represent defendants being tried before it on that ground.

The SCC was originally a single court sitting only in Sana'a. However, in May 2009 the Supreme Judicial Council established three additional SCCs in Aden, al-Hudaydah and Hadramawt.³⁷ At the same time it established a press and publications court in Sana'a with national jurisdiction (see Chapter 6, Specialized Press and Publications Court).³⁸ Judgments of these courts have eroded freedom of association and expression.

An ongoing legislative review, which has included the drafting of counter-terrorism legislation, still being debated, in some instances threatens to further undermine human rights protection. The Law on Combating Money Laundering and Financing of Terrorism, introduced in January 2010, requires lawyers to disclose to the authorities information about their clients if they suspect their clients have committed offences under this law³⁹ breaching the principle of lawyer-client confidentiality.⁴⁰ Article 4 of this law provides a broad definition of the criminalization of financing terrorism. For instance, the definition includes "the financing of the commission of... any action regarded as a crime within any of the relevant treaties and conventions that the Republic has become a party to or ratified".⁴¹ However, it does not provide any list of such treaties and conventions. The uncertainty this creates is incompatible with the principle of "legality", which demands precision in the laws defining criminal offences.⁴² The draft Counter Terrorism Law lacks legal procedures to protect the rights of suspects during arrest and detention, and proposes to expand the number of crimes punishable by death. Proposed amendments to the Penal Code,⁴³ moreover, could allow the death penalty to be used against juvenile offenders, a practice that is currently prohibited by law, even if it sometimes occurs in practice.⁴⁴ Two draft laws relating to the media threaten to further restrict freedom of expression (see Chapter 6, Legal and judicial repression of press freedom).

ARBITRARY DETENTIONS AND ENFORCED DISAPPEARANCES

"...he was not mute before his arrest. God knows what they did to him, to make him like this."

Nimaa Yahya, mother of 15-year-old detainee Abdul Rahman Yahya al-Lahiji

Muhammad Muhammad al-Qawli, aged 33, was arrested at the grocery shop where he worked near his house in al-Safia, Sana'a, at around 9pm on 6 February 2007. His family told

Amnesty International that about a dozen members of the security forces wearing civilian clothes arrived in three cars.⁴⁵ Four of them took him outside and beat him. They said that the sister tried to intervene but the men threatened to hit her too. Muhammad was reported to have said: “What have I done, what do they want from me, what are they going to do to me?” The family later found out that he was being held by the Criminal Investigation Department (CID). They were not permitted to visit him for the four months that he was held by the CID, although they were allowed to take in food for him. He was then transferred to the custody of Political Security, though they denied holding him for the first two months. Then, after 18 months in detention, according to the family, Political Security officials told him to sign documents that stated that the family were Huthis, supporters of the late Zaidi Shi'a cleric and former parliamentarian Hussain Badr al-Din al-Huthi. However, he refused, whereupon he was placed in an underground cell for a month. After this, he signed the documents and was later tried, convicted and sentenced to a prison term for participation in an “armed gang” during fighting in the Bani Hushaysh district of Sana'a governorate in 2008, even though he was apparently already in detention at the time.

Many hundreds of people have suffered similar fates after being detained on security grounds in recent years. Most appear to have been arrested arbitrarily in that they were neither presented with an arrest warrant nor apprehended while committing a criminal act, the two conditions under which an arrest is lawful according to Yemen's Code of Criminal Procedures and the Yemeni Constitution.⁴⁶ Such people are also not informed of the reasons for their arrest or allowed to contact a person of their choice and to have access to a lawyer upon arrest, as the Code of Criminal Procedures also requires.⁴⁷

“Secret detention violates the right to liberty and security of the person and the prohibition of arbitrary arrest or detention... Every instance of secret detention is by definition incommunicado detention... [E]ven comparably short periods of incommunicado detention may violate the obligation... to treat all persons deprived of their liberty with humanity and with respect for the inherent dignity of the human person... [S]ecret detention as such may constitute torture or cruel, inhuman and degrading treatment; and secret detention may be used to facilitate torture or cruel, inhuman and degrading treatment...”

Joint study on global practices in relation to secret detention in the context of countering terrorism⁴⁸

According to former detainees, relatives of prisoners and lawyers interviewed by Amnesty International, people detained as security suspects or because they are government critics are commonly subjected to a range of serious abuses, including enforced disappearance, prolonged incommunicado detention, torture and unfair trials. Such individuals are generally detained by both Political Security and National Security, frequently being held for weeks or months, without judicial supervision and without their detention even being acknowledged by the authorities, in cells and prisons under the control of these largely unaccountable security agencies. By concealing or failing to disclose their detention, often for weeks or months, the Yemeni authorities are subjecting them to enforced disappearance. While held in such secret conditions by National Security, detainees are frequently tortured, including by being suspended by the wrists for long periods during interrogation. Thereafter, they are usually transferred to a Political Security prison and given access, at last, to their families. Some remain detained without charge or trial for months or years. Others are charged with offences and passed into the justice system, often to face trial before the SCC. In other cases, detainees have been released without charge. Detainees are also reported to have been

tortured or otherwise ill-treated while held by Political Security. Both Political Security and National Security do not permit detainees to have contact with lawyers engaged to represent them until they are charged.

The three main arresting authorities – Political Security, National Security and the CID – sometimes work independently of one another and at other times in co-ordination. For example, people arrested by National Security are sometimes detained at CID detention centres. All three bodies, however, rarely comply with the legal requirement to produce a warrant prior to carrying out an arrest and generally ignore other supposed safeguards against arbitrary arrest and detention. As a result, families may experience great difficulties and delay in finding out, first, whether a missing relative has been detained and, thereafter, where their relative is being held and the reasons for the detention. Relatives often spend days, weeks or even months shuttling between one authority to another, one detention centre to another, with deepening anxiety in what seems to be a vain quest for information about their loved ones.

These patterns of abuse have become increasingly acute and entrenched in the nine years since the attack on the World Trade Center and other targets in the USA on 11 September 2001. While arbitrary arrests were carried out before, today they are common and widespread and the product of deliberate government policy, albeit unwritten and unacknowledged. The scale today has altered dramatically compared to the period before 2001 as the authorities have relegated human rights in the face of the security challenges of recent years.

Many families have suffered long months of torment, fear and also financial expense as they searched for their disappeared relatives. Fatima Ali Muhammad al-Faqih, wife of **al-Azzi Saleh Ahmad Rajih**, told Amnesty International that following her husband's arrest by eight armed men in plain clothes on 7 May 2007, he disappeared for a month and a half:

*"We looked for him in the Political Security, the National Security and the Criminal Investigation Department, but none of them acknowledged holding him. After that, they admitted holding him and said it was a preventive detention only."*⁴⁹

Yasser al-Wazir, a 28-year-old mosque preacher, went missing after leaving his home in Bi'r al-Shayaf area, near al-Adil Street, in Sana'a, at around 11am on 5 July 2008 to have his hair cut. His wife Ala and father Abdullah al-Wazir told Amnesty International that after phoning around everywhere that they could think of on the day that Yasser disappeared, they inquired at the CID, where they were advised to ask Political Security. In the following weeks his pregnant wife and other relatives went more than 10 times to Political Security "but they denied having him", although he was in their custody. After about two and a half months the Director of National Security told them that Yasser's file was "clean", meaning that he was not considered to have done anything wrong, but that he was being held as a "preventive" measure. He told them to go again to Political Security on the following Saturday, and when they did so Political Security for the first time acknowledged holding Yasser. However, they did not permit his relatives to see him until 8 September 2008. Later on, Yasser was tried and jailed for eight years by the SCC (see Chapter 4, Detentions and trials).

“The suffering caused to family members of a disappeared person may also amount to torture or other forms of ill-treatment, and also violates the right to family...”

Joint study on global practices in relation to secret detention in the context of countering terrorism⁵⁰

Yemen’s Code of Criminal Procedures states that, within 24 hours of being detained, a detainee must be brought before a judge or prosecutor, who can extend the detention for seven days or order their release.⁵¹ A court order is required to prolong the detention, which must be periodically reviewed by a judge or court, up to a total of six months,⁵² after which the detainee must be released if not charged. The Code of Criminal Procedures further states that detainees can refuse to respond to questioning in the absence of a lawyer.⁵³

All these guarantees are routinely flouted in cases of security suspects and critics of the state. The failure to respect these safeguards is not only inconsistent with national laws. In many if not all cases, it also breaches Yemen’s international human rights obligations. For instance, Article 9 of the ICCPR requires that “no one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law”. It continues: “[a]nyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him”. Indeed, the provisions in Yemeni law permitting such extended periods of detention without charge are inconsistent with this requirement. Article 9 also requires that “[a]nyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release” and that “[a]nyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful”. The UN Committee against Torture has said that among the “basic guarantees” that “apply to all persons deprived of their liberty” is “the right promptly to receive independent legal assistance, independent medical assistance, and to contact relatives”.⁵⁴

Most of those arrested in connection with the Sa’dah conflict have been held for months or years without charge. Of those prosecuted, most have been charged with state security offences and offences relating to endangering the public (which fall within Articles 121 to 136 and 137 to 146 of the Penal Code respectively). These include participating in “an armed gang” which aims at, among other purposes, “usurping land” or “looting property owned by the state” or which has “attacked a group of people or resisted officials of public authorities in charge of implementing the law” (Article 133). They also include “lighting a fire or causing an explosion... likely to expose people’s lives or property to danger” (Article 137). Most of those arrested in relation to the unrest in the south are held for days or weeks and released without charge. However, those that are prosecuted are charged with harming the unity of Yemen under Article 125, which covers “anyone who perpetrates an act with the aim of harming the independence of the Republic or its unity or security of its territories”. People suspected of links to al-Qa’ida generally also face charges such as participating in “an armed gang” and “lighting a fire or causing explosion... likely to expose people’s lives or property to danger”; others are charged under the section on falsification of documents (see Article 212-219).

Reasonable grounds may well have existed to arrest, charge and try some of those who have been detained, whether in connection to the Sa’dah conflict, the Southern Movement, al-

Qa'ida or in other cases. However, the Article 125 offence of "harming the independence of the Republic or its unity" is imprecise and overbroad in a manner that fails to meet international requirements of "legality",⁵⁵ or would otherwise seem to infringe without justification human rights such as freedom of opinion, expression and association. Consequently, a disturbingly broad set of individuals have been caught up in waves of arrests. They include human rights activists and journalists, and people loosely accused of spying.

In some cases, relatives who the authorities have yet to apprehend have been arrested and effectively taken hostage by security officials to force the suspects to give themselves up. Some have been held for months, even years and those held to force their wanted relatives to hand themselves in have included suspects' relatives, as well as people who had "sponsored" or stood bail for detainees who then went into hiding. Unsurprisingly, this pattern of behaviour has led many Yemenis to fear going to the authorities to inquire about missing relatives or friends who they believe to have been detained or who might be wanted by the authorities in case this should result in their being detained and held as hostages for the surrender of their relative. Such hostage-taking constitutes arbitrary detention and is a flagrant violation of international law. Indeed, the Human Rights Committee has stressed that there can never be a justification, including in situations of emergency, for states to act "in violation of humanitarian law or peremptory norms of international law, for instance by taking hostages..."⁵⁶ The Committee against Torture in its recent review on Yemen called on the authorities "to discontinue its practice of holding relatives of alleged criminals as hostages, and punish the perpetrators."⁵⁷

Wael Abdul Latif No'man al-Kani'i told Amnesty International how he and others had been detained while the authorities searched for his 29-year-old brother Walid.⁵⁸ He said that in March 2004, when he was 19, he and two other brothers, as well as 12 of Walid's friends, were arrested in the same week in Aden. His brother Wahid, arrested in al-Hudaydah, was held for a year in the Political Security prison in Ibb. The 12 friends, all arrested in Ibb, were held in the same prison,



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most for several months. Wael said that when he was arrested, he had not spoken to Walid for two years as Walid had been in Iraq. He said he was forced into an unmarked car by men in plain clothes, without being shown an arrest warrant, and taken to the Political Security prison in al-Tawahi. There, he was questioned about Walid and told he would be held until Walid surrendered. About six weeks later Walid was arrested, but Wael remained held for a further six weeks or so, before being released without explanation. According to Wael, Walid is currently detained at the Political Security prison in Ibb and has not been charged or brought to trial.

TORTURE AND OTHER ILL-TREATMENT

"I was beaten until I felt I could not breathe."

Ali Nasser al-Qadi

Most security suspects are held in detention centres that are operated outside the framework of the law, particularly those run by Political Security in Sana'a and by National Security. Torture and other ill-treatment are absolutely prohibited in all circumstances by international law, and torture is also prohibited under Yemeni law, yet they are reported to be common in these places of detention.

Abdul Majid Umar Hajjam al-Hassani, a 16-year-old student at al-Kibsi school in the al-Jarraf quarter of Sana'a, was arrested on 15 or 16 December 2009 in al-Mutawakkal Street, according to his brother Bandar Umar Hajjam al-Hassani. Abdul Majid was with a friend in a car when three unmarked cars pulled up and around 10 armed men in plain clothes got out, grabbed Abdul Majid and put a bag over his head. The friend witnessed this but was too afraid to contact Abdul Majid's family, who then spent weeks searching for him. On around 24 February 2010 the Director of Investigations at Political Security informed the family that Political Security were holding Abdul Majid and that they could visit him. Bandar Umar Hajjam al-Hassani said that Abdul Majid told them he had been transferred to Political Security after 20 days in National Security and that he had been tortured for five days while in custody of National Security. He said he had been punched and slapped and suspended painfully from a ceiling with his hands tied together in front of him between which a piece of wood had been placed, so that his full body weight was supported by his wrists.

Some of those arrested in the south told Amnesty International they had been tortured or otherwise ill-treated. **Nasser Ali al-Qadi**, aged around 40, said he had been arrested twice, the first time on 30 November 2009 by Political Security, and the second time by the police during the *al-Ayyam* incident in January 2010 (see Chapter 6). During the second detention, he said:

"I was handcuffed and shackled and the officer started hitting me with his feet on my back and head. I was beaten so much I lost consciousness, and I was taken in an ambulance to the hospital... The second time I was beaten was a week after I was detained; I was beaten until I felt I could not breathe."

Najib Muhsen Abdullah al-Jahafi, a lawyer, told Amnesty International, how between 5-6am on 14 December 2009, four men in civilian clothes asked him to get into their car when he was standing at a junction in Aden trying to find a car to take him to al-Dali'. Two of the men subsequently handcuffed the 40-year-old and put a hood over his head. After a six-hour journey, the men put him in a small room and held him there for nearly a week. They interrogated him twice, each time for about four hours and at night, about his alleged links with the Southern Movement. During interrogation, he said, he was tortured by being made to stand throughout while stripped of all but his underwear, and cut on his back, burnt on his back, chest and leg, and beaten on the head and neck – allegations that are supported by medical evidence.⁵⁹ On 19 December he was driven back to Sana'a and dumped in the street. Following his release and return to Aden, he complained to the lawyers' association which issued a public statement condemning what had been done to him and calling for an investigation. He said he had also submitted a formal complaint to the public prosecutor in

Aden. By the end of June 2010, however, no investigation was known to have been carried out.

UNFAIR TRIALS AND THE SPECIALIZED CRIMINAL COURT



Specialized Criminal Court in Sana'a © Amnesty International

Many detained security suspects and critics of the state are held without charge or trial but others have been prosecuted before the courts, notably the Specialized Criminal Court, where trials are generally reported to fall short of international standards of fair trial. In practice, abuses of defendants' rights to fair trial begin before the case even reaches court with security suspects and those targeted because of their criticism of the government being frequently subjected to arbitrary arrest, enforced disappearance and incommunicado detention during which they are denied access to lawyers and liable to torture and other ill-treatment, often to extract "confessions" that can then be used as evidence for their prosecution.

When detainees are handed over to the prosecuting authorities, the latter are obliged to examine and assess the evidence that has been compiled and to decide whether or not to bring formal charges against the detainee. In practice, detainees say that prosecutors do no more than note it when they complain that they have been tortured or otherwise ill-treated and fail to investigate. For example, journalist and Socialist Party member **Muhammad al-Maqalih** (see Chapter 6, Specialized Press and Publications Court) complained to the prosecutor in his case that he had been subjected to enforced disappearance and tortured by National Security officials, and asked for this to be investigated, but the prosecutor did no more than simply note the complaint.

In 1999, the Specialized Criminal Court (SCC) was established by a presidential decision⁶⁰ following an incident in which a number of foreign tourists were kidnapped and killed in December 1998 in Abyan (see Chapter 3, Attacks by al-Qa'ida and other armed groups).⁶¹ Initially, the SCC was given jurisdiction to try the crime of *hiraba*, a Shari'a (Islamic law) term, which in Yemen's Penal Code covers the acts of attacking, terrorizing or robbing people on public highways, deserts, buildings, ships or planes.⁶² As well, the SCC's jurisdiction covered crimes generally targeting the state, its officials and property, as well as perceived threats to its vital interests – such as abducting foreigners, hijacking, piracy, damaging oil pipelines and attacking judges.⁶³ In 2004, a further presidential decision was issued which expanded the SCC's jurisdiction include “offences harmful to state security and offences with serious repercussions for society or the economy.”⁶⁴ No further detail of the specific acts or offences considered to fall under this broad definition was published by the government at the time prompting concern that the formulation was intended deliberately as a “catch-all” definition whose interpretation would be largely in the hands of the government and security authorities and could be used at their discretion against not only those who pose a clear security threat but also others whose activities or disclosures are considered embarrassing, hostile or injurious to the government.

In 2009, however, the Supreme Judicial Council issued a decision clarifying that the SCC has jurisdiction over a wide range of security-related offences, which were listed as: (1) “*hiraba* offences”; (2) “kidnapping offences”; (3) “sea and air piracy offences”; (4) “drug dealing and trafficking offences”; (5) “offences of harming, destroying, burning and bombing oil and gas pipelines, and oil and economic installations and facilities of public utility”; (6) “offences of the theft of public and private means of transport that is carried out by armed gangs or an organization or that is carried out by one individual or more by force”; (7) “offences of participating in a gang to seize land and property of the state and citizens”; (8) “offences harming the security of the state and offences endangering the public”; (9) “offences of aggression against members of the judicial authority during the performance of their functions or because of it”; and (10) “offences of aggression against witnesses”. All these offences are provided for in the Penal Code except offences 2 and 4, which are provided for in the Law on Combating the Crimes of Kidnapping and Highway Robbery⁶⁵ and the Law on Combating the Illegal Dealing and Use of Drugs and Stimulants,⁶⁶ and offence 3, which while not defined by any Yemeni law, as far as Amnesty International is aware, is generally prosecuted on the basis of provisions in the Law on Combating the Crimes of Kidnapping and Highway Robbery. The first provision is covered by both the Penal Code and the Law on Combating the Crimes of Kidnapping and Highway Robbery.

In the same decision, the Supreme Judicial Council established three additional SCCs to sit alongside the SCC in Sana'a, determining that these should be located in Aden, al-Hudaydah and Hadramawt.⁶⁷ Like the SCC in Sana'a, these regionally based SCCs each have their own special prosecution authorities and a special appeal court. The Supreme Judicial Council also created a new court specifically to deal with offences related to the media and publishing, known as the Specialized Press and Publications Court (SPPC). This is based in Sana'a and has jurisdiction nationally (see Chapter 6, Specialized Press and Publications Court)⁶⁸ but unlike the SCCs it does not have its own appeal court, and appeals from the SPPC are heard by the ordinary appeal court in Sana'a.

THE RIGHT TO A FAIR TRIAL

Among other things, Article 14 of the ICCPR requires that:

- Everyone is equal before the courts and tribunals.
- Everyone is entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.
- All judgments must be made public (except where the interest of a juvenile requires otherwise).

In respect of criminal proceedings in particular, Article 14 sets out some further specific guarantees, including:

- Everyone shall be presumed innocent until proved guilty.
- No one may be compelled to testify against themselves or to confess guilt.
- Everyone has the right to adequate time and facilities to prepare a defence and to communicate with a lawyer of his or her choice.
- Everyone has the right to be brought to trial without undue delay, to be tried in his or her presence, and to defend him or herself in person or through a lawyer of his or her own choosing.
- Everyone has the right to examine all witnesses against him or her, to call witnesses in his or her defence, and to have any necessary translation provided.

Since the SCC was first established in 1999, security suspects and other alleged critics and opponents of the state have invariably been tried before the SCC rather than the ordinary criminal courts and serious questions have arisen as to the fairness of their trials. In some cases, for example, the SCC appears to have failed to adhere to the Code of Criminal Procedures, although it is required to do so, and it has failed to take adequate steps to investigate defendants' allegations that they were tortured and that "confessions" they made in pre-trial incommunicado detention were false and extracted under torture or duress. Indeed, a number of defendants are reported to have been convicted solely or largely upon the basis of such contested confessions. Under international law, evidence obtained as a result of torture may not be used by a court to convict the person from whom it was extracted.

Article 15 of the UN Convention against Torture explicitly prohibits the admissibility of statements obtained by torture in any proceedings, except against a person accused of torture as evidence that the statement was made. Article 14(3)(g) of the ICCPR provides that accused people have the right not to be compelled to testify against themselves or to confess guilt. Indeed, the Human Rights Committee has said that when an accused person alleges that "any direct or indirect physical or undue psychological pressure from the investigating authorities" was placed on them "with a view to obtaining a confession of guilt", then, under the ICCPR, "the burden is on the State to prove that statements made by the accused have been given of their own free will."⁶⁹ Again, these fair trial standards are not observed in practice in cases before the SCC.

For example, during the trial of **Abdulkarim Ali Abdulkarim Lalji**, who was convicted of spying "for a foreign state" and sentenced to death (see Chapter 5, Arbitrary detentions and unfair trials), his lawyer asked for the case against him to be dismissed because the evidence on

which it was based included a confession which he contended had been given under torture during lengthy incommunicado detention by National Security.⁷⁰ This was rejected. Abdulkarim Ali Abdulkarim Lalji was given a medical examination, as requested by his lawyer, which found signs of injuries that he alleged had been caused by torture. Despite this, the SCC did not order an investigation, nor did it address his allegation that he was tortured and otherwise ill-treated while held in pre-trial detention and during questioning following his referral to the SCC by National Security. Indeed, in its verdict the SCC pronounced the confession valid and confirmed that it had convicted and sentenced Abdulkarim Ali Abdulkarim Lalji partly on the basis of his contested confession.

In another case, on 27 October 2009 the SCC convicted 16 defendants who were accused of killings and other serious crimes relating to the Sa'dah conflict (see Chapter 4, Bani Hushaysh trials). At least four of them were sentenced to death and the rest to terms of imprisonment. They were convicted on the basis of "confessions" which they repudiated in court and said they had been forced to sign under duress. The only other evidence presented was lists of destroyed properties and military vehicles. The court did not examine any of the allegations of duress nor was the prosecution required to establish that the contested confessions had been made freely and voluntarily by the defendants even though the charges carry the death penalty.

Amnesty International opposes the death penalty absolutely and in all cases, even though international law still permits the death penalty to be applied in certain circumstances. These, however, are very limited and the authoritative Human Rights Committee (HRC) has stressed that "in cases of trials leading to the imposition of the death penalty scrupulous respect of the guarantees of fair trial is particularly important" and that "[t]he imposition of a sentence of death upon conclusion of a trial, in which the provisions of Article 14 of the Covenant have not been respected, constitutes a violation of the right to life."⁷¹

As well, the HRC has stated that the right to "adequate facilities" to prepare a defence under Article 14 of the ICCPR "must include access to documents and other evidence; this access must include all materials that the prosecution plans to offer in court against the accused or that are exculpatory" and that "[e]xculpatory material should be understood as including not only material establishing innocence but also other evidence that could assist the defence (e.g. indications that a confession was not voluntary)."⁷² In particular, where a claim is made that evidence was obtained in violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, "information about the circumstances in which such evidence was obtained must be made available" to the defence "to allow an assessment of such a claim."⁷³ Failure to provide defence counsel with access to documents of this nature, the HRC has stated, would constitute a violation of Article 14.

In some cases before the SCC, defence lawyers contend that the prosecuting authorities have withheld such documents which could be of benefit to their clients from the case file and not disclosed them to the defence. In support of this, they point to cases in which detainees are known to have been held by Political Security but whose case files generally are found to include no documents relating to their arrest or initial period of detention by Political Security, significantly the period in which detainees are at greatest risk of torture and other ill-treatment and when most contested "confessions" are alleged to have been given.

The HRC has also held that the right under Article 14(3)(b) of the ICCPR to communicate with counsel “requires that the accused is granted prompt access to counsel” and that “[c]ounsel should be able to meet their clients in private and to communicate with the accused in conditions that fully respect the confidentiality of their communications.”⁷⁴ Yet lawyers have told Amnesty International that they have frequently faced restrictions in gaining access to their clients, contrary to this basic fair trial requirement. They say they are not permitted to meet in private with detainees held at the Political Security prison whom they have been engaged to represent. Previously, they were also prevented from meeting clients who were security suspects when they were held in the Central Prison in Sana’a, although such visits are now generally allowed. Moreover, when lawyers have asked the SCC to authorize them to hold meetings with their clients in confidence, the prosecuting authorities have at times objected and the SCC has not taken action to ensure such access. Consequently, some lawyers have resorted to ordinary prison visits intended for family and friends to consult with their clients, though such consultations cannot be conducted confidentially due to the presence of prison guards as well as other prisoners and their visitors. These problems appear specific to the SCC; lawyers representing clients before the ordinary criminal courts have not complained of similar obstacles to their obtaining access to their clients.

The HRC has said that among the fair trial guarantees of Article 14 is the requirement of “equality of arms”, which means that “the same procedural rights are to be provided to all the parties unless distinctions are based on law and can be justified on objective and reasonable grounds, not entailing actual disadvantage or other unfairness to the defendant.”⁷⁵ However, in cases of security suspects and critics of the state before the SCC, the prosecution, by virtue of controlling the case file, appears to have unrestricted access to all documents at all times and is free to make copies for its own use, while defence lawyers report that they can only view the case file at the prosecutor’s office during specified times, and are prohibited from making copies of anything in the file other than the charge sheet and the prosecution’s summary of the case. They say that they are not even permitted to have copies of the records of interrogations of the accused. This rule is applied to all documents, and the prosecution offers no grounds for refusing to allow copying of particular documents.

With regard to the public nature of trials, the Code of Criminal Procedures provides that the courts and trials are normally open although courts have discretion to preside in closed session when national security or other factors require.⁷⁶ This includes the SCC. However, when Amnesty International delegates sought to attend and observe proceedings at the trial of journalist Muhammad al-Maqalih before the SCC in Sana’a in March 2010, they were twice turned away and denied entry to the court without being given any substantive explanation. They had sought access both because of the significance of the trial and partly to assess information that they had received from journalists, activists and family members of defendants before the SCC who had complained of being barred from attending particular trial sessions of the court for undisclosed reasons. On occasions, it appears that specific individuals have been barred from attending the court without explanation, even when the court is otherwise in open session.

There are serious questions too regarding the independence of the judiciary in Yemen, as the executive authorities of the state are able to wield very considerable influence because they play a key role in the promotion and discipline of judges. The President of the Supreme

Judicial Council, which oversees the judiciary, is directly appointed by the Yemeni President. The Minister of Justice sits on the Supreme Judicial Council, and the Ministry of Justice appraises the work and competence of the judges, which can affect their promotion and lead to disciplinary action. In this connection, the HRC has stated that “the requirement of [judicial] independence refers, in particular, to the procedure and qualifications for the appointment of judges, and guarantees relating to their security of tenure until a mandatory retirement age or the expiry of their term of office, where such exist, the conditions governing promotion, transfer, suspension and cessation of their functions, and the actual independence of the judiciary from political interference by the executive branch and legislature.” As well, the HRC has emphasized that “[a] situation where the functions and competencies of the judiciary and the executive are not clearly distinguishable or where the latter is able to control or direct the former is incompatible with the notion of an independent tribunal.”⁷⁷ These guarantees of independence must be secured by the constitution or laws.⁷⁸

Some Yemeni lawyers and human rights activists and lawyers hold that the SCC is inconsistent with Article 150 of Yemen’s Constitution, which explicitly bans the establishment of exceptional courts. In doing so, they point to the manner of its establishment – by executive decision rather than through a transparent and detailed legislative process – and they contend that the SCC and the newly created SPPC have failed to address and remedy serious abuses by the arresting authorities, particularly Political Security and National Security, and hold them accountable under the law. They argue too that these courts are primarily seen by the security authorities as instruments to further their objectives in targeting both security suspects and peaceful critics and to endow them with an aura of legality while effectively rendering the role of defence lawyers meaningless. A number of such lawyers, on account of such reasons, have chosen to consistently boycott the SCC and the SPPC and some defendants have declined to appoint lawyers to defend them out of concern that this would seem to imply that they recognize the legitimacy of these specialized courts.

DEATH PENALTY

The death penalty is used extensively and applicable for a wide range of offences in Yemen, including for offences not involving lethal violence. Yet, many of those sentenced to death have received trials which are reported to have fallen short of international fair trial standards. Those executed have mostly been convicted of murder; executions are carried out by shooting, with the executioner firing at close range to shoot the condemned person in the heart.

Until recently, it was rare for defendants convicted of security-related offences to be sentenced to death. This included people accused of having links to al-Qa’ida or to the Huthis, or who were alleged to have engaged in offences such as participation “in an armed gang” whose activities resulted in deaths. Moreover, when death sentences were imposed in such cases, they were generally commuted at the appeal stage or, if upheld at appeal, rescinded by presidential clemency.

The last two years, however, have witnessed a significant increase in the number of death sentences passed on people accused of having links to the Huthis or al-Qa’ida. In 2009, 34 people convicted of links to the Huthis were sentenced to death, all of them in connection

with the Bani Hushaysh trials (see Chapter 4, Bani Hushaysh trials), and at least six defendants were sentenced to death after being convicted of links with al-Qa'ida (see Chapter 3, Unfair trials and the death penalty). All 40 were convicted on a range of charges after trials before the SCC in Sana'a, including participation in an "armed gang" whose activities resulted in deaths. It is unclear, as yet, whether any of these sentences will be enforced or whether the previous pattern, whereby sentences are reduced at appeal or by presidential decision, will prevail. There is growing concern, however, that prisoners sentenced for participating in armed gangs whose actions resulted in deaths may well be at serious risk of execution.

AMNESTIES

Yemeni law allows the President to pardon or grant an amnesty to convicted prisoners. Under Article 539 of the Code of Criminal Procedures, the President, as head of state, may exercise this prerogative in cases where the Justice Minister has proposed to rescind all or part of a sentence or to reduce it. Under Article 48 of the Penal Code, the President may delay or annul a *hadd* punishment (those prescribed by the Qu'ran), but only in cases not affecting the rights of other people. This means, for example, that the President can exercise this prerogative in cases where the death penalty was imposed for apostasy, but not in cases such as murder where *qisas* (retribution) applies, as any action by the President would require the advance agreement of the relatives of the victim. In addition, Article 123 of the Constitution states that no death sentence can be carried out without the President's ratification.

President Saleh has at times used his prerogative to commute death sentences or even to grant amnesty to prisoners at imminent risk of execution – a welcome move. However, these presidential powers appear to be used somewhat arbitrarily and for politically motivated reasons, as a kind of release valve at times of particular political tension, rather than in accordance with clear and transparent criteria; unsurprisingly, this contributes to high levels of anxiety among both death row prisoners and their families. Moreover, however relieved prisoners feel when their sentences are commuted or revoked, and even when they are released early under an amnesty or pardon, this does little to compensate for the suffering and sense of injustice they often feel on account of the abuses to which they have been subject, such as torture and unfair trial, or give them back the years of their lives that have been lost. In some cases, government critics have been repeatedly arrested, prosecuted and sentenced, usually to prison terms, and then released under amnesties when they should never have been detained in the first place.

When the authorities have periodically announced amnesties, generally they have provided few details of their beneficiaries, whose names are not made public. This has tended to cause both confusion and distress to prisoners, eager to establish whether they have been included or not, and their families. It has also made it unclear whether the beneficiaries have included people who may have committed human rights abuses or crimes under international law but not yet been brought to justice, who thereby could escape accountability. The government should ensure that alleged perpetrators of human rights abuses never enjoy such impunity.

Such problems were apparent in the most recently announced amnesty. As part of the National Unity Day celebrations on 22 May 2010, President Saleh was reported to have announced on 21 May an amnesty for "all detainees on the background of the sedition

created by the Houthis in Saada and also detainees who violated the law in some directorates in the provinces of Lahaj, Abyan and Al-Dhalaah".⁷⁹ However, details were not provided about to whom the amnesty applied and when it was to be implemented.

On 22 May, it was reported that the President had extended the amnesty to "all journalists on trial and those sentenced due to public right cases [those not affecting the rights of other people]."⁸⁰ Two days later, arrangements were reported to be under way for the release of about 300 people, including 200 arrested "in connection with the insurgency [in Sa'dah] and almost 100 of those who were arrested in connection with destructive acts in other provinces".⁸¹ The next day, 94 people detained in relation to the Sa'dah conflict were released, apparently under the amnesty, as were 23 people arrested on suspicion of rioting and other crimes in Abyan.⁸² On 29 May, four journalists accused of links to the Southern Movement were released, under the 22 May amnesty.⁸³

Several protests have called for the release of people thought to have been covered by the amnesty but who remain in jail. On 15 June, for example, civil society organizations called publicly for the amnesty to be implemented, stating that "more than 500 political detainees are still in prison despite the international condemnation."⁸⁴ On 12 May, the Justice Minister had declared that no political prisoners were being held in Yemen and that those then being detained were all people who had been charged with criminal offences under the Penal Code.⁸⁵ At the time of writing, it remained unclear how many people should have benefited from the amnesty and how many prisoners had been released under it.

EXTERNAL ACTORS

International and regional politics are exacerbating the Yemeni government's increasing tendency to subordinate human rights in the name and interests of security. However, such external pressures do not provide a valid excuse for this failure on the part of the government in Yemen, which needs to act urgently to address and change the present trend. Yemen's northern neighbour Saudi Arabia wields considerable influence and, with its military intervention against the Huthis in late 2009, has shown its willingness to take a direct role in Yemen in order to secure its own interests. At the same time, Yemen's government has publicly blamed Iran for fuelling instability and violence in Sa'dah, on the basis that the Huthis are mostly drawn from the Zaidi Shi'a community, and a number of people have been arrested and imprisoned as alleged spies for Iran and Iranian nationals deported.

More widely, it appears that the states of the Saudi Arabia-dominated Gulf Cooperation Council (GCC) generally see Yemen as a threat to their own and the wider security of the Gulf region. The conflict in Sa'dah, coupled with continuing unrest and calls for secession in the south, raise the prospect that Yemen could disintegrate or, like its Red Sea neighbour Somalia, implode into a failed state; indeed, President Saleh has publicly made this last comparison himself in response to tension in the south and when appealing for the state to remain united.⁸⁶ GCC and other states, including Western governments, also evidently fear that Yemen could become a safe haven for al-Qa'ida militants as US, NATO, Afghan, Pakistani and other forces confront them in Afghanistan and Pakistan, a fear fuelled by reports of the formation of al-Qa'ida in the Arabian Peninsula as a merger of al-Qa'ida forces in Yemen and Saudi Arabia.⁸⁷

Internationally, the USA and EU share the GCC's fears about a fractured Yemeni state. Their

security concerns are intensified by their fear that al-Qa'ida in the Arabian Peninsula could link up with the armed opposition group al-Shabab in Somalia.⁸⁸ Such an alliance is seen as threatening the strategic Horn of Africa, already affected by international piracy, and allowing al-Qa'ida and its allies to endanger the safe transport of oil and other commodities to and from the Gulf region and Asia.⁸⁹

A high-level international meeting on Yemen convened in London on 27 January 2010 (see Chapter 1) led to the creation of the Friends of Yemen group, including the International Monetary Fund and World Bank,⁹⁰ and the establishment of two working groups to assist the Yemeni authorities to move forward with reforms. One of these, led by representatives of the governments of Jordan and the Netherlands, is focusing on justice and the rule of law, while the other, led by representatives from Germany and the United Arab Emirates, is looking to address issues related to governance and the economy. The outcome of the London meeting concentrated on developing and progressing a reform agenda for Yemen rather than simply the issue of providing and delivering aid.⁹¹

Expressions of international concern about developments in Yemen have taken place against a backdrop of increased foreign military assistance in continued arms supplies, including by the USA and European Union and other states.⁹² For its part, the US government has deployed the use of drones (unmanned aerial vehicles) in Yemen to kill those it describes as “high value targets”, a practice that has been increasingly criticized as involving unlawful killings. Often used in remote areas, drones are particularly suited to secret use and it is invariably difficult to investigate and assess allegations that they have been used to assassinate specific individuals or to bomb otherwise inaccessible sites where militants are suspected to be present. The UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, has criticized the secrecy that the US authorities maintain regarding the legal framework, criteria and procedures they apply when deploying and using drones, the ambiguity regarding the operators of the drones and how and whether they are held accountable in practice, as well as the obstacles faced by victims and others in identifying and establishing responsibility for wrongful attacks. The Special Rapporteur has described the use of such weapons delivery systems as a growing challenge to the rule of law⁹³ and in June 2010 declared that the invocation by the US government of “an ever-expanding entitlement for itself to target individuals across the globe” constitutes a “strongly asserted but ill-defined licence to kill without accountability”, adding that this will do “grave damage to the rules designed to protect the right to life and prevent extrajudicial executions.”⁹⁴

In Yemen, security forces operations mounted against alleged al-Qa'ida targets are not carried out in the context of an armed conflict and international humanitarian law, the rules governing the conduct of international and internal armed conflict, do not apply. On the contrary, it is human rights law that applies in relation to such operations in Yemen. Targeted killings of individuals through such operations, whether by drones or otherwise, will generally be unlawful under the applicable legal framework, that is to say human rights standards governing the use of force in law enforcement operations.⁹⁵

The deliberate killing of any person specifically identified in advance, in operations whose specific goal is to use lethal force, outside situations of armed conflict and in the absence of the individual posing an imminent threat of death to others, without first attempting to

apprehend the individual and without warning, violates international human rights law, whatever crime the individual may be suspected of committing.⁹⁶ Even if such an individual were posing an imminent threat of death to another person - which does not appear even to have been alleged in the case of persons targeted in suspected drone attack in Yemen – it would almost always be excessive to the law enforcement objective being sought to attack the individual using missiles fired by unmanned drones or manned aircraft, and represent a failure both to “exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved” and to “minimize damage and injury, and respect and preserve human life”, including by potentially causing unlawful killings of non-suspects.⁹⁷

In May 2010 it was reported that General David Petraeus, then the US military commander with responsibility for the Middle East, had signed a secret directive on 30 September 2009 ordering a significant expansion of clandestine US military activity to counter militant Islamist groups.⁹⁸ This appears to have led to an increase in US military activity in Yemen.

The scope and extent of US military and security support to the Yemeni authorities has not been disclosed by either the US or Yemeni governments and is particularly difficult to establish. However, information relating to the period up to January 2008 indicates that the US government has provided military equipment and training, including language, operational and weapons-specific training to members of the Yemeni army, air force, navy and coastguard and to the security forces’ counter-terrorism unit.⁹⁹ More recent information, relating to 2009 and 2010 is not publicly available, as yet, but the provision of US military and security training and equipment, like US financial support for Yemen, is likely to have been increased significantly during this period.

US financial aid to Yemen is set to rise from US\$52.5m in 2009 to US\$63m for the 2010 financial year. The US Department of Defense, meanwhile, has pledged to double its Section 1206 “train and equip” funding for Yemen’s armed forces; funding for this assistance had already risen substantially from US\$4.3m in financial year 2006 to US\$66.8m in financial year 2009.¹⁰⁰ These figures do not include covert and other non-published funding streams for military or security assistance.

The Yemeni government is now taking advantage of the external pressures to which it is being exposed to reverse the former trend towards greater respect for and protection of human rights and to eradicate hard won freedoms on the grounds that Yemen’s security and unity is now under threat and must be protected at any cost. The rights to freedom of expression and freedom of association, which formerly allowed civil society groups to develop and operate relatively freely and to openly protest and campaign against alleged abuses of state power and economic and social injustices, have been among the main casualties of this new, increasingly repressive trend. This is an ominous development and one that must not be allowed to prevail. Human rights must be protected and upheld as a central plank in any strategy aiming to uphold public security in Yemen, and the consequences will be dire if the current trend towards subordinating human rights in the name of security is not halted and reversed.

RECOMMENDATIONS

Amnesty International makes the following recommendations:

To the Yemeni government

- Release immediately and unconditionally anyone held solely for the non-violent expression of their conscientiously held beliefs.
- Ensure that all detainees held by National Security, Political Security and the Criminal Investigation Department are promptly charged with criminal offences that are defined with precision and not overbroad in scope, or are released; and amend the provisions of the Code of Criminal Procedures which authorize prolonged detention without criminal charge for periods of up to six months to curtail such excessive detention.
- Ensure that all detainees are given prompt access to lawyers following their arrest and to the judiciary to challenge the legality of their detention.
- Ensure that arrests and detentions are always carried under independent and impartial judicial supervision to protect individuals from being arbitrarily arrested and detained, including solely on the basis of their political, religious or other beliefs, ethnic origin, or other discriminatory basis.
- Take action to protect detainees from torture and other ill-treatment, and to ensure they are allowed prompt and regular access to a lawyer of their choosing, their family and any medical treatment they may require, and ensure that all places of detention are officially registered and are periodically inspected by an independent authority with powers to ensure that all prisoners and detainees are treated humanely and in accordance with relevant international law and standards.
- Investigate all allegations of human rights violations of detainees, provide effective remedies and hold those responsible to account, including by bringing to justice the perpetrators of crimes under international law such as torture and enforced disappearance; such investigations should be carried out by an independent and impartial body.
- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance and put in place nationally measures to give full effect in practice to this Convention.
- Disclose the grounds and procedures governing restrictions on public access to court sessions at the SCCs, who has the authority to impose such restrictions and who has done so and with what frequency in practice.
- Ensure that the SCCs and the SPPC fully adhere in practice to the Code of Criminal Procedures and meet international fair trial standards in all cases.
- Impose an immediate moratorium on executions and review all other death penalty cases with the aim of commuting the death sentences or providing a new and fair trial without resort to the death penalty.

To the US government

- Investigate the serious allegations of the use of drones by US forces for targeted killings of individuals in Yemen and clarify the chain of command and rules governing the use of such drones.

- Ensure that all US military and security support given to Yemen, and all US military and security operations carried out in Yemen, are designed and implemented so as to adhere fully with relevant international human rights law and standards, including the standards governing the use of firearms and other lethal force in law enforcement, and that such human rights standards are made fully operational in training programmes and systems of monitoring and accountability.

3. AL-QA'IDA AND THE RESPONSE

Amnesty International condemns all attacks that deliberately target members of the public; such attacks can never be justified under any circumstances.

The role of armed Islamist militants in Yemen rose to prominence during the civil war in 1994, when they fought alongside the army of the former YAR (North Yemen) to defeat the armed forces of the former PDRY (South Yemen). The PDRY was a secular state, widely perceived to be communist and backed by the USSR. The Islamist militants siding with the YAR comprised Yemenis and other nationals, mainly from Arab countries. Many had settled in Yemen, with the encouragement of the government in the north, after taking part in the war against the Soviet occupation of Afghanistan during the 1980s.

Following the civil war, some militants, with the acquiescence of the authorities, acted as a kind of religious police, particularly in the south. There, they attempted to enforce their own vision of Islamic morality, such as strict dress codes for women and the prohibition of alcohol, and used violence on occasion.

In early 2009, according to media reports, al-Qa'ida in Yemen merged with its counterpart in Saudi Arabia, some of whose members are believed to be in hiding in Yemen. Estimates of the size of the group, said to be called al-Qa'ida in the Arabian Peninsula, range from a few dozen to several hundred. The government tends to blame all attacks by Islamist militants on al-Qa'ida, but some militants have said they belong to other groups, such as Yemeni Islamic Jihad and the Brigades of the Soldiers of Yemen. Some have been accused of belonging to such groups when brought to trial. It is unclear to what extent such groups are affiliated with al-Qa'ida.

Clearly, governments have a duty to take measures to protect citizens and other people within their jurisdiction from attack by armed groups, but the measures must be lawful, proportionate to the threat posed and consistent with international human rights law and standards (and, in situations that rise to the level of an armed conflict, international humanitarian law). The Yemeni authorities have become increasingly willing to use or condone methods that are manifestly outside such parameters when confronting people suspected of links to al-Qa'ida, and are branding as "terrorists" a wide range of opponents and using "anti-terrorist" measures against them. Further, they are citing the defence of

national security as a pretext to stifle peaceful criticism of the government.

The armed attacks by al-Qa'ida and the government's response to them have not crossed the threshold of intensity and scale that would mean the situation is categorized as an armed conflict.¹⁰¹ Accordingly, the proper standards applicable to operations against al-Qai'da and other armed groups in Yemen are law enforcement standards. These oblige the Yemeni authorities to seek to arrest suspected militants rather than to carry out premeditated killings, not to use unnecessary or excessive force during arrest operations, and to conduct prompt and effective investigations after incidents in which suspects are killed.

ATTACKS BY AL-QA'IDA AND OTHER ARMED GROUPS

Starting in the 1990s, some Islamist militants began carrying out violent attacks. According to *26 September*, a pro-government daily newspaper, "al-Qa'ida elements" carried out 65 "terrorist operations" in Yemen between 1992 and December 2009.¹⁰² Suicide and other bomb attacks have been reported sporadically since then.

The targets of suicide bombings and other attacks have included government officials, foreign embassies and tourists. More than 30 people, not including security force members and attackers, have been killed since 1998. For example, on 28 December 1998 the kidnappings of 16 tourists and four Yemeni drivers by members of the Islamic Army armed group resulted in the killings next day of three British nationals and an Australian. They were killed during a rescue attempt by Yemeni security forces; it was unclear whether they died at the hands of the armed group or were killed by the security forces in their effort to rescue them.¹⁰³ More recently, in July 2007 a suicide bomber killed eight Spanish tourists and two Yemeni drivers accompanying them in Ma'rib.¹⁰⁴ In September 2008 a suicide bomb attack against the US embassy in Sana'a killed at least 16 people, including people waiting outside, security guards and six attackers.¹⁰⁵ In March 2009 a bomb killed four South Korean tourists and their Yemeni guide in Shibam in Hadramawt.¹⁰⁶ In April 2010 the British ambassador in Sana'a narrowly escaped a bomb attack claimed by al-Qa'ida.¹⁰⁷ In June 2010 an attack on the Political Security building in Aden resulted in the deaths of seven security officers, three women and a seven-year-old child. The government said the attack was carried out by al-Qa'ida and that some detainees had escaped during the incident.¹⁰⁸

Amnesty International condemns all attacks that deliberately target members of the public, which can never be justified under any circumstances. It calls for prompt, thorough and impartial investigations into such attacks and for those responsible to be brought to justice in proceedings that meet international standards of fairness, and without the imposition of the death penalty.

UNLAWFUL KILLINGS BY SECURITY FORCES

The security forces have killed at least 113 people since the beginning of 2009 in operations that the government said were targeting people they described as "terrorists". Such attacks appear to have become more frequent since December 2009. In some cases, people were said to have been killed during exchanges of fire between militants and security forces trying to apprehend them. In others, the security forces appear to have made no attempt to detain the militants, and the killings may have amounted to extrajudicial executions. In yet other cases, the security forces unlawfully killed people by using excessive force. Amnesty International is not aware of judicial investigations into any such incidents to determine

whether or not the use of lethal force by security forces was justified or not in the particular circumstances or unlawful.

Two of the most serious incidents were the killing of 41 men, women and children on 17 December 2009 in the southern governorate of Abyan (see box below), in an attack apparently targeting Mohammad al-Kazemi and other people suspected of links to al-Qa'ida, and an attack one week later which killed as many as 30 people, alleged to be suspected members of al-Qa'ida, when missiles were fired into a farmhouse in Rafadh in the eastern governorate of Shabwah.

ABYAN ATTACK



Part of a cruise missile carrying cluster munitions, Yemen © Private

At dawn on 17 December 2009, missiles were fired at two settlements in al-Ma'jalah area in al-Mahfad district of Abyan. By the time the attack was over, at least 41 people lay dead, 21 of them children and 14 of them women. The Yemeni authorities announced that the attack had targeted a "terrorist training camp". They acknowledged that some women and children might have been killed, but denied any responsibility, claiming that al-Qa'ida had brought families into the camp and so were exclusively to blame for any deaths of women and children that had occurred as a result of the attack.

A Yemeni parliamentary committee investigated the incident. Its members visited the site a week after the attack and took a number of photographs of the scene of the attack. The committee concluded that five missiles had been fired, killing 14 members of the al-Haidra family in one settlement and 27 members of the al-Anbour family in the other. The sole survivor from the al-Haidra family, a 13-year-old girl, was reported to

have been sent abroad to receive medical treatment for her injuries. In its report the committee said that on arrival at the scene of the attack it “found that all the homes and their contents were burnt and all that was left were traces of furniture.” It added that the committee “found traces of blood of the victims and a number of holes in the ground left by the bombing... as well as a number of unexploded bombs”.

The committee presented its report to parliament, which approved it on 3 March 2010. It called on the government to open a judicial investigation and bring to justice those responsible for the killings of the “innocent”, but no such investigation is known to have been held as yet. The same day, the government apologized to the victims’ families, describing the killings as a “mistake” during an operation that was meant to target al-Qa’ida militants, and said that committees would be established to provide compensation for the people killed and the property destroyed.

Representatives of the parliamentary committee told Amnesty International that they had found no evidence of a military training camp in al-Ma’jalah and that in their view the attack was based on faulty intelligence. They said that they questioned seriously the authorities’ assertion that it would not have been possible for the security forces to approach the settlements by road in order to effect the arrest of any al-Qa’ida members who were present at the settlements because their remote location would have inevitably meant failure. At no point did the parliamentary committee confirm whether the military operation had been carried out by Yemeni forces alone or with other forces assisting them.

Amnesty International obtained photographs, apparently taken following the attack, which suggest that the attack used a US-manufactured cruise missile that carried cluster munitions. The photographs enable the positive identification of damaged missile parts, which appear to be from sections of a BGM-109D Tomahawk land-attack cruise missile. This type of missile, launched from a warship or submarine, is designed to carry 166 cluster sub-munitions (bomblets) which each explode into over 200 sharp steel fragments that can cause injuries up to 150m away. Incendiary material inside the bomblet also spreads fragments of burning zirconium designed to set fire to nearby flammable objects.



Part of a cruise missile carrying cluster munitions, Yemen © Private

A further photograph, apparently taken within half an hour of the others, shows an unexploded BLU 97 A/B submunition itself, the type carried by BGM-109D missiles.¹⁰⁹ These missiles are only known to be held by US forces and are capable of pinpoint accuracy;¹¹⁰ Yemeni armed forces are unlikely to be capable of using such a missile.

Shortly after the attack, some US media reported alleged statements by unnamed US government sources who said that US cruise missiles launched on presidential orders had been fired at two alleged al-Qa’ida sites in Yemen.¹¹¹

Amnesty International has requested information from the Pentagon about the involvement of US forces in the al-Ma’jalah attack, and what precautions may have been taken to minimize deaths and injuries, but has yet to receive a response. However, a press report stated that the USA declined to comment on the strike, saying

questions on operations against al-Qa'ida should be posed to the Yemeni government. Pentagon spokesman Bryan Whitman added: "that said, the Yemen government should be commended for dealing with the al Qaeda threat in their nation. Al Qaeda in the Arabian Peninsula threatens the stability of the region and poses an increasing threat to Yemenis and Americans". He further added: "we strongly support actions against al Qaeda in the Arabian Peninsula and cooperate closely with Yemen and other countries on counterterrorism initiatives."¹¹²

Outside a situation of armed conflict, which did not exist at the relevant place and time in this case, a premeditated military strike targeting people accused of criminal conduct, perpetrated without having first made reasonable attempts to detain them, and in the absence of the individuals targeted posing any specific imminent deadly threat to others, constitutes unlawful killing in violation of the right to life under international law. In this case, others who were apparently not the targets of the operation, including many women and children, were also killed by the attack, constituting further unlawful killings in violation of their right to life.

Furthermore, cluster munitions have indiscriminate effects and unexploded bomblets threaten lives and livelihoods for years afterwards. All governments responsible for using them must urgently provide assistance to clear unexploded munitions. Neither the USA nor Yemen has yet signed the Convention on Cluster Munitions, a treaty designed to comprehensively ban such weapons and which is due to enter into force on 1 August 2010. Nonetheless, Amnesty International regards the use of cluster munitions in civilian areas to be indiscriminate and therefore contrary to international law,¹¹³ and supports a complete ban on their manufacture, transfer and use.

One recent fatal attack by the security forces was on 25 May 2010 in Ma'rib, when four people were killed, including Jaber al-Shabwani, the deputy governor of Ma'rib. Jaber al-Shabwani was reported to have been travelling to meet and mediate with al-Qa'ida members to persuade them to surrender to the authorities, when the vehicle he was in was attacked. According to press reports, the attack was carried out from an aircraft, although some sources say it may have been an unmanned drone. As with the 17 December 2009 attack in Abyan, the USA appears to have been involved. Shortly after the incident in Ma'rib, a US diplomat stated that the USA had trained Yemeni forces, shared information and provided equipment: "So we are working together. The Yemeni forces always take the lead in operations carried out in Yemen..."¹¹⁴ On 5 June, Yemen's Foreign Affairs Minister said the government would investigate whether drones were used in the attack, and if so, whether they were used by Yemeni security forces or others. He later confirmed that "others" could include the USA.¹¹⁵ No outcome from this investigation was known to have been disclosed by the end of June 2010.

Other people accused by the government of belonging to al-Qa'ida and reported to have been killed in 2010 include two men on a wanted list who were stopped and killed during a clash at a checkpoint in al-Hudaydah on 18 April;¹¹⁶ three people who were killed on 14 March, including two men alleged to be al-Qa'ida leaders;¹¹⁷ the father of an al-Qa'ida suspect shot dead in his home by a soldier on 4 March after the father reportedly fired at the soldier;¹¹⁸ six people killed on 15 January, including **Qassem Yahya Mahdi al-Raymi**, alleged to be a leader of al-Qa'ida;¹¹⁹ a man alleged to be a senior al-Qa'ida leader killed in Shabwah on 12 January;¹²⁰ and at least two people killed on 4 January, including the nephew of Mohammad al-Haniq who was the target but escaped.¹²¹

Killings of people accused of links with al-Qa'ida were also reported in previous years. On 11 August 2008, for example, five people alleged to be al-Qa'ida members were killed after security forces and members of the army stormed what was reported to be their hideout in Hadramawt.¹²² On 8 August 2007, four people suspected of killing Spanish tourists in Ma'rib a few weeks earlier were killed following a raid by security forces near the city of Ma'rib.¹²³

On 1 October 2006, **Fawaz Yahya al-Rabi'ee** and **Muhammad Dailami**, who had been convicted in relation to the attack on the French tanker *Limburg* in 2002, were killed in Sana'a. According to information received by Amnesty International, Yemeni security forces fired from a helicopter gunship at two locations, killing both men following their escape from the Political Security prison in June 2006. Muhammad Dailami was said to have been sleeping when he was killed.

In at least some of the cases cited above, it appears that the victims were not given adequate warning and opportunity to surrender before deadly force was used, nor did the security forces use minimum force to attempt to take them into custody. Some of the killings appear to have been extrajudicial executions. Allegations of such a gross violation of human rights should trigger an immediate, independent and comprehensive investigation to determine whether they were unlawful killings and, if so, those responsible should be brought to justice.

US forces appear to have been involved or to have provided support to Yemeni forces in several fatal attacks. This has been difficult to confirm, but does not conflict with some statements by US authorities. In November 2002, the UN Special Rapporteur on extrajudicial, summary and arbitrary executions wrote to US authorities regarding the killing of six men on 3 November 2002 in the governorate of Ma'rib, reportedly by a CIA-controlled Predator drone aircraft, which the Special Rapporteur characterized as a "clear case of extrajudicial killing" in violation of various international human rights instruments.¹²⁴ In an April 2003 letter of reply, the USA asserted that it was engaged in an armed conflict with al-Qa'ida, to which only the "law and customs of war" alone, and not human rights obligations, applied.¹²⁵ The letter took the position that any attack forming part of a military operation against al-Qa'ida could not therefore constitute an extrajudicial execution, and that "[a]l-Qaida terrorists who continue to plot attacks against the United States may be lawful subjects of armed attack in appropriate circumstances" where they have not surrendered or otherwise been incapacitated. Recent remarks by the Legal Adviser to the US Department of State suggest that the current US administration maintains substantially the same argument.¹²⁶ The very premise of such a position, implying that the whole globe is a battlefield upon which the USA effectively claims the legal right to kill anyone it accuses of involvement with al-Qa'ida anywhere at any time, is clearly inconsistent with international law. As was explained earlier, US co-operation with the Yemeni government on operations outside the context of any specific armed conflict must be in a law enforcement framework – not designed from the outset to kill those suspected of criminal activity rather than arrest them.

ARBITRARY ARRESTS AND DETENTIONS

Over the past decade the authorities have detained hundreds, possibly thousands, of people they say are suspected of having links to al-Qa'ida or other militant Islamist groups. Around 200 such arrests were reported between December 2009 and March 2010.¹²⁷ The true figure may be significantly higher, as some families told Amnesty International that they were too scared to report the arrest of their relatives or to contact a lawyer for fear of retribution by

the authorities or stigmatization in their communities.

Most of these people were arrested arbitrarily and many have been held without charge or trial for months or years, generally denied access to lawyers and any means to challenge the legality of their detention. They have usually been deprived of contact with their families for weeks or months after arrest.

Abdullah Thabet Muhsen al-Abab told Amnesty International in March 2010 that three of his sons were in jail – **Ameer**, **Muath** and **Muhammad**, aged 32, 26 and 25 respectively.¹²⁸ He said that the family's ordeal began late one night in June 2007, when around 20 members of Political Security came to his home looking for his son Adil. When they did not find Adil, they took Abdullah along with Ameer, Muath and Muhammad to Political Security in Sana'a and held them in solitary confinement. Abdullah said he was interrogated about Adil, who was accused of being a member of al-Qa'ida. He was then returned to a cell and held for around 30 hours without vital medication, including insulin, before being released. He said that his son Muhammad, who was studying Arabic and Islam at Sana'a University, was later charged and convicted in January 2010 of forging a passport and sentenced to five years of imprisonment. Muhammad did not appeal. Ameer, a treasurer of al-Ihsan, a charity, and Muath, a driver, remain held without charge or trial more than three years after they were detained.



Abdullah Thabet Muhsen al-Abab
© Amnesty International

While most of those detained are neither charged nor tried, scores of people suspected of having links with al-Qa'ida have been prosecuted. According to *26 September* newspaper in December 2009, there had been 25 court cases involving over 270 "al-Qa'ida elements" since 1998.¹²⁹ Many have been tried before the SCC.

According to the NGO Alkarama in March 2010, around 30 people who were caught up in a sweep of arrests of people suspected of having links to al-Qa'ida were being detained in al-Hudaydah, while another 10 were being held in Aden, some 44 were being held in Hadramawt, and 300-400 were being held in Sana'a, of whom between 100 and 200 had been arrested in 2010.

Ahmad Muhammad Ahmad Khaloufa, aged 27, was arrested on 12 December 2009 outside his house in al-Hawk area in al-Hudaydah as he was sitting chatting with some friends. A group of plain-clothed security forces dragged him away without showing an arrest warrant and took him to an unknown destination. He disappeared for more than a month. His family then found out that he was at Political Security in al-Hudaydah, where he remains held without charge or trial. The authorities have not explained the exact reason for his detention, but have now confirmed that he is in custody and say he is being held as a preventive measure because he knows someone who is wanted for "security reasons".

Among others detained by Political Security for varying periods have been Yemenis returned from US detention in Guantánamo Bay, Cuba. **Salim Hamdan**, for example, was immediately detained when he was returned by the US authorities to Yemen in November 2008. He was held incommunicado for a week by Political Security and eventually released without charge in January 2009. Six other Yemenis returned from Guantánamo in December 2009 were also immediately detained by Political Security and held for several days before being released without charge.

Approximately 90 Yemeni nationals continue to be held illegally in US custody at Guantánamo Bay. Following the attempted attack on a plane bound for Detroit, USA, on 25 December 2009, President Barack Obama ordered the suspension of transfers of Guantánamo detainees to Yemen. The task force established under President Obama to review Guantánamo detentions has approved 36 Yemeni nationals for repatriation, while designating 30 other Yemeni inmates of Guantánamo for possible future transfer when security conditions in Yemen are deemed to have been met. Most or all of them have already been held without charge or trial for several years. Amnesty International does not know which Yemeni detainees fall into each category.

As of 30 June, only seven Yemeni nationals have been sent home from Guantánamo Bay since President Obama took office in January 2009, despite his promise to close Guantánamo by the end of his first year in power. Another, 26-year-old **Muhammad al-Odaini**, had his release ordered on the 26 May 2010 and his continued detention after more than eight years ruled unlawful by a US Federal judge. The judge gave the US administration until 25 June to take “all necessary and appropriate diplomatic steps to facilitate Odaini’s release forthwith”. Since then, the US administration has decided to repatriate him to Yemen. US officials have made it clear in media statements that the general suspension of transfers to Yemen is still in place. The *Washington Post* reported one official saying, “The general suspension is still intact, but this is a court-ordered release... People were comfortable with this... because of the guy’s background, his family and where he comes from in Yemen.” A second official stated, “This should not be viewed as a reflection of a broader policy for other Yemeni detainees.”¹³⁰

Foreign detainees in Yemen who are suspected of links to al-Qa’ida tend to be forcibly returned by the Yemeni authorities to their countries of origin with no regard for the risks they may face on their return. According to one report, at least 109 Saudi Arabians were extradited to Saudi Arabia on grounds of terrorism between 2004 and 2006 alone.¹³¹ In March 2009, for example, **Abdullah Abdul Rahman Muhammad al-Harbi** and four other Saudi Arabian nationals were forcibly returned to Saudi Arabia without giving them access to asylum procedures or any other means to contest their deportations. The five were reportedly wanted for “terrorist and sabotage acts”¹³² and were at risk of serious human rights violations such as torture or other ill-treatment, rife in detention in Saudi Arabia.¹³³ Saudi Arabian authorities stated that Abdullah Abdul Rahman Muhammad al-Harbi was on a list of 85 people wanted on terrorism-related charges which had been published by the Saudi Arabian government. Interpol had then issued a security alert in February 2009.¹³⁴ The remaining four were said to be wanted in relation to other matters.¹³⁵

UNFAIR TRIALS AND THE DEATH PENALTY

Hundreds of people accused of terrorism-related offences have been tried before the SCC in the past decade. A few have been sentenced to death; the majority have been sentenced to prison terms.

In July 2009, six people convicted of links to al-Qa'ida – **Ali Muhsen Saleh Sa'id al-Akbari, Hitham Sa'id Mubarak bin Sa'ad, Khaled Musalim Salim Batais, Rawy Hamed Salim bin Sa'dun al-Saiari, Sa'id Naif Sa'id Sankar** and **Sultan Ali Suliaman al-Saiari** – were sentenced to death by the SCC. Ten others who were tried with them, including four Syrians and one Saudi Arabian, received prison terms ranging from eight to 15 years.¹³⁶

According to the court file, the case was originally brought against 36 suspects. The case was dropped against six of the 36 as they were allegedly killed in suicide attacks or in confrontations with the security forces, and against 14 others due to lack of evidence, including 13 who were at large at the time.

The court file refers to documentation seized during the arrests and describes those tried as having links to al-Qa'ida Jihad Organization in the Arabian Peninsula and the Brigades of Yemen Soldiers in Tarim, both Islamist armed groups according to their court files. All 16 were charged in connection with violent activities carried out between December 2007 and August 2008. These included attacks on foreign companies; killing and injuring members of the security forces and tourists, such as the 18 January 2008 attack that killed two Belgian tourists and a Yemeni driver near Hadramawt; attacks on oil pipelines and government installations; and the 18 March 2008 attempt to blow up the US embassy, which caused a number of injuries when the attack struck a girl's school nearby.¹³⁷ The charges against the 16 were formulated under the Penal Code: participation in "an armed gang" (Article 133); "lighting a fire or causing an explosion... likely to expose people's lives or property to danger" (Article 137); falsifying official documents as a public servant (Article 213); making false statements in order to obtain documents and other things that did not belong to them (Article 218); and knowingly using falsified documents (Article 219). Article 141, which provides for harsher punishments such as the death penalty where the activities punishable by provisions such as Article 137 resulted in fatalities, was also applied to them.

All 16 prisoners who were convicted and sentenced in this case, including the six prisoners sentenced to death, are currently reported to be held in the Political Security prison in Sana'a.

RECOMMENDATIONS

Amnesty International makes the following recommendations:

To the Yemeni government

- Fully implement the recommendations of the report of the Yemeni parliamentary committee into the bombing incident in the governorate of Abyan on 17 December 2009, in particular:
 - set up a judicial inquiry into the unlawful killings and bring to justice any persons found responsible;

- disclose the composition and mandate of the committees that were announced to have been set up to compensate the victims and their families and the criteria for allocating compensation.
- Clarify whether cluster munitions were used in the bombing in the governorate of Abyan on 17 December 2009 and whether that attack was carried out by Yemeni forces alone or acting in concert with US forces, or by US forces alone.
- Monitor properly any weapons borne by drones in Yemen and clarify the chain of command and rules governing the use of such drones.
- Open investigations into all targeted killings of individuals accused of criminal conduct, including of persons alleged to be members of or otherwise linked to al-Qai'da, and bring to justice anyone found responsible for ordering or participating in unlawful killings.
- Clarify the rules that Yemeni security forces are required to apply when carrying out operations against individuals suspected of being members or otherwise affiliated with al-Qai'da; ensure that those rules comply with international human rights law and standards, including the standards governing the use of firearms in law enforcement; and disclose the measures taken by the government to ensure that Yemeni security forces comply with these requirements.

To the US government

- Investigate the apparent US involvement in the unlawful killings in Abyan governorate on 17 December 2009 and other attacks, make public the findings, and bring to justice anyone found responsible for unlawful killings or other serious human rights violations.
- Ensure that all US military and security support given to Yemen, and all US military and security operations carried out in Yemen, are designed and implemented in a manner strictly in conformity with international human rights law and standards, including those governing the use of firearms and other lethal force in law enforcement, and that such human rights standards are made fully operational in training programmes and systems of monitoring and accountability.
- Ensure the prompt release of all Yemeni and other nationals held in Guantánamo Bay who are not to be charged immediately and brought to trial on recognizably criminal charges in civilian courts, and urge the Yemeni government to do likewise for those held under similar circumstances in Yemen.

To the international community

- Urge the governments of Yemen and the USA to implement the above recommendations fully and without delay.

4. SA'DAH CONFLICT

“Women are not the decision-makers in conflict situations or otherwise. They don’t plan wars but they bear the brunt of their effects.”

Maha Awad, activist and former staff member of the Women's National Committee, speaking to Amnesty International in Sana'a, March 2010



A makeshift market by the remains of shops and homes, Sa'dah, Yemen, March 2010 © Private

In a cramped and crumbling house in Sana'a, two women described to Amnesty International their families' gruelling journey of survival across several mountains from Razih in Sa'dah to the capital Sana'a. The women were among around 20 displaced people aged between three and 65 at the house in Sana'a. Most were young children. Almost all were gaunt and struggling with hacking coughs. One of the girls was yellow with sickness and mute with trauma. One of the boys had been left deaf by a bomb.

The women said that they had originally fled their community after the conflict resumed in 2009 with seven other families. The final straw, said one of the women, was when the children started falling ill and dying after the bombs fell:

“People said it was measles but it was not like measles. Children suffered temperature, they lost consciousness, some regained consciousness, then they started bleeding from the mouth, eyes, nose and ears and then they die, some after a week or so.”

Their journey was treacherous. Each time they thought they had reached safety in a mountain village, they faced further strafing from the air.

“We moved from Dahiyan to the mountains... We went to Jabal Jarf [Jarf mountain]. We were there for a week. We were 85 people. We were bombarded, so we left for another area, Dakhiya for a week, then al-Dumnah for a week, then Akhmas for two months, then al-Mu’allaqa for two months, then al-Hijrah, for a week, then Sana’a... The bombardment was continuous. Children wet themselves because of the fear.”

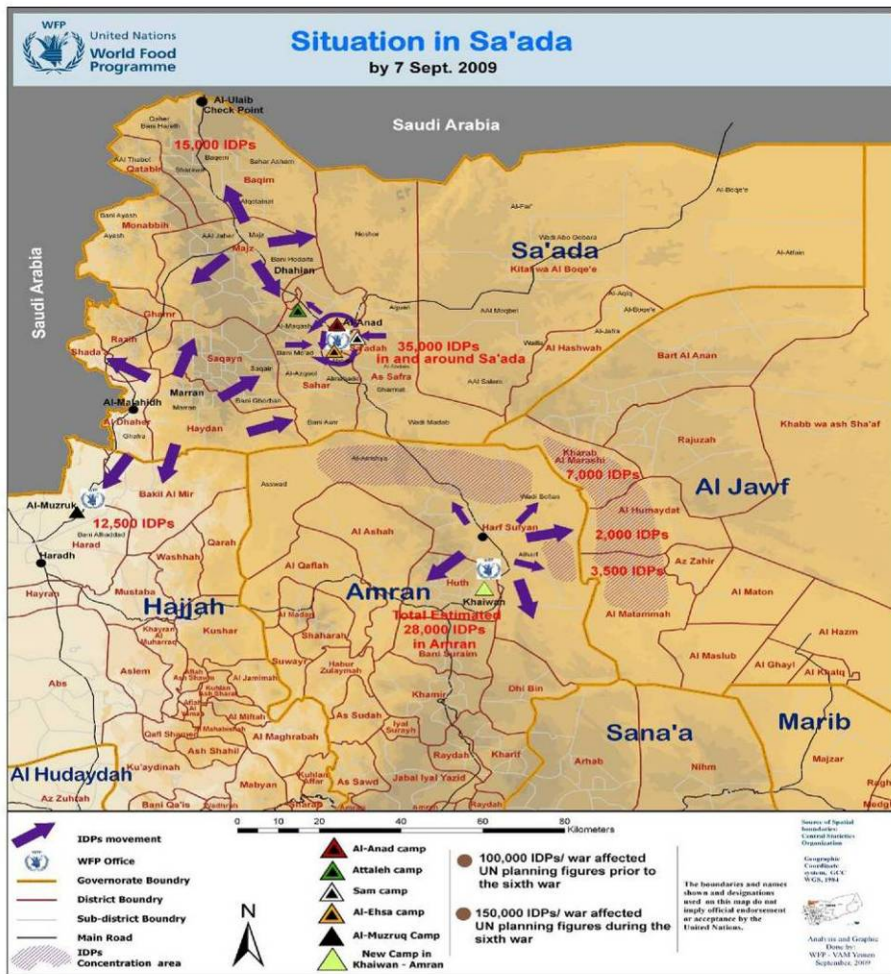
For months they were close to starvation. Sometimes villagers gave them a handful of flour at the market; sometimes they found tomatoes to grind up and eat on dried bread they had brought from home. Sometimes they ate weeds found by the roadside. Sometimes they ate nothing for days on end. “For two of the weeks we survived on just water and coffee,” one of them remembered. A woman was said to have given birth on a bridge; another during a bombardment. Both babies died within a week.

These families are among the latest civilian casualties of an armed conflict that has killed thousands of people and maimed many more during six rounds of fighting in as many years. It has also driven some 280,000 people from their homes.

BACKGROUND

The conflict began in June 2004 when Hussain Badr al-Din al-Huthi, a cleric and former member of parliament, refused to hand himself over to the authorities, following protests that he and his followers organized against the US-led invasion of Iraq in 2003. Protests had been organized against the US and Israeli governments for years before, during and after the 2003 invasion of Iraq. The protests focused primarily on the Yemeni government’s relations with the US government and were met by arrests and detentions. In June 2004, the government ordered Hussain Badr al-Din al-Huthi to surrender. Armed clashes ensued between the security forces and Huthis, as the followers of Hussain Badr al-Din al-Huthi became known, until Hussain Badr al-Din al-Huthi was killed in September 2004. This marked the start of the conflict which has been going on intermittently ever since.

Since 2004, several rounds of fighting have blighted Sa’dah. In 2008 the conflict reached ‘Amran, Hajjah and al-Jawf regions, and in June that year spread to Bani Hushaysh on the outskirts of Sana’a. An agreement negotiated between the two sides with Qatari government mediation in 2008 brought a short-lived lull in hostilities and some releases of prisoners on both sides. However, the agreement broke down and the conflict resumed with new intensity in August 2009 when the government launched a military offensive codenamed “Scorched Earth” that included aerial bombing using fighter jets and deployment of tanks and ground troops.



World Food Programme map of Sa'dah humanitarian assistance © WFP

In November 2009, the fighting spilled over the border with Saudi Arabia, which deployed its army and air force against the Huthis in Sa'dah. There followed weeks of heavy bombing of Sa'dah, particularly Razih, by Saudi Arabian planes which is reported to have killed hundreds of people and caused widespread damage to homes, other buildings and infrastructure.

In January 2010, the Huthis announced a ceasefire and said they would withdraw from Saudi Arabia. Shortly after, Saudi Arabia declared an end to its involvement in the fighting. According to one report, at least 133 Saudi Arabian soldiers died in the conflict.¹³⁸

On 11 February President Saleh declared a ceasefire after announcing that the Huthis had accepted a six-point agreement to:

- “respect the ceasefire, open the roads, remove land mines, descend from elevated positions and lift barricades from fixed locations and the sides of roads”;

- “withdraw from district administrations and refrain from interfering in local authority affairs”;
- “return plundered Yemeni and Saudi civilian and military equipment”;
- “release Yemeni and Saudi civilian and military detainees held by them”;
- “respect the Constitution, law and order”;
- “commit not to attack the territory of the brotherly Kingdom of Saudi Arabia”.¹³⁹



A bombed market place, Sa'dah, Yemen, March 2010 © Private

Among other unpublished terms of the ceasefire agreement are said to be the release of those held by the Yemeni authorities in connection with the conflict, including prisoners who have been tried and sentenced as well as those who were held awaiting trial; and the formation of a national implementation committee comprising members of Yemen's political parties. When this committee was set up, it was composed of 27 members of the House of Representatives and the Shura (consultative) council and representatives of an umbrella group of opposition political

parties called the Joint Meeting. The ceasefire agreement provided that this committee would oversee the creation of a mechanism for implementing the terms of the ceasefire, including through the formation of local committees comprising representatives of the different political parties and of the Huthis to supervise implementation of the agreement's provisions at local level. Four local committees were then established – for Sa'dah, al-Malahit, Harf Sufyan and the areas near the Yemen-Saudi Arabia border – and this was announced on state television. Huthi representatives were included in all of these committees. Five thematic committees, such as one dealing with land mines, were also set up and three of them included Huthi representatives. Much of the published ceasefire agreement appeared to have been achieved by May.

Some people interviewed in Yemen expressed concern to Amnesty International that a gender perspective was lacking from the current conflict resolution and post-conflict measures. UN Security Council Resolution 1325 on Women, Peace and Security called on all actors involved “when negotiating and implementing peace agreements to adopt a gender perspective”, including “[t]he special needs of women and girls during... resettlement and for rehabilitation, reintegration and post-conflict reconstruction”; “[m]easures that support local women's peace initiatives... for conflict resolution, and that involve women in all of the implementation mechanisms of the peace agreements”; and “[m]easures that ensure the protection of and respect for human rights of women and girls, particularly as they relate to the constitution, the electoral system, the police and the judiciary”.¹⁴⁰ Several women in Yemen pointed to the lack of women in positions of influence locally and nationally, the high rate of illiteracy among women and girls, particularly in rural areas, and the lack of grassroots women's organizations outside the main towns as obstacles that made it difficult for the authorities to involve women in relevant discussions and decision-making, but they nevertheless thought that more could, and should, be done.

Representatives of international relief and refugee agencies, as well as displaced people and Yemeni political leaders and activists all expressed concern to Amnesty International that the ceasefire was fragile. Even if it does hold, however, and the conflict is resolved, many observed that it will be a huge challenge to repair the damage done in Sa'dah, given the scale of the destruction, the continuing threat posed by land mines, the scale of poverty and food insecurity, and the ongoing political instability in the region.

Since the ceasefire, although the agreement has largely held, bouts of violence have occurred. The government has accused the Huthis of breaching the ceasefire on a number of occasions. The Huthis have mostly denied such allegations and have, in some cases, expressed their willingness to co-operate with any investigation.

The Yemeni news agency Saba has stated that the post-ceasefire committees have reported many breaches of the truce by the Huthis, including exchanges of fire, kidnappings of civilians and soldiers, and attacks on property in al-Jawf.¹⁴¹ For example, on 11 May the Huthis were reported to have abducted four soldiers in al-Jawf; the Huthis denied this. On 12 May UNICEF was reported to have accused both Huthis and pro-government fighters of occupying schools and scaring away teachers and students in Sa'dah region,¹⁴² though the Huthis were reported to have denied this.

Many of the incidents have involved clashes between the Huthis and local tribes that support the government. According to reports, at least eight civilians, 17 tribesmen and 19 Huthi fighters were killed as a result of these clashes in the first five months after the ceasefire.

SIX ROUNDS OF CONFLICT: TIMELINE¹⁴³

First round: June-September 2004

Second round: March-July 2005

Third round: Jan-February 2006

Fourth round: Feb 2007-June 2007 Qatar mediates between the two sides and a settlement is reached in June 2007.

Fifth round: May-July 2008

Sixth round: August 2009-February 2010

12 August 2009: Yemeni government launches operation "Scorched Earth" on Huthi strongholds.

Early November: fighting spills into Saudi Arabia; Huthis take control of two villages in Saudi Arabia in the border region of Jabal al-Dukhan and Saudi Arabia launches air strikes.

December 2009-February 2010: Intense aerial bombardments by Saudi Arabia of Sa'dah, particularly Razih, reported to have killed hundreds of people and caused widespread damage to homes, other buildings and infrastructure.

25-27 January 2010: Huthis announce ceasefire and withdraw from Saudi Arabia; Saudi Arabia announces the end of fighting.

11 February 2010: President Ali Abdullah Saleh declares a ceasefire after the Huthis agree to accept six conditions put forward by the Yemeni government.

18 March 2010: President Saleh declares the war over.

SIXTH ROUND: NEW SCALE OF DEATH AND DESTRUCTION

"I saw a scene that can only be from doomsday..."

A man who fled Sa'dah

The Yemeni government's "Scorched Earth" operation between August 2009 and February 2010 signalled the deployment of military force against the Huthis on a scale not witnessed before, particularly after Saudi Arabian forces joined in. Civilian deaths as a result of aerial bombardments were soon being reported. In September 2009, for example, at least 80 civilians, most of them women and children, were said to have been killed when the Yemeni air force bombed 'Adi village in the Harf Sufyan district of 'Amran.¹⁴⁴ The government was reported to have appointed a commission to investigate the killings, but no findings have been announced.¹⁴⁵

Yemeni government restrictions on access to the region combined with the prevalence of land mines and other security concerns arising from the presence of Huthi fighters and Yemeni security forces meant that virtually no independent observers or media visited Sa'dah during the sixth round of fighting or in the weeks that followed the truce. However, evidence of the scale of death and destruction began to emerge as people who fled their homes began arriving in safer areas, including the capital. A member of one of four post-ceasefire local committees who had visited the region, described the devastation, stating that three-quarters of the old city of Sa'dah had been completely destroyed.



Building destroyed by aerial bombardment, Sa'dah, Yemen,
March 2010 © Private

Further evidence came with hundreds of photographs obtained by Amnesty International. The pictures, acquired from an independent source and taken in March 2010 in and around the town of al-Nadir in Razih, show a level of destruction of which the world had been largely unaware. Among the damaged or destroyed civilian buildings photographed are market places, mosques, petrol stations, small businesses, a primary school, a power plant, a health centre – and dozens of houses and residential buildings. International humanitarian law, applicable in all situations of armed conflict forbids the targeting of civilian objects, as well as attacks

that fail to discriminate between military and civilian targets, or are disproportionate in their effects on civilians. If such attacks are carried out deliberately, they constitute war crimes.

The pictures are consistent with testimony given to Amnesty International in March 2010 by many people who had fled Sa'dah. These people, accessed and interviewed separately, said that Saudi Arabian air strikes, which began in November, were of an intensity and power not experienced before. They also said the strikes took place around the clock in the days leading up to the ceasefire in February 2010.

Several displaced people described seeing bomblets attached to small parachutes floating down to the ground before exploding, indicating the use of cluster bombs. However, due to

the restrictions on access in the region it is impossible to independently verify this.¹⁴⁶ One man described the bombing of the market place in Razih on 7 October at the busy time of 9.30am:¹⁴⁷

“I was in the market. I saw two planes with parachutes coming down [from them]. People said and thought it was aid. They took about three minutes to come down. I cried ‘bombs!’ and ran away yelling



A destroyed house, Sa'dah, Yemen, March 2010. The graffiti reads “This is the help Yemen gets from America” © Private

‘bombings, missiles’, and laid flat on my stomach. Then the market turned to a screaming area, smoke, shrapnel, dust, stones and broken windows everywhere... I looked from the corner of my eyes and I saw a scene that can only be from doomsday...”

Another man who had fled Sa'dah said:¹⁴⁸

“We saw things falling from the sky with parachutes. We thought they were pamphlets. But they were bombs. They killed seven or eight women and children near the market in Sha'rah area.”

Videos distributed online by Huthi supporters, which they say were taken near the Saudi Arabian border following air strikes in November/December 2009, appear to show either MiG-29 or F-15 fighter jets¹⁴⁹ and distinctive “spider caps” on the ground from BLU-97A/B cluster munitions.¹⁵⁰ However, it has not been possible for Amnesty International to verify the authenticity of these videos.

Many other people described repeated attacks on residential areas, with devastating consequences for the civilians living there. Several displaced people separately described the bombing of two houses of the Abu Taleb family. One man, whose wife is related to the Abu Taleb family, said that the two buildings were bombed in the early hours of 30 December 2009. They believed the bombardment was carried out by Saudi Arabian planes because they had heard reports that Saudi Arabia was attacking that part of Sa'dah at the time. One house had four storeys; the other three. He named 33 people he said were killed instantly. Another group of people gave a similar description of the attack but said that 45 people had been killed. One of them said:

“We were taking the victims out – 14 women and 16 children were killed. One child died four days after the attack. The rest were men, including an 85-year-old man who had partial paralysis and his leg had been amputated.”

The husband of the relative of the Abu Taleb family also described an attack on 23 or 24 December 2009 on the house of Muhammad Jaber, who was involved in the mediation efforts to stop the conflict. He said a first bomb hit and damaged the house. Then, after people rushed to help those trapped in the house, another bomb landed directly on the

building, killing 38 people:

“This attack drove people mad and made them more scared than ever. People were saying that if this house was struck, no other place is safe.”

A separate group of displaced people described the same attack. The first assault, they said, involved two bombs and happened at a time when people were gathering to chew qat (leaves of a shrub that is chewed like tobacco for a stimulant effect). Fifteen minutes later, when people were trying to help those inside, three more bombs hit, killing 38 people and injuring 73. They said that among the dead were 13 children, five of whom had been playing outside when the second attack took place.

Another source said the six-storey house was attacked by planes that were “huge and red”. He said there were two strikes. In the first, two planes fired one missile each into the house at the same time. In the second, one of the planes came back and attacked the house. He said in the first strike, two children died, and in the second 38 were killed and 42 injured. Many were teachers. The man had written most of the names down.¹⁵¹

The witness, a man from al-Nadir, said he had fled his home between 20 and 25 December 2009 with 30 members of his family because they “had just had 10 days without sleep because of the Saudi planes constantly circling above the town” and “had seen more and more dead bodies.” He said an attack by Saudi Arabian forces in November on three family homes left 36 people dead: “So many were killed from one family that they had to create a cemetery for themselves.”



Inside a building that took a direct hit, Sa'dah, Yemen, March 2010 © Private

In another round of interviews in Sana'a with people who had fled Sa'dah, a first group had just begun speaking when another group arrived. What followed was a moving and emotional reunion, as the groups embraced each other, and one member told another, “I thought that I would never see you again.” There was also considerable fear; they insisted that all mobile phones were switched off and taken to another building while the interviews took place.

Both groups insisted that there were no Huthis or any armed resistance in the particular areas from which they had fled and which had been bombed, although Amnesty International is not able to verify this. The first group described an attack by Yemeni planes on the house of Muhammad al-Difa' in Razih on 29 October. Four families were annihilated – 17 children and 24 adults. About a week later, they said, attacks by Yemeni planes stopped and were replaced by intense Saudi Arabian bombardments. Among the buildings they said were destroyed or damaged were al-'Umayr mosque, al-Talh market, Suwaydan mosque, Salah Falaytah mosque in Bani Ma'an, two mosques in Dahiyah, a TV station, the hospital in Jabel al-Azd, the Imam Ali school, the health centre in al-Shawarq, government offices, part of the main hospital in Razih, and five petrol stations, which left only two working. They said that Bani Ma'an market was bombed on about 12 December, killing 80 to 90 people. One man was overcome with emotion as he tried to describe what he had seen:

“We went to the market around mid-afternoon. There were many victims from many districts. You couldn't tell human flesh from animal meat. People were looking for their relatives, and trying to identify them.”

Many then left their homes and went to al-Nadir, which they believed would be safe because, they said, the Huthis had no presence there. “But then they started targeting houses.” They said people began moving from the new houses to the old ones, as these were stronger. In order to escape the bombardment, most of which took place at night, usually starting at around 10pm, some resorted to spending nights in the fields.

One man described how after bombings in the area of Abu Zaid al-Qadah, 3km from Dahiyan, children bled from their ears and had a skin reaction. Some, he said, had died.

Some displaced people thought they had witnessed phosphorus bombs. One described how after bombs fell on farms in Razih, bits of the bombs sometimes continued to burn for up to three hours, and in some cases the smoke coming from the bombs as they fell was white. Another said that he suspected they were phosphorus bombs because on a pitch black night where there was no moon or crescent they could see bright white smoke. Amnesty International wrote to the Saudi Arabian authorities following the first reports that phosphorus bombs had been used in November 2009 to seek confirmation of this but, to date, has received no answer.¹⁵²

Amnesty International also heard allegations of extrajudicial killings. One man, who had stayed in Sa'dah until the last day of the conflict, said that on 2 February 2010 a member of his extended family, a state employee at an education office, was killed by security forces on the main road outside Bab al-Yemen in Sa'dah, as he was returning home from work. He said witnesses to the incident had told him that soldiers in military uniform had got out of a jeep and shot his relative in the neck and shoulder, fatally injuring him. The dead man, he said, was an activist who had defended poor people, and this might be the reason why he had been killed.

It is unclear how many people were killed during the sixth round of fighting, but the accounts heard by Amnesty International combined with reports from other sources indicate that the total was many hundreds, possibly thousands. According to a report by the Yemeni children's rights organization SEYAJ, 187 children died in Sa'dah in the sixth round, most killed by government-backed militias fighting the Huthis, although some died as a result of hunger when food supplies were cut.¹⁵³

VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW

“What have those children done wrong to be killed like this?”

A man who fled Sa'dah

For the purposes of international law, the fighting between the Yemeni state and the Huthis was a “non-international (internal) armed conflict”, and all parties were bound by international humanitarian law.¹⁵⁴ Saudi Arabia too was bound by that law after it entered the conflict.¹⁵⁵ Saudi Arabia's involvement did not transform the conflict into an international armed conflict as it was not fighting against Yemeni government forces, but rather against a non-state armed group with the consent or acquiescence of the Yemeni government.

International humanitarian law requires that all parties to a non-international armed conflict treat civilians and anyone no longer taking part in hostilities, including wounded or captured combatants, humanely.¹⁵⁶ It prohibits, among other things, murder and summary executions,¹⁵⁷ torture and other cruel, inhuman or degrading treatment or punishment,¹⁵⁸ hostage-taking,¹⁵⁹ enforced disappearance,¹⁶⁰ and the recruitment and use of child soldiers.¹⁶¹

International humanitarian law rules for the conduct of hostilities, including in situations of non-international armed conflict, are designed to minimize unnecessary civilian casualties and destruction of civilian property. This means forces must take care to discriminate between civilian and military targets,¹⁶² and avoid attacks that cause civilian harm disproportionate to the expected military gain.¹⁶³ Deliberate attacks against civilians or “civilian objects” (which include homes, hospitals, schools and places of worship when not being used for military purposes), indiscriminate or disproportionate attacks are prohibited.¹⁶⁴ Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited.¹⁶⁵ Aerial bombardments or other attacks that treat as a single military objective several clearly distinct targets in a town, village or other area containing a concentration of civilians and civilian objects are considered to be indiscriminate and are prohibited.¹⁶⁶

To give effect to these rules, parties to a non-international armed conflict are required to take constant care in military operations to spare the civilian population, civilians and civilian objects. All feasible precautions must be taken to avoid, and in any event to minimize, incidental loss of civilian life, injury to civilians, and damage to civilian objects. Everything feasible must be done to verify that targets are military objectives, and to choose means and methods of warfare that avoid or minimize incidental effects on civilians.¹⁶⁷ Effective advance warning of attacks that may affect the civilian population must be given unless circumstances do not permit.¹⁶⁸

The obligation to respect and ensure respect for international humanitarian law does not depend on reciprocity; violations by one party to a conflict do not release the other from its obligations.¹⁶⁹ States must exert their influence, to the degree possible, to stop violations of international humanitarian law, and certainly may not encourage violations.¹⁷⁰ States responsible for violations of international humanitarian law are required to make full reparation for the loss or injury caused.¹⁷¹ Serious violations of international humanitarian law constitute war crimes for which those responsible are criminally liable and subject to universal jurisdiction and in respect of which states are required to undertake investigations and prosecutions.¹⁷²

Some Yemeni and Saudi Arabian attacks on homes and apartment blocks described above appear to have violated international humanitarian law; consistent allegations from the many survivors who fled the area that Amnesty International spoke to, which Amnesty International has not been able to verify, describe attacks in circumstances that would suggest either deliberate targeting of civilians or civilian objects, or indiscriminate or disproportionate attacks. Aerial and other bombardments of markets, mosques and other places where civilians gather, as well as of large residential properties, apparently killed hundreds of men, women and children not engaged in the fighting. Neither the Saudi Arabian nor Yemeni government has provided any explanation for the vast majority of such attacks nor explained

what, if any, precautions were taken by their forces to spare civilians taking no part in hostilities.

According to the testimonies, Saudi Arabia appears to have been responsible for most of the alleged indiscriminate and disproportionate attacks on civilians in the sixth round of fighting. The Saudi Arabian authorities have not responded to communications by Amnesty International requesting clarification of the circumstances of such attacks. The Saudi Arabian government also denied refuge to people seeking to flee across the border to escape this intense round of the conflict.

As was described earlier, several witnesses also told Amnesty International that some attacks leading to civilian deaths were on areas in which there were no Huthi fighters. Such serious allegations require the immediate establishment of an impartial and independent inquiry.

Foreign governments especially the UK and US governments have supplied jet fighter aircraft associated weaponry, upgrades and related technical assistance to Saudi Arabia. Such governments have provided a high level of ongoing in-country technical support relating to the operation of those fighter jets, their ordnance and management, so their personnel on the ground are likely to be aware that, during the period of attacks in Yemen, Saudi Arabian aircraft departed from bases carrying visible ordnance, returning later with empty pylons. These governments will now be aware of the allegations that Saudi Arabian aircraft carried out indiscriminate attacks and other violations of international humanitarian law that resulted in deaths of Yemeni civilians. They should ensure that any support they have provided for the use of these aircraft did not facilitate violations of international humanitarian law, including possible war crimes, by the Saudi Arabian air force.¹⁷³

Both the Yemeni and Huthi sides accused each other of using child soldiers. Research conducted by SEYAJ found evidence of children being used as soldiers and exploited, by both Huthis and the Yemeni government, in the conflict. In the case of Huthi fighters, SEYAJ reported that 402 Huthi fighters were under the age of 18. It also reported that the Yemeni government used tribes aligned to it in battles against Huthis. These pro-government tribes are said to have fought alongside the official army; SEYAJ research found that they included 282 child soldiers.¹⁷⁴ These findings, however, are not conclusive as the lack of birth certificates or reliable records makes it extremely difficult to establish the age of soldiers. Furthermore, Amnesty International delegates were not able to access Sa'dah governorate to verify this information.

The authorities also claim that Huthis forcibly took over and used civilian homes for military purposes, ill-treated captives, and laid mines. A few of the displaced people from Sa'dah interviewed by Amnesty International said that Huthis had asked them to vacate their homes so they could be used by Huthi fighters because the houses were in locations the Huthis believed were less likely than other areas to be bombed by Yemeni or Saudi Arabian forces. A member of one of four post-ceasefire committees told Amnesty International that thousands of mines made from buta gas had been planted by Huthis, many by children. Again, lack of access to Sa'dah made it impossible for Amnesty International to check or verify such allegations at first hand.

More than 40 people have been killed and dozens injured in land mine incidents in Sa'dah

since the ceasefire. SEYAJ have reported that at least 33 children have been killed or wounded due to land mines since the beginning of 2010, seven of whom were killed and 16 injured in Sa'dah. In one incident reported in the press, three girls who were grazing their goats a few hundred metres from the al-Mazraq II camp, where their family had fled to escape the fighting in the al-Malahit area, triggered a land mine killing a 10-year-old girl and injuring the two others.¹⁷⁵ On 3 May 2010, the National Mine Action Committee (NMAC) was reported to have said that they had registered 20 land mine victims in 2010 so far. However, they stated that no accurate data exists as Huthis and people with minor injuries do not register, and often people admitted to hospital outside of the capital are not registered.¹⁷⁶ There were no known reports in 2009 of killings and injuries as a result of land mines in Sa'dah.¹⁷⁷

A notable absence from the ceasefire agreement is any commitment by either side to investigate alleged abuses by their forces. This failure not only makes lasting peace less likely. It also means that the perpetrators of crimes will not be brought to justice and the victims and their families will not receive compensation or any other form of reparation.

DISPLACEMENT AND HUMANITARIAN ASSISTANCE

"Internally displaced people are at risk in Yemen due to insufficient humanitarian funding... A severe reduction of humanitarian assistance would not only cause a grave humanitarian crisis affecting their human rights to food, health and adequate shelter, but there is also a serious risk that it would trigger instability in a still very fragile peace situation."

Walter Kälin, the Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons, April 2010, shortly after he visited the country

The ferocity of the bombardments, particularly in late 2009 and early 2010, led to a different pattern of mass displacement. In previous rounds, most people fled a few kilometres and stayed with friends or relatives until the fighting subsided. In the sixth round, almost the entire population of some cities and villages fled much further afield, including to camps for the displaced in Hajjah and 'Amran, and to the capital and other towns.

By late 2009 local and international aid and humanitarian organizations were struggling to cope, and only a small minority of those who had fled were being helped. The agencies also faced obstacles in reaching many of the displaced people, partly because of the continuing dangers caused by the conflict and land mines, and partly because of obstruction by the Yemeni authorities. This was particularly true for the vast majority of displaced people living outside the government-approved camps in Hajjah and 'Amran.

The crisis was quickly recognized by the UN, and in December 2009 it issued a Comprehensive Humanitarian Response Plan for Yemen calling for US\$177m.¹⁷⁸ However, governments had by mid-June 2010 committed only to US\$57.6m.¹⁷⁹

From August 2009 the UN, the International Committee of the Red Cross (ICRC), Yemeni and other international organizations and international donors helped set up eight camps and nine informal settlements for newly displaced people. Three camps were located in Mazraq (Mazraq I, II and III) near Harad in Hajjah; four in Sa'dah town and one in al-Buqa' northeast of Sa'dah town. Seven of the settlements were in Mandabah, Baqim district, an eighth was in Khaiwan, Harf Sufyan district, and the other was in al-Jawf.¹⁸⁰

Many families made the gruelling three or four-day trek to one of the three Mazraq camps. Conditions in these camps have generally been reported as good although action had to be taken to remedy the provision of mixed gender toilet facilities, which families felt unable to use. Some of those who spoke to Amnesty International reported problems registering as internally displaced persons (IDPs) in order to get assistance, mainly because they did not have ID cards or could not prove their home address.

“It’s usually the weakest that fall through the cracks – like the widows, separated or orphaned children and older people,” Karine Ruel, a UNHCR team leader based in Harad, told IRIN news service.¹⁸¹

By March 2010, according to UNHCR, around 280,000 Yemenis from the north were displaced, many of them for the second or third time. Humanitarian organizations told Amnesty International that of those displaced, only 10 per cent of them were in the camps; the rest had found shelter with friends and relatives, or in derelict buildings, rented accommodation, the grounds of mosques, and open spaces. Local activists told Amnesty International that they were struggling to provide assistance to the displaced from Sa’dah because of lack of resources, and that



Al-Mazraq camp for IDPs in Harad district, Hajjah governorate, Yemen, January 2010 © Private

many of the displaced people were ill and malnourished. People had fled to other areas within Sa’dah governorate (53,898 registered with UNHCR) or, in most cases, to four other governorates – Hajjah (137,643), ‘Amran (53,946), Sana’a (23,694) and al-Jawf (11,213).¹⁸² More than 60 per cent were children; a large proportion of them aged under five. It was reported that the Yemeni authorities stopped registering IDPs at the end of March,¹⁸³ possibly to encourage people to return home.

UNHCR data gathered from the 270,000 displaced people who had registered by March 2010 corresponds with the interviews given to Amnesty International about the places particularly targeted for bombardment. The areas from which most people had fled were al-Zahir (26 per cent of registered displaced people), Sa’dah city (17 per cent), Haydan (13 per cent), Razih (11 per cent) and Harf Sufyan (6 per cent).

The organizations trying to help these people universally complained to Amnesty International about lack of funding, some saying it had reached crisis point. The risks were heightened, they said, because most of the displaced families were poor to begin with, or had been displaced before, and so had no savings to draw on and little capacity to cope.

The prospects for early return for those internally displaced are bleak because the communities and local infrastructure and services have been destroyed. The region is littered with unexploded ordnance and land mines. Livestock, businesses and other means of livelihood have gone. Many fear attack if they return home or believe that the truce will break

down. The lack of security also means humanitarian organizations cannot offer sufficient assistance in the north, although access to many areas where displaced people are living has improved.

DETENTIONS AND TRIALS

"I did not know anything about him, and whether he was dead or alive."

Abdul Ilah Yahya al-Siyani, speaking about his detained son

After the ceasefire the Huthis released three captured Saudi Arabian soldiers in February¹⁸⁴ and 177 Yemeni soldiers in March.¹⁸⁵ It is not known if Saudi Arabian soldiers were also released in March, or whether the Huthis are still holding Yemeni or Saudi Arabian soldiers. In April, the Yemeni official news agency Saba reported that the Sana'a authorities had released 54 Huthis from al-Hudaydah Central Prison¹⁸⁶ and two other groups of detainees held in connection with the conflict, in all 236 prisoners.¹⁸⁷ However, Amnesty International received reports in March that hundreds of other suspected Huthi fighters or supporters were being held in the main prisons of Sana'a and Sa'dah and other places of detention, though few details were available. The authorities have never disclosed the total number of suspected Huthi fighters or supporters being held or clarified the legal basis for their detention. In May, dozens of people detained in connection with the Sa'dah conflict were reported to have been released after being granted a presidential pardon, including 14 in Hajjah, 40 in al-Hudaydah and 23 in Abyan.¹⁸⁸

In some cases, the authorities have failed to acknowledge the capture or detention of certain individuals or to disclose where they are being held, though such prisoners are generally believed to be kept at Political Security and National Security prisons in Sana'a or in Sana'a's central prisons or in Sa'dah. Many are alleged to have been tortured or otherwise ill-treated under interrogation during prolonged incommunicado detention.

Aliya' Ibrahim al-Wazir described to Amnesty International how her husband, **Walid Sharaf al-Din**, a 33-year-old accountant who works for the UN Development Programme (UNDP), was seized on a street on his way to the bank in late August 2009 by National Security personnel.¹⁸⁹ She said:

"We only knew about this because later that day they came to our house around 3pm to search the house... They took two laptops, CDs, files, disks. They even took his passport."

She said that her husband went missing for two and a half months – the period he was held by National Security – and was tortured there. He alleges that he was suspended by his arms for two days, beaten, and that security officials threatened him that they would upload photographs of his wife on the internet to bring shame and disrepute on both her and him.

"He said to me, 'They were trying to make me confess to things I did not know anything about. They brought documents to me and they wanted me to sign. I had to sign them because I feared they would put your photos on the internet.'"

Walid Sharaf al-Din was transferred to Political Security in mid-November 2009, where he remains awaiting trial, accused of spying for Iran and supporting the Huthis financially. The prosecution said that they would look into his allegations of torture, but the confessions

allegedly obtained under torture have not been excluded from the evidence filed against him.

Aliya' Ibrahim al-Wazir described how seven women relatives of detainees organized a sit-down protest near Saleh Mosque in Sana'a in September 2009. She told Amnesty International:¹⁹⁰

"I was beaten by the police women. I held a photo of my husband and they tried to take the photo from me. When I refused they hit me in the face and on my mouth, blood came out of my mouth."

Yahya Abdullah al-Siyani described the detention of two of his children and a nephew in connection with the conflict in Sa'dah.¹⁹¹ His son **Muhammad Yahya al-Siyani**, an 18-year-old student, was arrested on 26 March 2007 on Tunis Street in Sana'a by a group of plain-clothed armed men. He was bundled into a car and taken to the Political Security prison, where he disappeared for over a month. "I went to the Political Security prison and the Criminal Investigation prison in al-'Adl Street," said Yahya Abdullah al-Siyani, "but they said 'he is not here'." After a month, however, he was allowed to visit his son in the Political Security prison where he was being held without charge. Often, the visits were short, between 10 and 15 minutes, and always in the presence of guards. Muhammad told his father that he was accused of supporting the Huthis. Two years after he was snatched from the street, he remains held without charge. He has not been provided access to a lawyer.

Muhammad's brother **Abdul Ilah Yahya al-Siyani**, a 21-year-old accountant, was arrested at 8pm on 19 May 2008 from his workplace in Sana'a. Around 15 armed men in plain clothes stormed the office and took him away in full view of his colleagues, who were terrified. One of the colleagues rang Yahya, and he immediately began another hunt for an arrested son. He said:

"I continued to visit the Political Security and National Security, but each time they told me they did not have him. He remained disappeared. I did not know anything about him, and whether he was dead or alive. After four months of suffering and searching he appeared in the Political Security prison."

Abdul Ilah Yahya al-Siyani was subsequently tried before the SCC and sentenced to five years' imprisonment on charges that included buying medicine for Huthis. His father said Abdul did not have a lawyer because of the expense and because they believed that he did not need one as he had done nothing wrong.

Ahmad Yahya Muhammad al-Siyani, Yahya's 21-year-old nephew, left his house on the morning of 13 May 2009. The next time his family knew his whereabouts was three months later in August, when he appeared in the Political Security prison. His uncle said that Ahmad told the family: "I went out for a qat session with some colleagues in Bani Hushaysh on the day when war started and was arrested there". After a year in detention he was tried, convicted of participation in an "armed gang" and sentenced to 15 years' imprisonment. He did not have a lawyer because he contends that the SCC is an unconstitutional court.

Ismail Hassan Muhammad al-Washri, a 30-year-old engineer, was arrested by four men in civilian clothes from an internet outlet in Dhamar in September 2009. His father, Hassan

Muhammad al-Washri, told Amnesty International that he was informed that Ismail had been taken to the CID in Dhamar, so he went there the following day:¹⁹²

“They said they didn’t have him, so we went to Political Security in Dhamar and they also said they didn’t have him. Around 4am we were contacted by the Criminal Investigation and told to ‘bring a mattress for your son’. That is how we knew they had him.”

The family took the mattress but were not allowed to see Ismail. A week later Ismail was transferred to the Central Prison in Dhamar and was allowed visits. His father said:

“My son told us that he was interrogated all night by four people and... he was threatened with being beaten.”

After Eid (20 September), the family discovered that Ismail had been transferred to Political Security in Dhamar on the orders of the governor. They went there to see him, but were denied access. They returned three days later only to be told that Ismail had been transferred to Political Security in Sana’a. They were told he was a suspect because “he had been viewing Sa’dah-related issues on the internet”.

Yasser al-Wazir, who was subjected to enforced disappearance for some two and a half months in 2008 (see Chapter 2, Arbitrary detentions and enforced disappearances), was imprisoned for eight years by the SCC on the charge of participating in an “armed gang” to carry out a criminal project collectively. He was one of 10 defendants¹⁹³ who all faced the same charge.¹⁹⁴ The specific acts for which Yasser al-Wazir was convicted included meeting Abdul Malik al-Huthi, watching CDs of Huthi activities, collecting money and giving it to Abdul Malik al-Huthi, and taking part in protests in Sana’a demanding the release of prisoners arrested in connection with the Sa’dah conflict.

BANI HUSHAYSH TRIALS

At least 190 people charged with participating in “an armed gang” and committing violent crimes, including killing soldiers, in 2008 in the Bani Hushaysh district of Sana’a governorate and elsewhere, have been tried before the SCC or are awaiting prosecution. They were arrested in 2008 along with at least 50 others who were subsequently released uncharged. They are being tried before the SCC in separate groups. By mid-2010, at least 34 had been sentenced to death, and at least a further 71 had been given prison terms of up to 15 years.

One of the trials of Bani Hushaysh defendants before the SCC, which ended on 31 October 2009, involved 13 defendants – **Abdullah Abdullah Muhammad Far’i al-Aghrabi**, 17; **Abdullah Ali Rajih al-Hamadani**, 25; **Al-Hussain Ahsan Ali Hussain al-Arkada**, 21; **Aqel Ali Saleh al-Aqel**, 19; **Faiz Ali Nasser al-Hinmi**, 30; **Hizam Ali Hizam Ahmad al-Hinmi**, 30; **Jamal Hameed Muhammad Sarhan al-Aghrabi**, 19; **Muhammad Ahmad Saleh al-Aqel**, 30; **Muhammad Saleh Ali Far’i al-Aghbari**, aged 25; **Naji Ali Ali al-Aqel**, 19; **Sameh Abdul Rahman Muhammad Ali al-Shami**, 26; **Saleh Amer Saleh Hussain al-Zubairi**, 21; and **Yahya Muhammad Ahmad Baniyan al-Hinmi**, 25. All were charged under Articles 133, 137, 141 of the Penal Code. They were accused of participating in “an armed gang” for criminal purposes; planning to carry out killings, bombings, sabotage and destruction; putting the safety and security of society at risk in “preparing” small and heavy arms, bombs and

missiles; collecting money for an armed group; organizing transport for an armed group; and making barricades. As a result of these activities, according to the indictment, members of the armed forces, security forces and civilians were killed and injured, and military equipment was destroyed.

The court was told that the defendants had confessed during interrogation to these charges, and the “confessions” were read out. The defendants repudiated their “confessions”, denying the accusations made against them, but refused to answer questions or be represented by defence lawyers because they said they considered the court to be unconstitutional. The court convicted them based solely on the “confessions” and details of the destruction of properties and military vehicles. Six were sentenced to death – al-Hussain Ahsan Ali Hussain al-Arkada, Faiz Ali Nasser al-Hinmi, Hizam Ali Hizam Ahmad al-Hinmi, Jamal Hameed Muhammad Sarhan al-Aghrabi, Muhammad Saleh Ali Far’i al-Aghrabi, and Sameh Abdul Rahman Muhammad Ali al-Shami. Four were sentenced to 12 years’ imprisonment, and three to eight years.

The mother of one of those sentenced to death, Sameh Abdul Rahman Ali al-Shami, told Amnesty International that he remains in Sana’a Central Prison.¹⁹⁵ She said that he had been arrested in 2008 in connection with the fighting in Bani Hushaysh after he was injured and lost consciousness. She said that another son, Abdul Haq, had been killed in the fighting. For three months after Sameh’s arrest she did not see him, and learned from other people that he had been beaten in detention. A third son, Akram, was detained for about five months before he was released without charge.

Another trial of Bani Hushaysh defendants, which ended on 27 October 2009, involved 16 defendants facing the same charges under the same Articles of the Penal Code. They were: **Abdullah Ahsan Yahya al-Rassass**, 22; **Abdullah Ali Muhammad al-Hamzi**, 19; **Ali Abdul Hameed Ahsan Hassan al-Aghrabi**; **Ali Ali Hamadi Ahsan Saree’**, 20; **Fahad Qaid Naji al-Sameen**, 25; **Faiz Abdullah Murshid al-Shawkani**, 17; **Hafthallah Ali Mahfouz al-Tihami**, 25; **Hassan Ali Muhammad Fari’ al-Shawkani**, 30; **Ismail Muhsen Abdu al-Shawkani**, aged 27; **Khaled Saleh Muslieh al-Qhateeli**, 30; **Muhammad Ahsan Yahia Saree’**, 28; **Muhammad Ali Ali Saleh al-Addadi**, 23; **Muhsen Hussain Hussain Muhsen al-Shawkani**, 18; **Umar Hussain Muhammad Murshid al-Shawkani**, 24; **Rasheed Abdullah Muhammad al-Shawkani**, 19; and **Yahya Muhammad Hamadi Ahsan Saree’**, 21.

Again, “confessions” were read out in court, but the defendants repudiated them and said the court was not legitimate. Apart from Khaled Saleh Muslieh al-Qateeli, all refused to be represented by a lawyer. All told the court that they had signed their confession under duress. Hafthallah Ali Mahfouz al-Tihami said he had been blindfolded when he signed his. The lawyer of Khaled Saleh Muslieh al-Qateeli told the court, among other things, that his client had been detained for eight months without charge or referral to the prosecution, that there was no evidence to link him to any of the alleged offences, and that he had suffered duress in custody. The court did not examine any of the allegations of duress nor was the prosecution required to establish the voluntariness of the contested confessions before the court accepted them as evidence of guilt.

Four of the men were sentenced to death – Fahad Qaid Naji al-Sameen, Hafthallah Ali Mahfouz al-Tihami, Ismail Muhsen Abdu al-Shawkani, and Umar Hussain Muhammad

Murshid al-Shawkani. Hassan Ali Muhammad Fari' al-Shawkani was sentenced to 15 years' imprisonment. Four were given 12-year prison terms; five were sentenced to 10 years' imprisonment; and Abdullah Ahsan Yahya al-Rassass was given a five-year term. Khaled Saleh Muslieh al-Qateeli was sentenced to the time he had already spent in prison.

Apart from the allegedly coerced confessions and the failure of the court to investigate allegations of duress, other aspects of the trials were clearly unfair. No evidence was presented to the court, other than the "confessions", that linked particular crimes to individual defendants. Though the charges referred to a number of killings, the identity of the victims and the circumstances were not specified, except as regards only one victim, the security chief. No names of the soldiers said to have been killed, nor the dates of killings, nor even evidence regarding bodies that the defendants supposedly confessed to having buried, was presented.

RECOMMENDATIONS

Amnesty International makes the following recommendations:

To the Yemeni government

- Make public the full text of the agreement between the Yemeni government and the Huthi leadership that sets out measures that the government pledged to undertake as part of the ceasefire agreement.
- Clarify the measures that it has implemented to date in compliance with the ceasefire agreement, and details of any further measures that are still due to be taken to ensure full compliance, and the agreed timetable for these measures to be undertaken.
- Ensure its forces, including the Yemeni army, other security forces and local militias fighting alongside government forces, are fully aware of and comply with their obligations under international human rights and humanitarian law.
- Specify publicly the restrictions on access to Sa'dah and surrounding areas which currently exist for, on the one hand, humanitarian organizations and, on the other, journalists, NGOs and other independent observers, and remove without delay arbitrary restrictions on access to the conflict-affected areas.
- Announce the number of alleged or known Huthi fighters captured or detained in connection with the conflict in Sa'dah who continue to be held by the Yemeni authorities, their whereabouts and legal status and details of the safeguards in place to ensure that they are treated humanely and protected from torture and other ill-treatment.
- Announce the number of civilian detainees held in connection with the conflict in Sa'dah who have been released by the Yemeni authorities since the ceasefire and the number, whereabouts and legal status of such individuals who remain in detention.
- Ensure that the families and lawyers of those held in detention in connection with the conflict are informed promptly about their place of detention and that all detainees and their lawyers are told the specific allegations against them. Ensure that family members and

lawyers of all detainees are permitted contact with them, by correspondence, telephone and visits.

- Ensure that detainees are either promptly charged with a criminal offence that is precisely defined and otherwise consistent with international human rights standards and tried without undue delay in accordance with international fair trial standards, or else released.
- Release immediately and unconditionally anyone held solely for the peaceful exercise of their rights to freedom of conscience, expression, association or assembly, regardless of whether their conduct may have constituted a criminal offence under national laws in Yemen.
- Carry out a comprehensive evaluation of the impact of the Sa'dah conflict on children, and institute appropriate programmes to help them recover.
- Strengthen and enforce the law that forbids the use of child soldiers.
- Ratify and enforce the Convention on Cluster Munitions without delay.
- Ratify and enforce the Rome Statute of the International Criminal Court without delay.
- Make public the findings and conclusions of the commission which the government announced it had set up into the bombing of the village of 'Adi in the Harf Sufyan district of the governorate of 'Amran in September 2009.
- Ensure prompt, impartial and thorough investigations, in accordance with international standards, of evidence indicating that any of its forces, including local militias, committed violations of international human rights and humanitarian law during the conflict;
- Ensure that perpetrators of crimes under international law are brought to justice, in accordance with its obligations under international law, and that those responsible for other violations of international humanitarian and human rights law are otherwise held accountable.
- Provide effective remedies, including full reparations, for the consequences of any violations.
- Fully implement the UN Guiding Principles on Internal Displacement¹⁹⁶ and take all other necessary measures to fulfil the rights of internally displaced people in Yemen. In particular:
 - Ensure that internally displaced persons are fully informed as to their rights to return or to resettlement or integration with local society if they so wish.
 - Promptly co-ordinate government efforts, including at the ministerial and local level, to provide protection and assistance to internally displaced persons.
 - Promptly prepare a timetable for the return process and ensure all displaced people return voluntarily and with adequate information, given in a timely manner, about the

security and material conditions to which they return.

- Take appropriate measures to ensure the safe return to Sa'dah of displaced people who wish to return, including rebuilding homes and infrastructure, providing education, health and other vital services, and funding adequate levels of assistance without discrimination on grounds of sex.
- Prioritize ensuring safe, timely, unconditional and unimpeded humanitarian access, including for delivering humanitarian goods to all displaced people, as well as assessing and monitoring the displacement situation; ensure the safety of humanitarian personnel and respect their integrity; protect humanitarian transports and supplies; and refrain from diverting humanitarian goods.
- Develop, in consultation with women, a plan for addressing the special needs of women in post-conflict reconstruction, rehabilitation and resettlement.
- Enhance reception capacities of host communities, strengthening basic infrastructure, in particular water and sanitation, as well as basic services such as health and education, upgrading of shelters, education programmes and the generation of livelihood opportunities.
- Strengthen reception capacities for new internally displaced persons to reduce the burden on host communities, and ensure sustainable livelihoods, access to economic opportunities, and support for local integration.

To the Huthi leadership

- Clarify the measures that have been implemented to date by the Huthi side in compliance with the ceasefire agreement, and details of any further measures that are still due to be taken by the Huthi side to ensure full compliance, and the agreed timetable for these measures to be undertaken.
- Provide information on the number of captured Yemeni and Saudi Arabian military personnel who have been released by the Huthis since the ceasefire agreement.
- Immediately give instructions that all of their fighters are bound by and must comply with all provisions of applicable international humanitarian law.
- End the recruitment and use of child soldiers.
- Renounce the use of anti-personnel land mines and co-operate with de-mining efforts.
- Ensure prompt, impartial and thorough investigations of all alleged violations of international humanitarian law and remove any members suspected of such violations from their ranks.
- Provide effective remedies, including full reparations, for the consequences of any violations.

To the Saudi Arabian government

- Clarify whether the Saudi Arabian government was a direct party to the ceasefire agreement of 12 February 2010 or to any separate agreement with either the Yemeni government or the Huthi leadership, and details of any measures that the Saudi Arabian government agreed to implement in connection with the ceasefire.
- Make public information regarding any measures that have been taken by the Saudi Arabian government to date in connection with the ceasefire and/or are still due to be taken by the Saudi Arabian government.
- Reveal information on the number, whereabouts and legal status of Huthi fighters captured by Saudi Arabian forces, as well as details of the safeguards in place to ensure that they are treated humanely and protected from torture and other ill-treatment.
- Promptly charge detainees with a criminal offence that is precisely defined and otherwise consistent with international human rights and tried without undue delay in accordance with international fair trial standards, or else released.
- Ensure that the families and lawyers of those held in detention in connection with the conflict are informed about their place of detention and that all detainees and their lawyers are told the specific allegations against them. Ensure that family members and lawyers of all detainees are permitted contact with them, by correspondence, telephone and visits.
- Ensure prompt, impartial and thorough investigations, in accordance with international standards, of allegations indicating that any of its forces committed violations of international human rights and humanitarian law during the conflict and ensure operational safeguards that are designed to prevent grave breaches of international humanitarian law by the Saudi Arabian armed forces.
- Ensure that perpetrators of crimes under international law are brought to justice, in accordance with its obligations under international law, and that those responsible for other violations of international humanitarian law and human rights law are otherwise held accountable.
- Ensure its armed forces are fully aware of and comply with their obligations under international humanitarian law.
- Provide effective remedies, including full reparations, for the consequences of any violations.
- Co-operate fully with investigations of violations of international human rights and humanitarian law during the conflict, whether undertaken by its own authorities, other states, or international bodies.

To the UK and US governments

- Investigate without delay whether military aircraft, other weapons and their ongoing in-

country military support to the Saudi Arabian armed forces have been used in violation of international humanitarian law as well as whether UK and US support personnel have been involved in such violations, whether knowingly or not.

- Conduct a thorough independent review to ensure that UK and US military supplies and assistance are conditional upon the establishment of rigorous operational safeguards, including training and accountability systems, designed to prevent the commission of serious violations of international humanitarian law by the Saudi Arabian armed forces.

To the international community

- Urge the governments of Yemen, Saudi Arabia and the UK and the US to implement the above recommendations.
- Contribute towards adequate funding for humanitarian aid for people displaced and otherwise affected by the Sa'dah conflict.

5. UNREST IN THE SOUTH

“They are following, arresting and harassing us and our families to put pressure on us to remain silent.”

A soldier forcibly demobilized from the army in 1994



Southern Movement mass demonstration, 2009 © Private

Many people in the south believe they are subject to discrimination by the government and there is growing support for secession from the north. Tens of thousands of people, in a region with a population of over 3.5 million,¹⁹⁷ have engaged in mass protests since August 2007. Red, white, blue and black flags of the former PDRY flutter from rooftops, and the colours feature heavily in graffiti on walls, houses and shop fronts.

In August 2007, former and serving army officers began peaceful protests in Aden and other southern cities. Among them were soldiers of the army of former South Yemen who were forcibly demobilized after the end of the 1994 civil war and said they received smaller pensions than ex-soldiers of the army of former North Yemen; some months they received no pension at all. Also protesting were serving soldiers who said their terms and conditions of service were not equal to those of their counterparts in the north.

The authorities reacted, by arresting scores of the protesters and detaining them for short periods. This heavy-handed response provoked anger which, combined with deepening resentment over rising levels of unemployment and poverty in the south, prompted the creation of the Southern Movement, a loose coalition of individuals, political groups and other organizations, to advocate for greater rights for the south. Now, however, many factions of the Movement call for the south to secede.

The Southern Movement contends that people in the south are suffering under economic, political and cultural oppression by the government based in Sana'a in the north. Its leaders accuse the government of taking oil and gas from the south without sharing fairly the proceeds. Many people who spoke to Amnesty International in March 2010 described or related such grievances. Several alleged that their land, homes or property had been confiscated by the government and that long legal battles to retrieve them are rarely successful. The Amnesty International delegates were not in a position to verify many of these claims but it was clear that there is a widely held perception among southerners that they face many forms of discrimination as a result of government policy and practices.

The Yemeni authorities, for their part, deny that they discriminate against people in the south and have responded by accusing some elements in the Southern Movement of links with al-Qa'ida and of containing an armed element within its ranks. The Southern Movement, however, has repeatedly declared that its aims and campaign are peaceful in nature – and denied any link to al-Qa'ida.

In February and March, the government shut down temporarily the mobile phone networks in at least four areas – Abyan, al-Dali', Lahj and Shabwah. They also restricted movement on roads and declared a state of emergency in al-Dali'. Several people told Amnesty International that areas outside Aden had had no mobile phone coverage for months, and that markets were growing short of food because of the travel restrictions. People who drove out of al-Dali' and other areas to try to make phone calls or buy fresh food feared they were putting themselves at risk of arrest or attack at the government's security checkpoints. In March, curfews from sunset to dawn were imposed for varying periods in al-Dali', Radfan and Zinjibar, and daytime security checkpoints were increasingly mounted on roads. This, combined with reports of arbitrary arrests, made people afraid to travel in and out of towns and villages in affected areas. During periods of violence, in particular in late April and early May 2009, there were reports that government forces shelled towns, including residential areas, killing at least one man.¹⁹⁸

Activists and journalists have been harassed for reporting on violations in the south. Human rights defender **Afrah Sa'eed Ali**, for example, who belongs to the Yemeni Organization for Defence of Human Rights and Democratic Freedoms, a leading NGO, and is both Vice President of the Southern Observatory and Secretary General of the Arab Organization for the

Support of Women and Juveniles, told Amnesty International that she had received threatening calls and at times had returned home to find that someone had been in her house. She said that if she were to report this to the authorities they would accuse her of bringing a man into her house, as a means to discredit her, and that they would not be prepared to conduct a proper investigation. She said that her children had also been harassed.¹⁹⁹

“We want to tell Amnesty International and the world that we are suffering in the south, particularly in areas such as al-Dali’, Radfan and Zinjibar; the prices have risen up sharply after curfews were imposed in March. We can’t move from sunset to dawn. There are security checks on the roads, and on the entrance to the cities, many men fear arrests and detentions... There are food shortages, we are cut off, mobile communication has been cut off too. No one knows what we are going through. We want the international community to do something to end our suffering.”

Resident of al-Dali’²⁰⁰

The growing mood of frustration in the south, combined with rising resentment at the government repression - unlawful killings, arbitrary arrests and the use of excessive force against peaceful demonstrations - give ground to fear that increasing numbers of people will have their lives and security put at risk as the spiral of confrontation and conflict mounts.

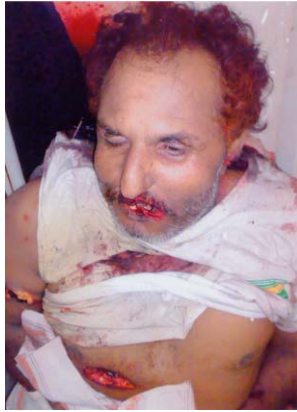
As well, there have been some, albeit isolated, incidents reported in which northerners resident in the south have been attacked by southerners. On 30 November 2009, for example, armed men are reported to have ambushed a northern man at a roadblock near Radfan, killed him and seized his car.²⁰¹ According to the government, around a dozen members of the security forces have been killed in alleged attacks by southerners since the beginning of 2009.

KILLINGS OF ACTIVISTS

The authorities appear to be resorting to summary killings of Southern Movement activists, in several instances describing the targets as terrorist suspects. For example, **Ali Ahmad al-A’jam**, a leading member of the Southern Movement, was killed by security forces at his home. According to reports, security forces entered his house in the town of Lahj on 3 July 2009 and shot him dead in front of his family. According to information received by Amnesty International, he is said to have presented no threat to the lives of the members of the security forces who shot him. No independent investigation is known to have been carried out into the alleged unlawful killing. On 8 July 2009, Amnesty International wrote to the Yemeni authorities seeking clarification about the case and calling for an investigation, but has received no response to date.

ALLEGED UNLAWFUL KILLING AND MUTILATION OF ALI AL-HADDI

At 3.30am on 1 March 2010, eight members of the extended al-Haddi family were asleep in their home in Abyan. According to witnesses, the silence was abruptly broken by security forces who fired a rocket-propelled grenade (RPG), destroying their front door, and then stormed into the house. More than 20 heavily armed men in military uniform began to search for **Ali al-Haddi**, a relatively new member of the Southern Movement. When they could not find him, they grabbed one of his sons, 16-year-old Saleh, and threatened to kill him unless his father emerged.



Body of Ali al-Haddi after being mutilated © Private



Body of Ahmad Muhsen Muhammad © Private

Ali al-Haddi is said to have then come out of hiding and shot at the soldiers holding his son, injuring one of them, before fleeing to the roof of the house. Soldiers followed and shot him in the leg, and the situation became calmer. His family bandaged Ali al-Haddi's leg and brought him downstairs. The soldiers then reportedly fired tear gas into the house, causing the two youngest children to lose consciousness. One soldier told **Ahmad Muhsen Muhammad**, a 28 year old unarmed relative of the family, that he could leave the house from the roof, but then shot him when he got across to a neighbour's roof. He fell, and soldiers fired four more shots at him and refused to let anyone tend to him or call an ambulance until he had died.

The siege of the house lasted well over seven hours, ending when the soldiers killed Ali al-Haddi at 11am. The soldiers then poured petrol on the house and set it alight. When the family went to view Ali al-Haddi's body at the mortuary a few hours later, they found that it had been mutilated. Among other things, the dead man's lips had been cut off.

After the incident, the authorities claimed that Ali al-Haddi was a member of al-Qa'ida. However Southern Movement activists deny this and believe that he was targeted for his outspoken support of the Southern Movement to which he had turned following years of trying to have his salary as a Political Security employee reinstated after it was stopped in 1994. They say too that his killing and the mutilation of the

body were intended to send a chilling message to other supporters of the Southern Movement to be silent.

No independent investigation is known to have been carried out into the killing and mutilation of Ali al-Haddi or the killing of Ahmad Muhsen Muhammad. A local member of parliament was told initially that a parliamentary committee would investigate but then to have said on 11 March that this would no longer happen.

Faris Zaid Tamah, an active member of the Southern Movement, was killed on 1 February 2010, two days or so after he was arrested with two other men following a road traffic incident, according to reports. He was detained at al-Ma'alla police station in Aden where he was allegedly questioned by Political Security officials about his links with the Southern Movement, beaten and then shot in the back of his head by a security official. Reports received by Amnesty International suggest that he was killed because he was an activist in the Southern Movement. A parliamentary committee was said to have been established to investigate his killing but its outcome, if any, is not known.

EXCESSIVE AND LETHAL FORCE AGAINST DEMONSTRATORS

“My father was shot in the head with a single bullet and he died instantly.”

Saleh Talib Muhsen



Mass demonstration, south Yemen, 2008 © Private

In 2009, Yemeni security forces killed at least 46 people in or near demonstrations, including funeral march processions for activists killed in previous demonstrations, and injured at least 164. In the first six months of 2010, at least 20 more people have been killed and 87 injured. Members of the security forces have also been killed during protests at least 15 have been killed since the beginning of 2009, according to media reports.

Many of the demonstrators are reported to have been killed when they were posing no risk to the lives of the security forces or others, most of them when the security forces used live bullets or other lethal force against peaceful demonstrators. Most demonstrations have been peaceful but some people have been killed during or following demonstrations that started off peacefully but then escalated into violence or “clashes”, as the press describes them. One such “clash” on 7 June 2010 in al-Dali’ resulted in at least five deaths, after security forces, in response to protests in the area, reportedly destroyed houses by shelling them. More often, security forces have used lethal force when demonstrators engaged in relatively minor violence, such as stone-throwing to resist attempts to make them disperse. Those killed by security forces’ fire are also said to have included bystanders who were taking no part in the protests and demonstrators who were displaying the flag of the former PDRY flag or trying to raise it in place of the national flag of the Republic of Yemen on official buildings. On 6 February 2010, for example, 20-year-old **Ali Aseeri** was reported in the press to have been shot dead by police when he tried to raise the former PDRY flag during a large protest in al-Hawtah, a city in Lahj governorate.²⁰² On various occasions, the security forces are alleged to have fired live ammunition at protesters without advance warning or without first seeking to use non-lethal methods to control or disperse them.

Many people shot and injured by the security forces as well as the relatives of people killed spoke to Amnesty International in March 2010. Some said that the state prosecutor had opened investigations into the incidents, but many said that no investigation of any sort had been initiated. Amnesty International has received no information to indicate that a single investigation has been completed.

The Yemen Observatory for Human Rights reported that on 23 July 2009 in Zinjibar, security forces killed at least 19 people and injured 20 people.²⁰³ Government reports have stated that at least six members of the security forces were also injured.²⁰⁴ **Saleh Talib Muhsen**, a retired army officer and father of 10 children, was among those killed during the demonstration, according to his son Yafi' Saleh Talib Muhsen.²⁰⁵ He said that security forces began firing randomly into the march at around 9.30am:

"I don't know why they started to do that... My father was shot in the head with a single bullet and he died instantly."

Abdullah Muhammad Ahmad Shaykh al-Harsha, a 35-year-old policeman receiving his salary but not allowed to work, was also killed. Hakim Saleh Salim Muqri' told Amnesty International that he was walking beside him on the march when he was shot in the stomach.²⁰⁶ He said that Abdullah was not armed and was posing no risk to the security forces. He added that he did not submit a complaint because "they will put me in prison". Al-Khodher Muhammad Ahmad Shaykh al-Harsha, Abdullah's brother, told Amnesty International that he saw no point in lodging a complaint about the killing as nothing would come of it.²⁰⁷

Qassem al-Sayyed Qassem al-Marmi was another victim, according to his father al-Sayyed Qassem Nasser al-Marmi.²⁰⁸ He told Amnesty International that his 37-year-old son had worked for the military and joined the peaceful demonstration to demand his rights. He said that bullets hit Qassem in the head and arm, killing him instantly. He added that no one from the authorities contacted the family, and they received no death certificate.

Lawyers and some relatives of those killed on 23 July 2009 asked the prosecution to investigate the circumstances surrounding the killings, but nothing happened.

Killings of demonstrators in the south have happened since the protests began in 2007. For example, security forces killed **Abdul Nasser Qassem Hamada**, a 37-year-old teacher with eight children, on 13 October 2007 in al-Habilayn in Lahj. His son Jamal Abdul Nasser Qassem Hamada told Amnesty International that security forces shot dead his father, a member of the preparatory committee of protest in al-Habilayn, as he walked towards the podium to prepare the banners as the march approached.²⁰⁹ He said the soldiers were already at the podium when they fired. Three other protesters were shot dead at the same time – **Shafiq Haytham, Muhammad Nasser** and **Fahmi al-Rifai'** – and 13 injured. The Public Prosecutor in Lahj arrested a group of soldiers suspected of the shooting. According to Jamal Abdul Nasser Qassem Hamada, they were detained for a week and then either released or allowed to escape. They were never tried, nor did the prosecution provide the families of those killed with any information. No investigation was ever carried out.

Many people have been injured by the security forces during demonstrations, including bystanders. **Ala Muhammad Ali Ubad**, a 25-year-old student at the faculty of education at Aden University, told Amnesty International that he had just arrived at the bus station at Shaykh 'Uthman on his way to university on 21 May 2009.²¹⁰

*"There were security men scattered in the streets and on roofs to guard or prevent or survey a peaceful protest... The time was about 7.30am. Suddenly they're shooting at those present at the protest. Many were hit. I saw one die, he was next to me. He was hit with a bullet in head... I was hit in my left thigh and testicle... They took me to al-Naqeeb hospital."*²¹¹

Abdullah al-Bakri and **Thabet al-Qahwari** were injured during a peaceful demonstration in Aden in the Shaykh 'Uthman area on 13 January 2008.²¹² Abdullah al-Bakri said:

"There was a big crowd of southerners. It was all peaceful and then suddenly security forces – the army, the central security force, Republican Guards and general security – descended on the area. We knew who they were by their clothes, dark blue, green combat, general security in green, and camel. They started shooting at us. It was coming from all directions, live bullets. Some people were killed and others injured, some were disabling injuries."

The two men, both of whom were soldiers until they were forcibly demobilized in 1994, said the security forces surrounded the demonstration and used snipers to target the leaders. They were injured and taken to al-Naqeeb hospital before being sent to Jordan for treatment. Dissatisfied with the treatment there, they returned to Aden and had several operations at their own expense. Thabet al-Qahwari said:

"We started the peaceful demonstrations... We [then] escalated our activities and demanded our rights and the authorities responded... to peaceful demonstration with fire, storming our houses at night time, [and]... hitting us when we are walking in demonstrations."

ARBITRARY DETENTIONS, TORTURE AND UNFAIR TRIALS

"They said: 'We will kill you to make an example of you for others'."

Arif Abdullah Muhammad Saleh al-Aysai'

Since the protests began, the security forces have arrested and detained, in many cases arbitrarily, thousands of demonstrators and bystanders. Most detainees have been arrested and quickly released in an apparent attempt to prevent or deter them from taking part in protests or to punish them for doing so. Many others, however, have been held in prolonged detention without charge or trial and unlawfully denied access to lawyers and the means to challenge the legality of their detention.

Some detainees say that they have been tortured or otherwise ill-treated in detention. Tens of



Abdullah al-Bakri
© Amnesty International



Thabet al-Qahwari © Amnesty International

detainees arrested following demonstrations in April and May 2009 in al-Mukalla, south-east Yemen, calling for the release of Southern Movement activists, allege that they were tortured or otherwise ill-treated in that city's Central Prison. They say they were abused after chanting demands for the independence of the south and for their release from prison. **Salim Ali Bashawayh** and six other men apparently seen as ringleaders, Amnesty International was told, had their wrists and ankles handcuffed to fixed bars and were suspended from them for several hours, causing severe pain. Others were said to have been tear-gassed, beaten with sticks, punched and kicked.

Arif Abdullah Muhammad Saleh al-Aysai', a 41-year-old state employee who is not allowed to return to work but continues to be paid a salary, told Amnesty International that he had been arrested around six times between 2008 and 2009 because of taking part in protests in Aden.²¹³ He described what happened to him during a protest on 1 September 2009 in Shaykh 'Uthman:

"Security forces were dispersing and chasing us from street to street in order to stop the protest. I was caught by five members of the security... They beat me with sticks and rifle ends. They said: 'We will kill you to make an example of you for others...' Another one said to me: 'We will run you over with the chains of the tank.' They then dragged me along for about 500 metres to the police station. I lost consciousness."

He said that he was then taken to al-Mansurah Central Prison, examined by the prison doctor and released late that night.

On 5 July 2009, two days before a Southern Movement demonstration was planned, **Wadah Nasr Ubaid al-Halemi**, a 28-year-old unemployed computer graduate, was in al-Muttahidun Hotel in Shaykh 'Uthman with five friends and the hotel director. Wadah Nasr Ubaid al-Halemi told Amnesty International that six or seven armed men in plain clothes, some of them masked, entered the hotel and arrested the group without showing a warrant.²¹⁴ The seven detained men were taken by bus to the CID building known as Tareq camp in Khur Maksar, put in a cell without electricity or water, and the following evening questioned separately. They were held there for a week.

Wadah Nasr Ubaid al-Halemi and 21 other detainees were taken to Political Security in al-Tawahi in Aden for about an hour on 12 July. He and 14 others were then returned to the CID. Three days later he was taken blindfolded to Political Security's al-Fath prison. He was hit with rifle butts, kicked and insulted. On the first night he was woken up and interrogated about the 7 July demonstration and his pro-Southern Movement activism (he had organized a seminar on the Southern Movement in late 2008). He was threatened with charges carrying the death penalty or with imprisonment until he died. He was questioned eight times during the 45 days he was held there. During his detention in al-Fath prison, his family had no idea where he was. He was freed on or around 19 August after signing a document promising that he would not participate in demonstrations. On 13 January 2010 he was arrested again and held for five days. Since then, he has been on the run, fearful for his security.

Some detainees, particularly those considered to be protest leaders, have been charged and brought before the SCC after lengthy incommunicado detention. They include **Qassem Askar Jubran** (see below), a former diplomat, and **Fadi Ba'oam**, a political activist. They were

arrested in April 2009, charged with “harming the independence of the Republic” and “the unity of Yemen” and organizing protests. Both were sentenced by the SCC to five years’ imprisonment – Qassem Askar Jubran on 28 March 2010 and Fadi Ba’oom on 30 March 2010. They were expected to have been released following the presidential amnesty but were still detained at the time of writing. They appear to be prisoners of conscience, imprisoned solely on account of their peaceful exercise of their rights to freedom of expression and association.

“I have been on the run since I fear they will arrest me if they find me. I have not been to my house for a whole month. Only yesterday I went to my house, under cover. I can't leave the country. I live with my friends, every time I go to a different house. We received insider information that they are looking for me and others. This is all because of our activities in the movement.”

A former army officer speaking to Amnesty International in March 2010

Critics of government policies towards the south and the Southern Movement have also been targeted and in some cases charged with the vaguely worded and overbroad offence of harming the unity of Yemen. **Dr Muhammad al-Saqaf**, a lawyer and university lecturer, aged 60, was detained on 11 August 2008 by security forces at Sana’a airport while waiting with his family to fly out for a holiday. He was held by National Security at the CID prison in Sana’a for a few days before being released on bail, charged with harming the unity of Yemen. Charges against him were dropped following a presidential pardon in September 2008. He too appears to have been a prisoner of conscience, targeted for his criticism of government repression against protesters in the south and for acting as the defence lawyer of Hassan Ba’oom, a Socialist Party member who has repeatedly been arrested and arbitrarily held for short periods without charge.

Fahd al-Qirni, an artist, was also a prisoner of conscience held for the peaceful exercise of his right to freedom of expression. He was sentenced by the Criminal Court in Ta’izz in July 2008 to 18 months’ imprisonment and a fine for insulting the President after he satirized him and criticized the government’s crackdown on protests in the south. He was freed in September 2008 after a presidential pardon.

Several army officers forcibly demobilized after 1994 and other activists linked to the protests described to Amnesty International the persecution they said they had suffered; arbitrary arrests, confiscation of property and land, and withholding of pension and salaries. Some said they lived in constant fear of arrest or punitive actions. Amnesty International received information that **Abdullah Muthana Abdullah Hassan**, for example, who was dismissed from the army in 1994, had his car, 15 acres of land and a residential plot of land confiscated, and was arrested several times because he joined protests. He was last arrested on 21 May 2009 and held for four days:

Qassem Askar Jubran, a 59-year-old former Yemeni diplomat and ambassador, has been detained since 16 April 2009 and also appears to be a prisoner of conscience. He was arrested in Aden while travelling between the house of his brother, Salah Askar Jubran, a soldier in the army, in the al-Mansurah area and the qat market in al-Sha’b neighbourhood. He was taken to Aden police station for about an hour, then to al-Mansurah police station for a couple of hours, and then to the CID in Aden. He was held there for three days before being taken to Political Security in Sana’a. The family visited him on 18 and 19 April, but after he

was taken to Sana'a visits were not allowed until June. His brother Salah told Amnesty International:²¹⁵

"All they have against him is involvement in the Southern Movement, writing in al-Ayyam newspaper, attending gatherings. This is all in his charge sheet. My brother said to them: these gatherings were in public areas, in the streets, and the speeches during it were on microphone, everything was out in the open."



Sharaf Saleh Ali Ba Ubad
© Amnesty International

Sharaf Saleh Ali Ba Ubad, a 22-year-old third-year student at the faculty of education at Aden University, told Amnesty International that he was arrested on 7 May 2009 by members of the CID in Aden.²¹⁶ Two days later the university confirmed to the security forces that he and three other young men were indeed students. However, on 27 May the university authorities expelled him and suspended or withheld the degree of three other detained students – **Wafi Saleh Hassan**, 25, a third-year student of education; **Askar Ali Askar**, 23, a graduate of computer studies; and **Habib al-Sabihi**, 23, a second-year law student. All four were accused of planning to take part in a demonstration during 2009, and carrying banners with pro-secession slogans. Sharaf Saleh Ali Ba Ubad said the university's decision to expel him "was taken before any investigation... or referral to the judiciary". He was subsequently tried and given a four-month suspended prison sentence.

During a meeting in March 2010, the Human Rights Minister told Amnesty International that she would personally ensure that the university would reinstate Sharaf Saleh Ali Ba Ubad and revoke the sanctions against the other three students. However, when Amnesty International contacted people linked to this case in late May, they said that by then no such action had been taken by the university. They also said that Sharaf Saleh Ali Ba Ubad had been rearrested on 26 May by plain clothes police while he was on a bus, burned with cigarettes and then taken to al-Ma'alla police station and subsequently released. It was not clear if he had any contact with his lawyer or family.

Abdulkarim Ali Abdulkarim Lalji, a Shi'a Muslim and associate owner of a printing business in Aden, and **Hani Ahmad Bin Muhammad**, secretary to the Director of Aden's coastguard, both in their thirties, were sentenced to death in March 2009 by the SCC after being convicted of espionage under Article 128 of the Penal Code. They were arrested in June 2008 in Aden by members of National Security and held incommunicado for nearly two months before they were allowed family visits. During this period they were questioned by members of National Security and are alleged to have been tortured and otherwise ill-treated apparently to obtain "confessions".

According to the court file, they were charged with "communicating with a foreign country by illegal contact with its employees and providing them with news, information, documents, and photos relating to defence secrets and the political economic and security situation of the country. This caused harm to the Republic of Yemen's military, political and economic

position/status.” The foreign country concerned is Iran. The defendants were accused of supplying Iranian embassy staff with information about Yemen, including the conflict in Sa’dah and the Southern Movement.

The trial was held in secret. Their defence lawyer was allowed access to the case files, though not allowed to copy documents deemed to be secret. However he had no access to the detainees until they had completed the stage of pre-trial detention and court proceedings against them were to begin. In his defence, Abdulkarim Ali Abdulkarim Lalji acknowledged that he had been in contact with Iranian embassy officials but contended that this was solely for business reasons relating to printing contracts. The SCC dismissed a call by the defence lawyer to dismiss the case on the grounds that the two men had been tortured.

The convictions and sentences against the two men were subsequently confirmed on appeal and the case is now due to be reviewed by the Supreme Court, the final stage of the judicial process. If upheld there, both men will be at serious risk of execution. A third defendant, Iskander Abdullah Yusuf Abdu, was acquitted by the SCC.

LETTER FROM THE DAUGHTER OF SALAH AL-SAQLADI

Below is a letter from a daughter to her father Salah al-Saqladi, a journalist, a member of the NGO Hiwar, and a former member of the South Yemen army, who was arrested in June 2009. He was held in solitary confinement for several months and brought before the SCC in December 2009 on charges including harming the unity of Yemen. It is believed that the charges are based on his writings on the south and his criticism of the authorities’ response to the Southern Movement. He was released following the presidential amnesty in May 2010. It is unclear whether the charges against him have been dropped.

“My dear father, from Aden the city that lives in your heart before you lived in it, I try to hold my pen and gather my words and recall the letters that will represent me to you. You taught me the alphabets of the meaning of life, its loyalty, sincerity and the integrity of its humans. When the soldiers stormed our small home with their weapons pointing towards you, and although I am confident that you are a well grounded person, fear and terror overwhelmed me and my brother and sister because of that violent scene from ruthless soldiers did not care about the tears of my brother Ahmad and my sister Farah. There is no place for mercy in their hearts or for the children’s innocence that would make them stop.

What pains me and worries me the most is what I learnt about what happened to you in the cell, the torture, the suspension. Despite this I close my eyes to picture this scene, I see something different, I see you transcending above them. My consolation is that I imagine this scene and feel proud and honoured, that you are above them...

Your daughter Sabreen Salah al-Saqladi

Aden, 22 April 2010”

RECOMMENDATIONS

Amnesty International makes the following recommendations:

To the Yemeni government

- Open independent and impartial investigations into the killing or injuring of demonstrators or bystanders and members of the security forces during demonstrations in the south of Yemen and bring to justice anyone found responsible for ordering or participating in unlawful killings or excessive use of force causing injury.
- Provide reparation, including financial compensation, to victims of killings or injuries resulting from unlawful acts, and their families.
- Open independent and impartial investigations into the killings of Faris Tamah, Ali al-A'jam, Ali al-Haddi and Ahmad Muhsen Mohammed and bring to justice anyone found responsible for ordering or participating in any unlawful killings.
- Amend or repeal vaguely worded and overbroad crimes such as harming the unity of Yemen to ensure compliance with the principle of legality and to avoid unjustified infringements of human rights, including the right to freedom of conscience, expression, association and assembly.
- Release immediately and unconditionally all prisoners of conscience, that is anyone held solely for the peaceful exercise of their rights, including the rights to freedom of conscience, expression, association or assembly, regardless of whether their conduct may have constituted a criminal offence under national laws in Yemen.
- Ensure that all Yemeni law enforcement personnel deployed to police demonstrations are given rigorous operational training and clear rules of engagement fully consistent with international human rights standards designed for law enforcement officials, such as the UN Basic Principles on the Use of Force and Firearms for Law Enforcement Officials and the UN Code of Conduct for Law Enforcement Officials.

6. FREEDOM OF EXPRESSION UNDER FIRE

“The state’s relationship with the press is like a parent’s relationship with a child – it is good until the child becomes an adolescent and brings home new ideas, and then the parent can’t cope and just wants to say no.”

Yemeni woman journalist speaking to Amnesty International, March 2010

Yemen is becoming a dangerous place for media workers and peaceful critics of the state. Journalists, editors and proprietors have been detained, held incommunicado, ill-treated and jailed on spurious charges after unfair trials. Security forces have attacked and raided newspaper offices and television stations. Demonstrators protesting against repression of free speech have been fired on and arrested. Such repressive actions, along with suspensions of certain newspapers and blocking of news websites, reflect a growing government intolerance of the independent media and any criticism of the authorities. The government appears to be particularly sensitive to references to human rights violations in the Sa’dah conflict and coverage of protests and dissident views in the south.

The independent media came under sustained attack after newspaper coverage of protests that took place in the south in the run-up to 27 April 2009, the 15th anniversary of the start of the civil war of 1994. On 30 April the authorities confiscated every copy of *al-Ayyam*, Aden-based and one of Yemen’s largest-circulation daily newspapers, from news stands and distribution points in Sana’a and southern cities. In early May they took similar action against several other newspapers, and security forces physically blockaded the offices of *al-Ayyam* to forcibly prevent distribution of the paper. The government also announced a suspension of all newspapers that it considered were harming the unity



al-Ayyam building damaged by bullets
© Amnesty International

of Yemen.²¹⁷ Several newspapers were forced to close. All have since been permitted to resume publication apart from *al-Ayyam*.

Despite the blockade, *al-Ayyam* managed to publish some news on its website. On 13 May 2009 security forces attacked the newspaper's office in Aden, killing two men, one of them a security guard, and wounding another. They were trying to arrest **Hisham Bashraheel**, the newspaper's 66-year-old editor-in-chief. On 4 January 2010 Hisham Bashraheel and others began a sit-in at *al-Ayyam*'s office to mark the eighth months since the authorities effectively silenced the newspaper. The security forces opened fire on the protesters. The newspaper's security guards returned fire. One member of the security forces was killed and three were wounded. One of the paper's security guards was killed and three were wounded.

Hisham Bashraheel, along with his two sons **Hani** and **Muhammad**, both of whom work for *al-Ayyam*, were arrested on 5 and 6 January and taken to the CID in Aden. Hisham Bashraheel, who suffers serious health problems, was initially held incommunicado and his health deteriorated. He was released on bail on 25 March 2010. Hani and Muhammad were released on 9 May.



Hussain Musa al-Aqel
© Amnesty International

Hussain Musa al-Aqel, aged 68 and from Mukayras in Aden, said that on 6 April 2008 he was on his way to a sit-in protest at *al-Ayyam* newspaper when he was stopped by police. He said the officers told him that they had an order from the Director of Public Security to arrest him and confiscate his car. They then left him, taking his car and saying he should go that evening to the office of the Director of Public Security. He did so, but at the gate he was grabbed by someone and pushed into a car. Two men in plain clothes drove him to the area of al-'Imad near Aden and beat him, breaking three bones in his back and some teeth. They then dumped him and drove off. In a strange twist, he said, the same two men returned some time later and offered to drive him home if he would pay them 2,000 riyals. Two years on, Hussain Musa al-Aqel still suffers back problems.



Abdul Karim al-Khaiwani © Private

Journalists and government critics have been targeted for arrest and prosecution in relation to both the conflict in the north and unrest in the south. They include prisoners of conscience. **Abdul Karim al-Khaiwani**, for example, a journalist with *al-Shoura* newspaper, was arrested from his bed at his home in Sana'a by National Security officers in plain clothes in June 2007. He was tried before the SCC in a case known as Sana'a Cell 2, which involved over a dozen defendants charged with murder, planning to poison the drinking water in Sana'a and other violent crimes in connection with the events in Sa'dah. In June 2008, he was sentenced to six years' imprisonment for membership of the cell, although the evidence against him related solely to his journalistic coverage of the clashes in Sa'dah. He was released in September 2008 along with other prisoners of conscience following a presidential pardon. Despite this, his sentence was upheld in January 2009; he was subsequently pardoned by the President in March 2009.

Shafe' Muhammad al-Abd, a 36-year-old journalist from Shabwah who is married with two children, works with *al-Nedaa* newspaper and is a local councillor. He told Amnesty International that on 26 December 2009, he was stopped by police at Dar Sa'd checkpoint, the entrance to Aden, when returning from Radfan. Four others were with him: **Khalid Umar al-Abd**, correspondent with *al-Ayyam* newspaper in Lawdar, Abyan; **Dhiya Khamis Mihawriq**; **Khalid Abdul Qadir al-Sulaymani**; and **Sharaf Ba Ubad**. They were subsequently accused of harming the unity of Yemen and the independence of the Republic.



Shafe' Muhammad al-Abd
© Amnesty International

Shafe' Muhammad al-Abd said:

"They searched us and found some documents relating to the Union of Southern Students and Youth. They took us to the police station in Aden and from there to the Criminal Investigation Department. They also arrested with us the taxi driver – Thabet Abdullah Sa'ad. They did not allow us any contact with families or lawyers. They put us in two separate wings, three in each, and kept us in the Criminal Investigation Department for 28 days.

"They started questioning us on the second day of our detention, 27 December 2009... from 9pm to about 11pm... Then at dawn on 28 December for about one hour. The questioning was about the documents they caught with us and about our relationship with the Southern Movement. They did not give us access to lawyers and only rarely they allowed us visits by families... We were not presented to the prosecution until the 24th day of detention. At that point they allowed us to see lawyers."

Shafe' Muhammad al-Abd said that a member of the prosecution then wrote a memo recommending his release on bail due to lack of evidence, but the Head of the Prosecution for the SCC refused and he was returned to prison. About a week later, the five men were taken to the SCC to obtain an order extending their detention. The Head of the Prosecution for the SCC refused this for three of them, including Shafe' Muhammad al-Abd, but agreed for the other two. The next day Shafe' Muhammad al-Abd and Khalid al-Abd appeared before the Head of the Prosecution for the SCC who ordered their release on bail. Shafe' Muhammad al-Abd was freed the same day, 27 January, but the Director of Police in Aden refused to release Khalid al-Abd. About a week later, Sharaf Ba Ubad was released, while Khalid al-Abd was transferred to the Political Security prison in Aden without his family being informed. He was detained there for a further five days before being released. Dhiya Khamis Mihawriq and Khalid Abdul Qadir al-Sulaymani continue to be detained in al-Mansurah prison in Aden without trial.

The government's growing hostility to the media was visible during Amnesty International's visit. On 12 March, Hamoud Munasser, correspondent with Al Arabiya TV and AFP, described to Amnesty International delegates how he and other journalists, including Mourad Hashim, Director of Al Jazeera in Yemen, had been summoned to the Information Ministry late the previous evening. Police and TV technicians then escorted them back to their offices and seized live broadcasting equipment. "At that moment I knew that live broadcasting of Al Arabiya and Al Jazeera was being targeted," he told Amnesty International.

The raid followed coverage by the two broadcasters of Southern Movement demonstrations earlier that day in Sana'a, and in al-Dali' and Tor al-Baha in the southern Lahj governorate in which at least three people were killed; the journalists had been told by the authorities not to cover the protests. The confiscation of the equipment was carried out without judicial authority or any written order.

Three days earlier Amnesty International delegates experienced first-hand the authorities' hostility towards coverage of protests in defence of free speech. As they watched a peaceful demonstration in Sana'a organized by Women Journalists Without Chains, police threatened to arrest and bring charges against an Amnesty International delegate who was carrying a camera if any attempt were made to photograph the peaceful march, and said it was illegal for the delegates even to be present although the women journalists were holding their protest peacefully and in a public place. The Amnesty International delegates also witnessed the arrest of a protester who was carrying a camera, though he was released when other protesters complained about this, though the police kept his camera. Meanwhile, men in plain clothes who appeared to be security personnel filmed and photographed people involved in the demonstration.



Tawakkol Karman © Amnesty International

Tawakkol Karman, head of Women Journalists Without Chains, told Amnesty International:

*"We notice that we are facing increasing restrictions on our right to assembly and protest. In the beginning they stopped us from carrying a camera. Then we were stopped from even carrying our mobiles for fear that we might take photos. Then we were not allowed to march. But we marched... and we now could face beatings."*²¹⁸

Although there have been recent releases of high-profile journalists and editors, the repression continues. On 21 April 2010, for example, soldiers were reported to have raided the building of 14 October, a media company, in al-Ma'alla, governorate of Aden, and seized the latest issue of the daily newspaper *al-Tariq*.²¹⁹

LEGAL AND JUDICIAL REPRESSION OF PRESS FREEDOM

Although freedom of expression is guaranteed by the Yemeni Constitution,²²⁰ it is undermined by restrictive laws and the repressive practices of security forces and special courts. Since 1990 freedom of expression has been restricted by the Press and Publications Law (PPL). While re-stating the right of the press in general and of journalists in particular to freedom of expression, the PPL contains several provisions which severely restrict freedom of expression (see below). Although the impact of this law has varied according to the political and security situation in the country, its shadow has been consistently felt by human rights defenders as well as by many journalists, lawyers, government critics and civil society activists. Problems for the media intensified following the establishment in May 2009 of the Specialized Press and Publications Court (see below).

Freedom of expression will be further restricted if draft laws going through the legislative process are adopted without being brought into line with international law and standards, notably Article 19 of the ICCPR.²²¹ This draft legislation includes a proposed new Press and Publications Law, initiated in 2005; a draft Law on the Organization of Private Audiovisual Media and Electronic Media Law (hereafter Audiovisual Media Law), which was announced in March 2010; and draft amendments to the Penal Code which the Minister of Justice announced in April 2010.²²² The government says the harsher provisions are needed to confront the serious security challenges it faces, but in light of the past practices of the government at least part of the intention appears to be to stifle criticism. All the draft laws have two things in common – expanding restrictions on the press and increasing punishments for transgressors. All have been harshly criticized by a wide range of Yemenis, particularly members of civil society and media workers.

The many restrictions that already exist in the PPL and Penal Code are replicated and sometimes expanded in the draft laws. Article 103 of the current PPL lists 12 restrictions.²²³ Some prohibit peaceful activities such as “prejudicing” religions, beliefs and national interest, and criticizing the President. Other provisions, while not abusive on their face, have been used in practice to curtail and violate the right to freedom of expression.

The Penal Code contains many of the restrictions in the PPL as well as a blanket criminalization of “anyone who calls or incites not to apply or respect existing laws”.²²⁴ The Penal Code also includes some restrictions that are even broader than those in the PPL. For example, Article 197 criminalizes “anyone who publicly insults the President by offending him or undermining his personal status in society”, “anyone who publicly denigrates a king, president or representative of a foreign [state]... because of matters related to their function” or “anyone who publicly insults the Presidency or Council of Ministers or other representative or state institutions or the army or the courts or the public authorities or agencies”.²²⁵

The draft new PPL retains the prohibitions of the current PPL and would further ban publication of material about any activity considered a crime by law, without specifying to which crimes or laws this refers. Similarly, it retains the criminalization of insulting the President and, in addition, prohibits “the printing or publication or dissemination of any material including a direct and personal attack on kings and presidents of brotherly and friendly states”.²²⁶

The draft Audiovisual Media Law focuses on allowing private broadcasters and websites to operate while ensuring that the government maintains its grip on them. It proposes subjecting employees of radio and television companies and websites to the PPL, complete with the restrictions on freedom of expression it contains, as described above.²²⁷ It reproduces in similar although not identical terms many prohibitions in the PPL, including some that are very vague, such as “not to negatively impact social peace, national unity and public morals”,²²⁸ “refrain from anything that is offensive to the person of God, divine religions, prophets and doctrines (*madhahib*)”,²²⁹ and “not to be involved in revealing state secrets”.²³⁰ It also bans the broadcast of anything that may have a negative impact on Yemen’s economy, currency or investments.²³¹ No exceptions of any kind are provided for in respect of any of these provisions. It further proposes giving certain officials the power to exercise judicial oversight over the implementation of this law. These officials will be appointed by the Minister of Justice in agreement with the Minister of Information.²³²

The Minister of Justice, introducing the draft amendments to the Penal Code to parliament, said the aim of the legislation was criminalization and punishment of “breaches of fixed national values, incitement to violence, unrest, destruction, and disrespect for religions, Prophets, and other crimes”.²³³ The draft amendments also widen the scope of Articles 131, 132, 136, 194, 195 and 197 of the Penal Code, many of which relate to activities common in media work. For example, a proposed addition to Article 131 criminalizes “anyone who commits any act or practises any behaviour intended to damage or denigrate or breach or harm any of the fixed values or advocate abandonment of any of them”.²³⁴ The term “fixed values” (*thawabet*) is not defined in the Penal Code or any of the amendments. The current text of Article 131 is limited to the use or attempted use of violence or threats or any other illegal means to: 1) “annul or amend or stop the Constitution or some of its Articles”; or 2) “change or amend the formation of the legislative or executive or judicial authorities or prevent them from carrying out their constitutional duties or force them to take a particular decision.”²³⁵ While this is certainly narrower than the proposed amendment, it is still potentially overbroad insofar as it goes beyond the use or threat of violence to include the phrase “any other illegal means”, particularly insofar as this may interlock with the wide range of sweeping prohibitions of non-violent expression under other provisions of the Penal Code, the PPL and other national laws.

Other proposed amendments involve just a few words, but nonetheless significantly expand the scope of the relevant Article. Article 132(7) of the Penal Code currently penalizes “anyone who incites commission of the offences of killing or looting or arson”, with at least one year’s imprisonment. The draft revised version of the Article adds “unrest” (*shaghab*) and “destruction” (*takhrīb*) to the list of offences. No definitions of these vague and broad terms are provided in the law, increasing the risk that those who call for peaceful exercise of the right to freedom of assembly, such as demonstrations, will be threatened with imprisonment.

The Human Rights Committee has held that the right to freedom of expression is of paramount importance in any society, and any restrictions on the exercise of this right must be narrowly construed and meet a strict test of justification: they must be provided in law, serve a purpose stipulated in Article 19(3) of the ICCPR, and the individual measures must be demonstrably necessary for that purpose and proportionate.²³⁶ The UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has expressed concern about defamation laws that cover “the protection of subjective values, such as a sense of national identity, religions, State symbols, institutions or even representatives such as the Head of State”. He has stressed that, “provisions on protection of reputation contained in international human rights law are designed to protect individuals, not abstract values or institutions”, and has called for the abolition of all criminal defamation laws.²³⁷ “Under no circumstances”, he has said, “should criticism of the nation, its symbols, the Government, its members and their action be seen as an offence.”²³⁸ Possible limitations foreseen in international instruments to prevent war propaganda and incitement of national, racial or religious hatred were designed, the Special Rapporteur has explained, “in order to protect individuals against direct violations of their rights” and “are not intended to suppress the expression of critical views, controversial opinions or politically incorrect statements” nor “to protect belief systems from external or internal criticism.”²³⁹ Many of the provisions of Yemeni law applicable to the press are flagrantly in violation of these standards.

As well as increasing the range of peaceful activities related to freedom of expression and the press that are covered by criminal prohibitions, the authorities have made punishment for such offences harsher. The Minister of Justice stated:

*“There are some penalties relating to some crimes which are in need of being made more severe in order to achieve the objective of deterrence for anyone who allows himself to commit such crimes. Among the principles of punishment is that it is not enough to put down punishments and apply them but those punishments must form an element of deterrence and consequently prevent commission of crimes”.*²⁴⁰

The PPL has always provided for imprisonment for violations of the restrictions to press freedom. Article 104 stipulates up to one year in prison and a fine of up to 10,000 riyals for breaches of its clauses. This applies to “any importer or distributor of any publication or newspaper or magazine or any technical document containing writing, symbols, photographs or other forms of expression which is published abroad in a way that breaches this law [the PPL]”.²⁴¹ The same punishment is prescribed for “any journalist or proprietor of a newspaper or printing facility or publishing house found to have obtained funds or services from a foreign party abroad with the aim of causing disorder and provocation within public opinion”.²⁴²

However, the punishment prescribed in Article 104 is preceded by a clause stating that this does not prevent the use of any “harsher punishment prescribed in any other law for anyone breaching” the PPL, opening the door for the application of the Penal Code. The reason for this clause is that most of the 12 restrictions of the PPL are punishable under the Penal Code, particularly, but not exclusively, Articles 192-202 of Section 6. For example, the ban in Article 103(12) of the PPL on criticizing the President can be punished under Article 197 of the Penal Code. This prescribes up to two years’ imprisonment, double the maximum term allowed under the PPL, and a fine of up to 4,000 riyals. Similarly, the restriction in Article 103(8) of the PPL relating to publication of false information becomes liable to punishment under Article 136 of the Penal Code, which prescribes a maximum of three years’ imprisonment, triple the prison term prescribed in the PPL.

Safeguards to protect press freedom and allow peaceful criticism of state policies apparently contained in the draft laws are unlikely to be applied. For example, the draft new PPL says that journalists cannot be arrested, held in preventive detention or have their freedom denied in other ways because of the exercise of their duties. This, combined with the lack of any reference to imprisonment as a punishment, might be thought to indicate that the draft new PPL, if enacted, would end the imprisonment of journalists for doing their job. However, most of the restrictions on press freedom in the draft new PPL are also offences punishable under the Penal Code and so the provision is unlikely to have much effect in practice.

The draft Audiovisual Media Law, on the other hand, does not even offer hollow guarantees of this nature. It refers to punishments in the PPL and any harsher punishments provided in the Penal Code or other laws, and provides for fines for a number of offences. Meanwhile, the draft amendments to the Penal Code combine further criminalization of peaceful activities involving the right to freedom of expression with harsher sentences. They propose raising the punishment for defaming the President from a maximum of two years to a maximum of five years imprisonment and an unlimited fine.

The PPL, draft new PPL and draft Audiovisual Media Law also contain administrative measures for breaches of rules relating to licensing and other rules not punishable by imprisonment. Such measures, ordered by the Justice Minister or the courts, include confiscation of the media product, temporary suspension of activities, and closure of media enterprises set up without a licence. The vast majority of such measures are enforced in flagrant breach of international standards on freedom of expression.

SPECIALIZED PRESS AND PUBLICATIONS COURT

In May 2009 the Supreme Judicial Council issued a decision establishing the Specialized Press and Publications Court (SPPC) and ordered all pending cases relating to press and publications around the country to be referred to the new court.²⁴³ Some 150 pending cases were subsequently referred to it.

According to the *Yemen Times*, the Minister of Justice was reported to have said the decision to establish the SPPC was “not politically motivated, but purely professional” and that it would be more efficient as it would bring all press and publishing-related cases under one roof, in the capital. The Minister of Information was also reported to have stated that “the aim of this court is to serve, protect the press itself and protect all sides’ rights”.²⁴⁴ However, the court appears in reality to have been set up to assist in the process of suppressing peaceful opposition, dissent and expression of views by centralizing control over and expediting cases brought against people for the peaceful exercise of their right to freedom of expression.

The SPPC was established in Sana’a as a court of first instance comprising a single judge specializing in hearing cases relating to offences falling under Articles 192 to 202 of the Penal Code and other laws relevant to the press and publications. Appeals are heard before ordinary criminal appeal courts in the capital. It applies the PPL, the Code of Criminal Procedures, the relevant provisions of the Penal Code and other relevant laws. It has its own prosecution authorities, which carry out prosecuting duties in all cases covered by the court.

Yemeni human rights defenders and many lawyers believe that the SPPC was created to reintroduce by the back door the type of “exceptional” court that is explicitly banned in the Constitution.²⁴⁵ The SPPC is widely accused of bias in favour of the government and in effect acts simply as a part of an overall system through which the government is seeking to control and suppress various forms of criticism, dissent and other beliefs, under a set of laws which unjustifiably infringe upon freedom of expression. As such, the SPPC is essentially designed to function as a specialized enforcement arm for the government’s system of violating the right to expression.

The SPPC hears cases only in Sana’a, unlike other criminal courts of first instance which generally hold their trials in the locality of the offender. The location is an obstacle to many defendants who want to exercise their basic rights to an effective defence and to access justice. Many defendants are forced to travel long distances at great cost in terms of money and time to defend themselves.

Among several journalists, editors and proprietors tried by the SPPC is **Anissa Uthman**, a journalist working for the weekly newspaper *al-Wassat*. She was tried in her absence and sentenced to three months’ imprisonment on 16 January 2010 on charges of defaming

President Saleh. According to media reports, she was prosecuted because of articles she wrote criticizing the arrest and imprisonment of human rights activists. She appears to be at risk of imprisonment although the court verdict and sentence are still subject to appeal. If she is imprisoned, Amnesty International would consider her a prisoner of conscience. The editor and proprietor of *al-Wassat* was also tried in the case and appeared before the court. He was convicted and fined.

Shafe' Muhammad al-Abd (see above) told Amnesty International that he faces two trials before the SPPC on charges such as harming the unity of Yemen arising from articles he wrote on the unrest in the south in *al-Nedaa* and *al-Diyar* newspapers.

MUHAMMAD AL-MAQALIH

Muhammad al-Maqalih, a journalist and member of the Socialist Party, who was released from prison on 25 March 2010, had suffered enforced disappearance for four months, arbitrary detention, torture and unfair trial. His ordeal began on 17 September 2009 when he was abducted from a street in Sana'a by men in plain clothes. Witnesses said that he was taken away in a white minibus which had its licence plates concealed. Amnesty International swiftly raised concerns about his safety. He subsequently explained what happened:



Muhammad al-Maqalih © Private

"I was abducted by armed elements from one of the biggest streets in Sana'a... they subjected me to severe beatings all over my body until I was bleeding and lost consciousness... I was unable to move for about 10 days."

Amnesty International issued a series of urgent actions and appeals starting on 18 September 2009, demanding that the authorities disclose his whereabouts and ensure his safety. In December 2009 the authorities finally acknowledged holding him, ending more than three long months of torment for the family during which they did not know if he was alive or dead, healthy or ill. Muhammad al-Maqalih later explained to Amnesty International what happened during this period:

"During the period of my disappearance, I was put in a closed room with no windows... I was put twice on a chair and had lights directed at my face while I was blindfolded and was made to believe I was going to be executed by shooting. Those who did this ridiculed me for the state of fear that engulfed me..."

In February 2010 Muhammad al-Maqalih was referred to the public prosecution and allowed visits by his family. He was charged with broadcasting information against security forces and making statements in defence of Huthi supporters in Sa'dah. Such charges are punishable by death. He was then referred to the SCC. He later refused to allow his lawyer to continue to represent him as he believes the SCC is unconstitutional. In April 2010 he was told that he also faced prosecution for "defaming the President" before the SPPC, apparently in relation to articles he wrote in 2005.

During their visit to Yemen in March 2010, Amnesty International delegates were twice refused admission to attend sessions of Muhammad al-Maqalih's trial before the SCC. In at least one of these sessions, the court was presented with recordings of phone calls made by Muhammad al-Maqalih. His lawyer said that the tapping had been carried out by Political Security and National Security. The law states that such monitoring of phone calls can be carried out for a maximum of 30 days, and when authorized by the public prosecution on

the basis of a particular suspected offence. Permission can be repeatedly renewed for periods of up to 30 days at a time. The case file for Muhammad al-Maqalih includes National Security documents referring to tapping between 1 January 2009 and 17 September 2009, while in SPPC papers relating to charges faced by Muhammad al-Maqalih there is reference to a period of tapping stretching from 15 June 2007 to 17 September 2009. His lawyer claimed that there was nothing within the case file that showed that there was prior authorization for the telephone monitoring.

Muhammad al-Maqalih was released a week after the Amnesty International delegates left Yemen. On 20 May, in a welcome move, the President issued a directive halting all legal proceedings against Muhammad al-Maqalih before the SCC and the SPPC. However, Amnesty International is concerned that the charges against him have not been dropped, so that at any point the trials may resume and this may be used to deter him from exercising his freedom of expression in future.



Hussain Muhammad al-Leswas
© Private

The persecution of journalists continues. On 2 May 2010, for example, the trial began before the SPPC of four *al-Nedaa* journalists - editor **Sami Ghalib** and reporters **Abd al-Aziz al-Majidi**, **Mayfa Abd al-Rahman** and **Fuad Mas'ad**.²⁴⁶ All were charged, convicted and handed down suspended three month imprisonment sentences in early June, in connection with articles written in 2009 about unrest in the south and the government's response to it. Their sentences were cancelled following the presidential amnesty in June. Also on 2 May 2010, the SPPC was reported to have convicted 25-year-old **Hussain Mohammad al-Leswas**, editor of the news website Sanaa Press, of undermining national foundations, the revolution and the Republic and "defamation of a public official", and sentenced him to one year in jail.²⁴⁷ The charges related to articles he wrote in early 2009 about corruption in al-Baydah's local administration. He was released following the presidential amnesty in late May 2010, having spent 25 days in detention.

RECOMMENDATIONS

Amnesty International makes the following recommendations:

To the Yemeni government

- Release immediately and unconditionally anyone held solely for the peaceful exercise of their rights to freedom of expression, regardless of whether the conduct may constitute a criminal offence under national laws in Yemen, and drop any criminal charges relating to such conduct.
- Repeal all laws criminalizing peaceful dissent and otherwise unjustifiably violating the rights to freedom of expression which Yemen is legally obliged to protect and respect, such as Article 103 of the PPL, and Article 197 of the Penal Code, and ensure that draft laws currently under discussion are revised and amended to bring them into full conformity with international human rights law relating to freedom of expression and of the media.
- Ensure that the SPPC fully adheres in practice to the Code of Criminal Procedures and meet international fair trial standards in all cases.

7. CONCLUSIONS

The Yemeni government is sidelining the rule of law and its human rights obligations in the name of “fighting terrorism” and “national security”. While it faces some pressure from other states, and serious opposition internally as well as violence and threats of violence, these cannot justify or excuse the violations of human rights it has perpetrated and permitted. The government has allowed Political Security and National Security, in particular, to act with impunity to arrest arbitrarily, detain and abusively interrogate and torture security suspects and government critics, and subject them to prolonged incommunicado detention without charge and enforced disappearance. It has set up specialized courts to try security suspects and critics whose proceedings generally fail to respect human rights and to deliver justice. The government has used sweeping press laws and now operates a specialized press court to systematically violate freedom of expression. It has failed to investigate serious allegations that its own military and security forces and those of other states have taken part in unlawful killings, including extrajudicial executions, as well as apparently indiscriminate and disproportionate attacks on civilians.

The USA appears to have carried out or collaborated in unlawful killings in Yemen and has closely co-operated with Yemeni security forces in situations that have failed to give due regard for human rights. Saudi Arabia too has played a detrimental role, particularly in relation to killings of civilians in what may have been indiscriminate and disproportionate attacks in Sa’dah. Both the US and UK governments have provided weapons, munitions and technical military aid to Saudi Arabia, and need now to conduct investigations into how that aid has been used and the need for changes to the provision of such aid in future.

Whatever the challenges facing a government, resorting to violations of human rights is always wrong. Amnesty International calls on the Yemeni, Saudi Arabian and US governments as well as the international community to implement the recommendations addressed to them at the end of each of the chapters in this report.

ENDNOTES

- ¹ UN General Assembly resolution 64/168 adopted on 18 December 2009, para1.
- ² In 2008, according to the World Bank, Yemen's gross national income per person was US\$950. For more information see http://devdata.worldbank.org/AAG/yem_aag.pdf, accessed on 30 June 2010.
- ³ World Bank, 2008.
- ⁴ More than 45 per cent live on less than US\$2 a day, according to the United Nations Development Programme (UNDP). See <http://www.undp.org/ve/poverty.php>, accessed on 30 June 2010.
- ⁵ World Bank, 2008, at http://devdata.worldbank.org/AAG/yem_aag.pdf, accessed on 30 June 2010.
- ⁶ UN Security Council Resolution 678 (1990) of 29 November 1990, at <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/575/28/IMG/NR057528.pdf?OpenElement>, accessed on 30 June 2010.
- ⁷ UNDP, "Human Development Report 2009, Yemen", at http://hdrstats.undp.org/en/countries/country_fact_sheets/cty_fs_YEM.html, accessed on 30 June 2010.
- ⁸ There are no official figures for the number of firearms in public possession and estimates vary widely. One detailed estimate by the Small Arms Survey in *Occasional Paper no. 9 - Demand, Stockpiles, and Social Controls: Small Arms in Yemen*, Geneva, May 2003, put the figure at 6-9 million small arms, mostly of Russian, East European and Chinese origin, while another frequently used estimate pits the number of weapons at 60 million, as in "Yemen seizes over 12,000 weapons in May", 3 June 2010, Yemen News Agency (Saba), at <http://www.sabanews.net/en/news216260.htm>, accessed on 30 June 2010.
- ⁹ "Yemen president tackles boosting security with U.S.", Reuters, 2 January 2010.
- ¹⁰ "UPDATE 1-Pentagon to boost Yemen's special operations forces", Reuters, 20 April 2010 and "U.S. expands intelligence operations in Yemen", Reuters, 25 May 2010.
- ¹¹ "US Targets American-born cleric in Yemen – officials", Reuters, 6 April 2010, and "US approves killing US-born cleric Anwar al-Awlaki", BBC, 7 April 2010. Yemeni officials were reported as saying they would not hand Anwar al-Awlaki to the USA but instead put him on trial in Yemen. "Yemen says will not turn over militant cleric to US", Reuters, 10 May 2010.
- ¹² Director of US National Intelligence Dennis C. Blair told the US House of Representatives in a hearing in February 2010: "We take direct actions against terrorists in the intelligence community. If we think that direct action will involve killing an American, we get specific permission to do that." "U.S. Approves Targeted Killing of American Cleric", *The New York Times*, 6 April 2010. On 30 May, Yemen's Prime Minister was reported to have said that such an assassination of Anwar al-Awlaki in Yemen would be unacceptable (Reuters). While the USA often invokes the concept of a global armed conflict with al-Qa'ida (to which it claims only the laws of war apply) to justify targeted killings virtually anywhere in the world at any time, this argument has been widely rejected as inconsistent with long-established principles of international law.
- ¹³ "US expands intelligence operations in Yemen", Reuters, 25 May 2010.

¹⁴ *Concluding Observations of the Human Rights Committee: Yemen*, CCPR/CO/75/YEM, 26 July 2002, para18; see also CCPR/CO/84/YEM 9 September 2005, para13.

¹⁵ See, for example, Commission on Human Rights (predecessor to the Human Rights Council) resolution 2003/68, adopted on 25 April 2003, para3; Human Rights Council resolution 13/26, adopted on 16 March 2010; Security Council resolution 1456, adopted on 20 January 2003, para6; UN General Assembly resolution 64/168, adopted on 18 December 2009, para1.

¹⁶ For information on such concerns, please see, for example, Amnesty International *Yemen: Government should announce commitment to tackle 'widespread' torture* (Index: MDE 31/017/2009), 27 November 2009; Amnesty International *Yemen's Dark Side: Discrimination and violence against women and girls* (Index: MDE 31/014/2009), 25 November 2009; Amnesty International, *Yemen: Submission to the UN Universal Periodic Review: Fifth Session of the UPR Working Group of the UN Human Rights Council*, May 2009, 10 November 2008; Amnesty International, *The Gulf and the Arabian Peninsula: Human rights fall victim to the "War on Terror"* (Index: MDE 04/002/2004), 22 June 2004; Amnesty International *Yemen: The Rule of Law Sidelined in the Name of Security* (Index: MDE 31/006/2003), 24 September 2003.

¹⁷ Meeting with Ali Saleh Taiseer, Deputy Human Rights Minister, on 6 March 2010 and meeting with Huda Ali Abdullatef Alban, Minister for Human Rights on 17 March 2010.

¹⁸ Meeting with Ali Saleh Taiseer, Deputy Human Rights Minister, on 6 March 2010.

¹⁹ Joint Study of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Working Group on Arbitrary Detention, and the Working Group on Enforced or Involuntary Disappearances, UN Doc A/HRC/13/42, 19 February 2010, (reissued 20 May 2010), http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.13.42_re-iss.pdf, accessed on 30 June 2010.

²⁰ Although flogging and amputations are permitted as forms of judicial corporal punishment, torture is specifically prohibited under Article 47 of the Constitution, which states:

"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 law shall determine the punishment for whosoever violates any of the stipulations of this Article and it shall also determine the appropriate compensation for any harm the person suffers as a result of such a violation. Physical or psychological torture at the time of arrest, detention or jail is a crime that cannot be prescribable. All those who practise, order, or participate in executing, physical or psychological torture shall be punished."

This definition of torture has been critiqued for not being comprehensive enough by the UN Committee against Torture in a recent review of Yemen's implementation of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It stated:

"While noting that the Constitution of Yemen prohibits torture, the Committee reiterates its concern at the lack of a comprehensive definition of torture in the domestic law as set out in article 1 of the Convention (CAT/C/CR/31/4, para. 6 (a)). The Committee is concerned that the current definition in the Constitution prohibits torture only as a means of coercing a confession during arrest, investigation, detention and imprisonment, and that punishment is limited to individuals who order or carry out acts of

torture and does not extend to individuals who are otherwise complicit in such acts. The Committee is also concerned that, while the Constitution provides that crimes involving physical or psychological torture should not be subject to a statute of limitations, the criminal procedure law may include a statute of limitations (arts. 1 and 4)."

See *Consideration of reports submitted by States parties under article 19 of the Convention, Concluding observations of the Committee against Torture*, Committee against Torture, Forty-fourth session, 26 April-14 May 2010, CAT/C/YEM/CO/2/Rev.1, 25 May 2010, para7.

²¹ In 2001 a minister of state for human rights was appointed, and a ministry was created in 2003.

²² 999 U.N.T.S. 171, which entered into force on 23 March 1976; Yemen became a party in 1987.

²³ 993 U.N.T.S. 3, which entered into force on 3 January 1976; Yemen became a party in 1987.

²⁴ 1465 U.N.T.S. 85, which entered into force on 26 June 1987; Yemen became a party in 1991.

²⁵ 1577 U.N.T.S. 3, which entered into force on 2 September 1990; Yemen became a party in 1991.

²⁶ 1249 U.N.T.S. 13, which entered into force on 3 September 1981; Yemen became a party in 1984.

²⁷ 660 U.N.T.S. 195, which entered into force on 4 January 1969; Yemen became a party in 1972.

²⁸ 189 U.N.T.S. 150, which entered into force on 22 April 1954, and 606 U.N.T.S. 267, which entered into force on 4 October 1967; Yemen became a party to both in 1980.

²⁹ 75 U.N.T.S. 31, 85, 135, 287, which entered into force on 21 October 1951; Yemen became a party in 1970.

³⁰ 1125 U.N.T.S. 3 and 609, which entered into force on 7 December 1978; Yemen became party in 1990.

³¹ On 12 October 2000, a suicide attack on the *USS Cole* destroyer at Aden port killed 17 US military personnel and injured at least 39 others. For more information, see "Attack on the USS Cole", al-Bab (information portal), <http://www.al-bab.com/yemen/cole1.htm>, accessed on 30 June 2010.

³² President Ali Abdullah Saleh has been in power since 1978; he was re-elected for a further seven-year term in 2006.

³³ Decision of the President of the Republic no. 8 of 2004.

³⁴ Republican Decision no. 391 of 1999 on the Establishment of the Specialized Criminal Court of First Instance and the Specialized Criminal Appeal Branch.

³⁵ Law no.13 of 1994 on Criminal Procedures.

³⁶ Activists and lawyers refer to Article 150 of the Constitution which states: "Exceptional courts may not be established under any conditions."

³⁷ Supreme Judicial Council Decision no. 131 of 11 May 2009.

³⁸ Supreme Judicial Council Decision no. 130 of 11 May 2009.

³⁹ Articles 13 and 14 of the Law on Combating Money Laundering and Financing of Terrorism. Article 13 requires financial and non-financial institutions to disclose information on any operations as soon as they suspect that they are connected with the crime of money laundering or financing terrorism, regardless of

whether the operations have taken place or not. Article 14 extends the same obligation to lawyers, among others, when they obtain such information relating to their clients.

⁴⁰ Principle 22 of the UN Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990 states: "Governments shall recognize and respect that all communications and consultations between lawyers and their clients within their professional relationship are confidential." The Human Rights Committee has stated that Article 14 of the ICCPR requires that "[c]ounsel should be able to meet their clients in private and to communicate with the accused in conditions that fully respect the confidentiality of their communications." *General Comment no. 32*, UN Doc CCPR/C/GC/32, 23 August 2007, para34.

⁴¹ See Article 4 of the Law on Combating Money Laundering and Financing of Terrorism, which states:

"Is regarded as having committed the crime of financing terrorism anyone who:

- A. *collects or provides money directly or indirectly by any method knowing that it will be used fully or partly for the financing of the following acts:*
 - 1) *any act of violence or threat thereof, whatever its motives or purposes that occurs in the advancement of an individual or collective criminal agenda and seeks to sow panic among people or to alarm them by harming them and placing their lives, freedom or security in danger or to cause damage to the environment or to any public or private facilities or property, or to occupy or seize them, or to jeopardize any national resources or to force the government or an international organization to carry out any unlawful act or not to carry out any lawful act;*
 - 2) *any action constituting a crime within any of the relevant treaties and conventions that the Republic has ratified or become a party to;*
 - 3) *any action constituting a crime provided by the Law on Combating the Crimes of Kidnapping and Highway Robbery.*
- B. *anyone who entered into or participated or incited or aided the commission of any of the acts mentioned in Subsection A of this article. Cases of struggle by different methods against foreign occupation or aggression, for the purpose of liberation and self-determination in accordance with the principles of international laws, are not deemed to be among the crimes included in this article. Any act that infringes the territorial unity, of any of the Arab states is not deemed to be among these cases."*

This broad definition resembles in some respects the text in Article 1(2) and (3) of the Arab Convention for the Suppression of Terrorism, signed in 1998 and brought into effect in 1999. (Article 1(3) of the Arab Convention does, however, contain a closed list of treaties in its parallel provision to Article 4A(2) of the Yemeni law, though Article 1(3) itself suffers, in other respects, from other problems of imprecision.) The definition of "terrorism" in the draft Counter-Terrorism law also resembles the text in Article 1(2) of the Convention. See Article 2(2) of the draft Counter Terrorism Law which defines "terrorism" as follows:

"Any act or threat of violence, whatever its motives or purposes, that the perpetrator resorts to in the advancement of a criminal agenda, whether individual or collective, with the aim of massively disrupting public order or damaging the public interest or causing damage to the environment or to public health or to the national economy or to any public or private facilities, property or installations, or seizing them, or

obstructing the public authorities of the state from carrying out their work or placing the security and safety of the society in danger or threatening the stability and security of the territory of the Republic or its political unity or its sovereignty or hindering the application of the provisions of the constitution or laws or harming individuals or sowing panic among them, or placing their lives, freedoms or security in danger.”

⁴² The principle of legality arises from, among other sources, Article 15 of the ICCPR, and requires that “the law is adequately accessible so that the individual has a proper indication of how the law limits his or her conduct; and the law is formulated with sufficient precision so that the individual can regulate his or her conduct.” UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Report to the Human Rights Commission, UN Doc E/CN.4/2006/98 (28/12/2005), para46.

⁴³ Law no. 12 of 1994 on Crimes and Punishments.

⁴⁴ Such a development would violate Article 6(5) of the ICCPR and Article 37 of the Convention on the Rights of the Child.

⁴⁵ Interview on 18 March 2010, Sana’a.

⁴⁶ See Article 172 of the Code of Criminal Procedures and Article 47(b) of the Yemeni Constitution. Article 9(1) of the ICCPR states: “Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”

⁴⁷ Article 73 of the Code of Criminal Procedures.

⁴⁸ Joint Study of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Working Group on Arbitrary Detention, and the Working Group on Enforced or Involuntary Disappearances, UN Doc A/HRC/13/42, 19 February 2010, (reissued 20 May 2010), http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.13.42_re-iss.pdf, paras 18, 34.

⁴⁹ Interview on 10 March 2010, Sana’a.

⁵⁰ UN Doc A/HRC/13/42, 19 February 2010, (reissued 20 May 2010), para35, at http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.13.42_re-iss.pdf, accessed on 30 June 2010.

⁵¹ Article 76 of the Code of Criminal Procedures.

⁵² Article 48(c) of the Yemeni Constitution and Articles 189, 190 and 191 of the Code of Criminal Procedures.

⁵³ Article 48(b) of the Yemeni Constitution.

⁵⁴ Committee against Torture, *General Comment no. 2: Implementation of Article 2 by States Parties*, UN Doc CAT/C/GC/2, 24 January 2008, para13.

⁵⁵ See note 42 above on the principle of legality.

⁵⁶ Human Rights Committee, *General Comment no. 29: States of Emergency*, UN Doc

CCPR/C/21/Rev.1/Add.11, 31 August 2001, para11.

⁵⁷ See *Consideration of reports submitted by States parties under article 19 of the Convention, Concluding observations of the Committee against Torture, Yemen*, Committee against Torture, Forty-fourth session, 26 April-14 May 2010, CAT/C/YEM/CO/2/Rev.1, 25 May 2010, p6, para14.

⁵⁸ Interview on 15 March 2010, Aden.

⁵⁹ A medical report, after examining Najib Muhsen Abdullah al-Jahafi following his release in December 2009 found:

"1. Circular-shaped burns measuring 2x2cm in area and number 30, spread out over the back and the right leg with swelling and eruption;

"2. Superficial and vertical wounds on the right and left shoulder and the bottom of the back measuring 2x10cm in area and numbering 10;

"3. Linear wounds measuring 20cm in length and numbering between 50 and 60, spread out over the back;

"4. Bruises with swelling and redness on the back and between the shoulders measuring 20x20cm in area."

⁶⁰ Republican Decision no. 391 of 1999 on the Establishment of the Specialized Criminal Court of First Instance and the Specialized Criminal Appeal Branch.

⁶¹ "Abu Hamza and the Islamic Army, Kidnapping of tourists, 28-19 December 1998", al-Bab, at <http://www.al-bab.com/yemen/hamza/hostage.htm>, accessed on 30 June 2010.

⁶² Article 306 of the Penal Code.

⁶³ Article 3 of Republican Decision no. 391 of 1999.

⁶⁴ Decision of the President of the Republic no. 8 of 2004.

⁶⁵ Law no. 24 of 1998 on Combating the Crimes of Kidnapping and Highway Robbery.

⁶⁶ Law no. 3 of 1993 on Combating the Illegal Dealing and Use of Drugs and Stimulants.

⁶⁷ Supreme Judicial Council Decision no. 131 of 11 May 2009.

⁶⁸ Supreme Judicial Council Decision no. 130 of 11 May 2009.

⁶⁹ Human Rights Committee, *General Comment no. 32*, UN Doc CCPR/C/GC/32, 23 August 2007, para41.

⁷⁰ Other evidence produced included interrogation documents by the arresting authority and the prosecution; 12 documents found on his computer that had material on issues such as national security in Yemen, protests in Aden and the President's speeches and movements; and flash drives containing similar documents.

⁷¹ Human Rights Committee, *General Comment no. 32*, UN Doc CCPR/C/GC/32, 23 August 2007, para59.

⁷² Human Rights Committee, *General Comment no. 32*, UN Doc CCPR/C/GC/32, 23 August 2007, para33.

⁷³ Human Rights Committee, *General Comment no. 32*, UN Doc CCPR/C/GC/32, 23 August 2007, para33.

⁷⁴ Human Rights Committee, *General Comment no. 32*, UN Doc CCPR/C/GC/32, 23 August 2007, para34.

⁷⁵ Human Rights Committee, *General Comment no. 32*, UN Doc CCPR/C/GC/32, 23 August 2007, para13.

⁷⁶ See Article 263 of the Code of Criminal Procedures.

⁷⁷ Human Rights Committee, *General Comment no. 32*, UN Doc CCPR/C/GC/32, 23 August 2007, para19.

⁷⁸ Human Rights Committee, *General Comment no. 32*, UN Doc CCPR/C/GC/32, 23 August 2007, para19

⁷⁹ "President Saleh delivers speech on Unification Day", Saba, 21 May 2010, at <http://www.sabanews.net/en/news215024.htm>, accessed on 30 June 2010.

⁸⁰ "Saleh pardons convicted journalists", Saba, 22 May 2010, at <http://www.sabanews.net/en/news215058.htm>, accessed on 30 June 2010.

⁸¹ "Arrangements underway to release hundreds of detainees under Saleh pardons", Saba, 24 May 2010, at <http://www.sabanews.net/en/news215236.htm>, accessed on 30 June 2010.

⁸² "Saada, riots detainees released", Saba, 25 May 2010, at <http://www.sabanews.net/en/news215430.htm>, accessed on 30 June 2010.

⁸³ "Journalists and writers released in Sana'a", al-Sahwa.net news website, 29 May 2010, at <http://www.alsahwa-yemen.net/arabic/subjects/5/2010/5/29/1066.htm>, accessed on 30 June 2010.

⁸⁴ Press release issued following a press conference held by civil society organizations. "Detainee Families Appealed To Carry Out Presidential Amnesty", *Yemen Observer*, an English language newspaper, 15 June 2010.

⁸⁵ "No political prisoner in Yemen jails, says minister", Saba, 12 May 2010, at <http://www.sabanews.net/en/news214092.htm>, accessed on 30 June 2010.

⁸⁶ "Will Yemen Become the Somalia of the Arabian Peninsula?" Asharq Al-Awsat, news website (English edition), 28 April 2009.

⁸⁷ "Al-Qaeda in the Arabian Peninsula", Al Jazeera English, 29 December 2009, at <http://english.aljazeera.net/news/middleeast/2009/12/2009122935812371810.html>, accessed on 30 June 2010.

⁸⁸ The group's full name is Harakat al-Shabab al-Mujahideen.

⁸⁹ On 8 February 2010, a leader of al-Qa'ida in the Arabian Peninsula was reported to have said that the group would aim to take over the strategic waterway linking the Red Sea and the Gulf of Aden, the Bab al-Mandab and also called for co-operation between al-Qa'ida in the Arabian Peninsula and al-Shabab. The Yemeni Foreign Minister was reported to have said that al-Qa'ida could target ships on the Bab al-Mandab but could never completely control it. "Qaeda could target ships in key waterway: Yemen FM", AFP, 23 February 2010.

⁹⁰ The Friends of Yemen group, which includes Yemen, consists of Bahrain, Canada, China, Egypt, Germany, Italy, Japan, Kuwait, Netherlands, Oman, Saudi Arabia, Spain, Turkey, United Arab Emirates, UK and USA. It also includes the EU and GCC as well as the IMF and World Bank.

⁹¹ See the Chairman's statement following the closing of the meeting on 27 January. The meeting, chaired by the UK Foreign Secretary, was held in London on 27 January 2010.

"The meeting welcomed:

- *The declared commitment of the Government of Yemen to continue to pursue its reform agenda, and to initiate discussion of an IMF programme. This will provide welcome support and help the government to confront immediate challenges.*
- *The announcement by the GCC Secretary General that he will host a meeting of Gulf and other partners of Yemen in Riyadh on 27-28 February. The meeting will share analysis on the barriers to effective aid in Yemen, leading to a joint dialogue with the government of Yemen, including on priority reforms.*
- *The commitment by the international community to supporting the Government of Yemen in the fight against Al Qaeda and other forms of terrorism, and the commitment by all participants to enforce fully all relevant UN Sanctions Committee designations under UNSCR 1267.*
- *The determination of the international community to engage further in support of Yemeni government efforts to build law enforcement, legislative, judicial and security capacities. Yemen's partners agreed to support Yemeni government initiatives to strengthen their counter-terrorist capabilities, and to enhance aviation and border security. This will include work on both land and maritime borders, including on strengthening the Yemeni Coastguard.*
- *The launch of a 'Friends of Yemen' process, which will address the broad range of challenges facing Yemen. The first meeting will take place in the region in late March. The Government of Yemen and the group of Friends will discuss ways and means of implementing Yemen's National Reform Agenda, including through two working groups on economy and governance; and justice and rule of law."*

⁹² US authorities authorized arms sales (mostly of military aircraft parts and components) worth US\$19,182,977 to Yemen during financial year 2008 (source: US Administration report on Direct Commercial Sales of military weapons in financial year 2008), most of which was due to be delivered in 2009. In 2009 US government funding included \$2.8 million in Foreign Military Financing for Yemen, International Military Education and Training worth \$1 million, and support for Non-Proliferation, Anti-Terrorism, Demining and Related Programs totalling \$2.5 million. In addition, Yemen received \$19.8 million in US Economic Support Funds, \$11.2 million in US development assistance, and \$67.1 million in US Section 1206 funding (source: US Department of State, Background Note on Yemen, January 27, 2010 at <http://www.state.gov/r/pa/ei/bgn/35836.htm>, accessed on 30 June 2010). Section 1206 funding is for the US "to conduct or support programs globally that build the capacity of a foreign country's military and maritime security forces". Imports of weapons from Russia were substantial in 2000-2005 but reports of further large-scale Russian arms imports were denied by the Yemen government in 2010. Since 2006 the USA is believed to have replaced Russia and Ukraine as the main supplier of armoured combat vehicles to Yemen although the Yemeni air force continued to rely mainly on previously supplied Russian attack helicopters and combat aircraft from Ukraine while the Yemeni army had artillery and tanks supplied by the Czech Republic (source: UN Register of Conventional Arms, entries for 2000 to 2008).

In 2009, several European Union countries also reported substantial authorizations of military weapons and munitions exports to Yemen. Out of a combined total of €52.4 million agreed in 2008, the UK authorized exports valued at €17,847,500, the Czech Republic €17,008,718 (of which €1,229,589 was delivered), Bulgaria €10,087,097 (of which €639,674 was delivered, France €3,646, 917 and Germany €2,590,500 (source: European Union annual report for arms exports in 2008). Allowing for delays in trade reporting, available customs data also shows that commercial exports to Yemen of military and non-military arms and parts between 2007 and 2009 amounted to US\$ 23,951,382, of which \$18,402,757 was assigned in 2009, the bulk of it from the Czech Republic (\$11.5 million) and Turkey (\$6.2 million).

Meanwhile, the flow of small arms and light weapons and parts to Yemen continued, almost certainly not all publicly reported. In 2009, Italy supplied nearly \$300,000 worth of military revolvers and pistols. In 2008, Turkey had supplied \$150,000 worth of pistols and revolvers, and in 2007-2008 Austria supplied \$350,000 worth of pistols and other firearms. In 2006-2007 Bulgaria supplied \$5.7 million worth of ammunition and firearms, and between 2004 and 2007 the USA supplied \$2.2 million worth of light weapons, military rifles, machine guns and small arms ammunition to the Yemeni security forces, and also authorized a large quantity of US riot control chemicals. Australia supplied items under the customs category "canon and mortars" worth \$270,000 in 2005 while Poland supplied \$4.3 million worth of military weapons and ammunition during 2001-2004, and in 2007 agreed to export \$717,153 of military and non-military parts for weapons to Yemen (source: UN Comtrade data and US DSCA Foreign Military Sales information from the database of the Norwegian Initiative on Small Arms Transfers, accessed in June 2010).

⁹³ *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Study on targeted killings, A/HRC/14/24/Add.6, 28 May 2010.* The Special Rapporteur cited a 2002 attack in Yemen as the "first credibly reported CIA drone killing" (p7). Six men were killed in the 3 November 2002 attack in Ma'rib governorate when the car in which they were travelling was blown up by a CIA-controlled Predator drone. The men were allegedly suspected of being members of al-Qa'ida and included Ali Qa'id Sinan al-Harithi, a Yemeni national.

⁹⁴ "UN expert criticizes 'illegal' targeted killing policies and calls on the US to halt CIA drone killings", UN News story, 2 June 2010, at <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10094&LangID=E>, accessed on 30 June 2009. The Special Rapporteur on extrajudicial, summary or arbitrary executions raised particular concerns regarding targeted killings carried out by the CIA as opposed to US armed forces: "Intelligence agencies, which by definition are determined to remain unaccountable except to their own paymasters, have no place in running programmes that kill people in other countries."

⁹⁵ The Special Rapporteur has stated that outside armed conflict, "the use of drones for targeted killing is almost never likely to be legal. A targeted drone killing in a State's own territory, over which the State has control, would be very unlikely to meet human rights law limitations on the use of lethal force." He similarly objected to attacks carried out in such circumstances by other states without the territorial state's consent. See *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Study on targeted killings, A/HRC/14/24/Add.6, 28 May 2010, para85-86.*

⁹⁶ *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Study on targeted killings, A/HRC/14/24/Add.6, 28 May 2010;* and Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, Articles 9 and 10.

⁹⁷ Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, Article 5.

⁹⁸ "US is said to expand secret actions in mideast", *The New York Times*, 24 May 2010.

⁹⁹ Information found through available public information or obtained through the US Freedom of Information Act. For more information see US State Department, *Foreign Military Training and DoD Engagement Activities of Interest*, 2007, Vol. 1, Section IV-V; US State Department, *Foreign Military Training and DoD Engagement Activities of Interest*, 2008, Vol. 1, Section IV-V, pp50-51; US State Department, *Quarterly report to House of Representatives Committee on Appropriations on the use of Foreign Military Financing, International Military Education and Training, and Peacekeeping Operations funds obligated and expended as of June 30, 2009*, 27 October 2009, obtained by Federation of American Scientists through Freedom of Information Act.

¹⁰⁰ US Congressional Research Service, *Yemen: Background and U.S. Relations*, 13 January 2010, at http://assets.opencrs.com/rpts/RL34170_20100113.pdf, accessed on 30 June 2010. Annual Section 1206 funding for Yemen since 2006, described in annual National Defense Authorization Acts, has been: \$4.3m (financial year 2006), \$26m (financial year 2007), none (financial year 2008), and \$66.8m (financial year 2009).

¹⁰¹ According to the ICRC, a situation "may amount to non-international armed conflict a) if hostilities rise to a certain level and/or are protracted beyond what is known as mere internal disturbances or sporadic riots, b) if parties can be defined and identified, c) if the territorial bounds of the conflict can be identified and defined, and d) if the beginning and end of the conflict can be defined and identified." See "When is a war not a war? - The proper role of the law of armed conflict in the 'global war on terror'", official statement of the ICRC, 16 March 2004.

¹⁰² "26 September publishes exclusive on facts of Abyan, Arhab and Sana'a operation: full details on rout of al-Qa'ida in Yemen" (in Arabic), *26 September* newspaper, 24 December 2009, at http://26sep.net/news_details.php?sid=59807, accessed on 30 June 2010.

¹⁰³ "Abu Hamza and the Islamic Army, Kidnapping of tourists, 28-19 December 1998", al-Bab, at <http://www.al-bab.com/yemen/hamza/hostage.htm>, accessed on 30 June 2010.

¹⁰⁴ "Security source: Suicide bomb in Marib kills nine, injures eight others", Saba, 2 July 2007, at <http://sabanews.net/en/news133965.htm>, accessed on 30 June 2010. See also "Body of Spaniard killed in Yemen attack arrives in Spain", AFP, 15 July 2007.

¹⁰⁵ "16 killed in assault attempt against US embassy in Yemen", Saba, 17 September 2008, at <http://sabanews.net/en/news164230.htm>, accessed on 30 June 2010.

¹⁰⁶ "Four S. Korean tourists and Yemeni killed in Hadramout", Saba, 16 March 2009, at <http://sabanews.net/en/news178488.htm>, accessed on 30 June 2010.

¹⁰⁷ "Suicide bomber attacks convoy of British envoy; none hurt", Saba, 26 April 2010, at <http://sabanews.net/en/news212603.htm>, accessed on 30 June 2010.

¹⁰⁸ "Eleven killed in terrorist attack in Aden", Saba, 19 June 2010, at <http://sabanews.net/en/news217494.htm>, accessed on 30 June 2010.

¹⁰⁹ Photographs show the payload, mid-body, aft-body and propulsion sections of a missile identified as a

BGM-109D Tomahawk land-attack cruise missile. The BGM designation refers to the Block IIB variant of the missile manufactured in the USA prior to its entry into US military service, after which it changed to the RGM/UGM-109D designation.

¹¹⁰ The UK has other similar Tomahawk missiles made in the USA but unlikely to have the variant that carries cluster munitions.

¹¹¹ Several US media organizations reported that they had received unattributed statements from White House officials about authorization for the use of US-fired cruise missiles on two targets in Yemen on 17 December 2009. See, for example, "Cruise missiles strike Yemen", ABC News, 19 December 2009.

¹¹² "Rights group questions U.S. role in Yemen attack", Reuters, 7 June 2010.

¹¹³ In conflict situations, Amnesty International regards the use of cluster munitions in civilian areas to be indiscriminate and therefore contrary to international humanitarian law. Outside situations of armed conflict, such use is obviously wholly incompatible with international human rights law. For more information see Amnesty International's press release *Yemen: Images of missile and cluster munitions point to US role in fatal attack* (Index: PRE 01/176/2010), 7 June 2010.

¹¹⁴ "Air strike kills Yemen mediator, tribes hit pipeline", Reuters, 25 May 2010.

¹¹⁵ Interview with Dr Abubakr al-Qirbi, Yemeni Foreign Minister (in Arabic), *Mareb Press* news website, 1 June 2010, and "Yemen to review operations against al-Qaeda", *Yemen Observer*, 5 June 2010, at <http://www.yobserver.com/front-page/10018846.html>, accessed on 30 June 2010.

¹¹⁶ "Two Qaeda suspects killed in Yemen fire exchange", Reuters, 18 April 2010, at <http://www.reuters.com/article/idUSLDE63H0JT20100418>, accessed on 30 June 2010.

¹¹⁷ "Al-Qaeda leaders killed in south Yemen identified", Saba, 16 March 2010.

¹¹⁸ "Yemeni forces arrest 11-member terrorist cell", Saba, 4 March 2010.

¹¹⁹ "Yemen confirms killing of six Qaeda leaders", AFP, 16 January 2010, and "Yemen forces kill Al-Qaeda military leader in air strike", Saba, 15 January 2010.

¹²⁰ "Al-Qaeda figure killed in eastern Yemen", Saba, 13 January 2010.

¹²¹ "Al-Qaeda suspects killed, others injured in Sana'a", Saba, 4 January 2010, and "Al-Qaeda suspect escapes in Sana'a", al-Sahwa.net, 4 January 2010.

¹²² "5 terrorists killed, two arrested: Interior Ministry", Almotamar.net, news website of the ruling party the General People's Congress, 12 August 2008.

¹²³ "Yemen kills four militants behind Marib attack", Saba, 8 August 2007, and "Terrorists killed Wednesday were planning for more attacks: official source", Saba, 10 August 2007.

¹²⁴ See the Special Rapporteur's report to the UN Commission on Human Rights, UN Doc E/CN.4/2003/3, 13 January 2003, para37-39.

¹²⁵ Letter dated 14 April 2003 from the Chief of Section, Political and Specialized Agencies, of the Permanent Mission of the United States of America to the United Nations Office at Geneva addressed to the secretariat of the Commission on Human Rights, UN Doc E/CN.4/2003/G/80, 22 April 2003.

¹²⁶ Remarks by Harold Hongju Koh, Legal Adviser, US Department of State, "The Obama Administration

and International Law”, Annual Meeting of the American Society of International Law, Washington, DC (25 March 2010), <http://www.state.gov/s//releases/remarks/139119.htm>, accessed on 30 June 2010.

¹²⁷ On 7 October 2009 Saba reported 257 arrests of people suspected of terrorist crimes, including kidnapping. “Yemen says arrests 257 terror and kidnap suspects”, Saba, 7 October 2009 at <http://www.sabanews.net/en/news195280.htm>, accessed on 30 June 2010.

¹²⁸ Interview on 11 March 2010, Sana’a.

¹²⁹ “26 September publishes exclusive on facts of Abyan, Arhab and Sana’a operation: full details on rout of al-Qa’ida in Yemen” (in Arabic), *26 September* newspaper, 24 December 2009, at http://26sep.net/news_details.php?sid=59807, accessed on 30 June 2010.

¹³⁰ “U.S. to repatriate Guantanamo detainee to Yemen after judge orders him to be released”, *The Washington Post*, 26 June 2010, at <http://www.washingtonpost.com/wp-dyn/content/article/2010/06/25/AR2010062505033.html>, accessed on 30 June 2010.

¹³¹ “Yemen... and terrorism” (in Arabic), *26 September*, 7 June 2007.

¹³² “Yemen extradites 5 wanted persons to Saudi Arabia”, Saba, 29 March 2009.

¹³³ For more information on human rights violations in the name of counter-terrorism in Saudi Arabia, see Amnesty International, *Saudi Arabia: Assaulting human rights in the name of counter-terrorism* (Index: MDE 23/009/2009), July 2009.

¹³⁴ The full list can be found at “Interior Ministry issues list of extremists wanted for extradition”, Royal embassy of Saudi Arabia, Washington DC, 3 February 2009, at http://www.saudiembassy.net/latest_news/news02030902.aspx, accessed on 30 June 2010, or “An Official Source of Interior Ministry issues statement”, Saudi Press Agency, 3 February 2009. See also “Saudi publishes global ‘most wanted’ list”, AFP, 3 July 2009, and “Interpol issues alert over 85 wanted for Saudi terror plots”, AFP, 10 February 2009.

¹³⁵ “Yemen extradites five men wanted by Saudi”, AFP, 29 March 2010.

¹³⁶ Case 23 of 2009 of the Specialized Appeal Prosecution at the Specialized Prosecution of First Instance.

¹³⁷ Bombing of Najdah area in al-Qutn district in Hadramawt governorate using TNT and leading to injuries of soldiers and damage to vehicles (16 December 2007); attacks against European tourists and Yemeni workers in Hadramawt killing two Belgian tourists and a Yemeni driver, injuring others and causing damage to properties (18 January 2008); attack on a girls school near US embassy leading to a number of injuries (18 March 2008); bombing of the main oil pipeline of a French oil company, Total (27 March 2008); bombing of a Chinese company (29 March 2008); bombing in area of al-Mashhad and al-Batnah in Hadramawt governorate resulting in injuries of soldiers and damage to properties (4 April 2008); bombing of a residential complex that was being rented out to a Canadian company in the Haddah area of Sana’a, resulting in damages to buildings (6 April 2008); bombing of a military camp in Hadramawt using vehicle loaded with explosives, which led to the killing of a soldier who was guarding the camp and damage to the camp (22 April 2008); bombings of government installations (finance, cultural institute, and customs) causing damage to buildings (30 April 2008); bombing in al-Buraykah in Aden which landed near the oil pipeline (30 May 2008); bombing of military camp in Hadramawt (25 July 2008); and attack against military, killing three soldiers, injuring others and causing damage to buildings, apparently in retaliation for an attack by government forces (11 August 2008).

¹³⁸ “Samta bids farewell to national martyr Major al-Amri; Southern Region leader: 113 martyrs... no more than 6 soldiers captive” (in Arabic), *al-Riyadh* (Saudi Arabian newspaper), 21 January 2010.

¹³⁹ “President of Republic heads National Council meeting: military operations in north-west region stopped” (in Arabic), *26 September* newspaper, 11 February 2010, at <http://www.26sep.net/narticle.php?sid=61153>, accessed on 30 June 2010.

¹⁴⁰ Security Council resolution 1325, 31 October 2000, para8.

¹⁴¹ See for example, “Houthi Group continues ceasefire breach; 4 soldiers abducted in Jawf”, Saba, 12 May 2010.

¹⁴² “INTERVIEW-Gunmen seizing north Yemen schools, endangering truce”, Reuters, 13 May 2010 and “UNICEF concerned about armed occupations of schools in Yemen”, UNICEF, 16 May 2010, at http://www.unicef.org.uk/press/news_detail_full_story.asp?news_id=1521, accessed on 30 June 2010.

¹⁴³ The dates provided in the timeline below, in particular the dates of the rounds of the armed conflict, are only approximate dates as it is difficult to verify due to different views regarding which incidents started and ended in each round.

¹⁴⁴ “More than 80 civilians killed in Yemen air raid: witnesses”, AFP, 17 September 2009.

¹⁴⁵ “Committee formed to investigate over allegations of Adi air raid”, Saba, 17 September 2009, at <http://www.sabanews.net/en/news193895.htm>, accessed on 30 June 2010.

¹⁴⁶ Other types of munitions could also have been responsible. Certainly several kinds of cluster munitions, including BLU-97A/B submunitions carried in the CBU-87 air-delivered munitions previously supplied to Saudi Arabia by the USA, have “ballute” parachutes. For information on the US Department of Defense announcement of its intention to transfer 600 CBU-87 cluster bombs to Saudi Arabia in September 1992 see the US Defense Security Cooperation Agency, *Notifications to Congress of Pending US Arms Transfers #92-42*, 14 September 1992, and Human Rights Watch, *Survey of Cluster Munition Policy and Practice*, February 2007, at http://www.mineaction.org/downloads/1/hrw_policy%20survey.pdf, accessed on 30 June 2010. However, other kinds of larger unitary munitions also have parachutes, including illuminating munitions and various kinds of parachute-retarded bombs.

¹⁴⁷ Interview on 8 March 2010, Sana’a. The man asked for his identity to be kept confidential.

¹⁴⁸ Interview on 8 March 2010, Sana’a.

¹⁴⁹ <http://www.youtube.com/watch?v=tHiTUbZ7o-k>, accessed on 30 June 2010.

¹⁵⁰ <http://www.youtube.com/watch?v=2iwQHESy2Ns>, accessed on 30 June 2010

¹⁵¹ The source provided Amnesty International with the names of 28 people who were said to have been killed.

¹⁵² Amnesty International, *Saudi Arabia/Yemen: All parties to Sa’da conflict must adhere to international law*, (Index: MDE 04/001/2009), 10 November 2009.

¹⁵³ SEYAJ, *Situation of children in Armed Conflict, Sadah war and Harf Sofian, North Yemen, 2009*. The report covered the period of 12-13 December 2009.

¹⁵⁴ As was mentioned above, Yemen is party to the 1949 Geneva Conventions, common Article 3 of

which applies to non-international armed conflicts; it is also party to the 1977 Additional Protocol II to the Geneva Conventions relating to the Protection of Victims of Non-International Armed Conflicts, and the Convention on the Rights of the Child and its 2000 Optional Protocol on the involvement of children in armed conflict (UN Doc A/RES/54/263; Yemen became party in 2007). Further, both Yemen and the Huthis were required to comply with customary international humanitarian law: see Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law*, Geneva, International Committee of the Red Cross and Cambridge University Press, 2005 (ICRC Study).

¹⁵⁵ Saudi Arabia is party to the 1949 Geneva Conventions (since 1963), Protocol II (since 2001) and, like all states, subject to customary international law.

¹⁵⁶ 1949 Geneva Conventions, common Article 3(1); Protocol II, article 4(1); ICRC Study, Rule 87.

¹⁵⁷ 1949 Geneva Conventions, common Article 3(1)(a) and (d); Protocol II, Article 4(2)(a); ICRC Study, Rule 89.

¹⁵⁸ 1949 Geneva Conventions, common Article 3(1)(a) and (c); Protocol II, Article 4(2); ICRC Study, Rule 90.

¹⁵⁹ 1949 Geneva Conventions, common Article 3(1)(b); Protocol II, 4(2)(c); ICRC Study, Rule 96.

¹⁶⁰ See ICRC Study, Rule 98.

¹⁶¹ ICRC Study, Rules 136 and 137; Protocol II, Article 4(3)(c); Convention on the Rights of the Child, Article 38(2) and (3) and its 2000 Optional Protocol.

¹⁶² Protocol II, Article 13; ICRC Study, Rules 1, 6, 7, 11, 12.

¹⁶³ ICRC Study, Rule 14.

¹⁶⁴ ICRC Study, Rule 10.

¹⁶⁵ Protocol II, Article 13(2); ICRC Study, Rule 2.

¹⁶⁶ ICRC Study, Rule 13.

¹⁶⁷ ICRC Study, Rules 15-19, 21.

¹⁶⁸ ICRC Study, Rule 20.

¹⁶⁹ ICRC Study, Rule 140.

¹⁷⁰ 1949 Geneva Conventions, common Article 1; ICRC Study, Rule 144.

¹⁷¹ ICRC Study, Rule 150; Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, General Assembly resolution 60/147 of 16 December 2005.

¹⁷² ICRC Study, Rules 151, 156-158. See also Rome Statute of the International Criminal Court, 2187 U.N.T.S. 90, which entered into force on 1 July 2002, Article 8.

¹⁷³ Press reports that Saudi Arabian military aircraft, including (UK-supplied) Tornado fighter-bombers, had been used to bomb northern Yemen in early November 2009, cannot be verified definitively (see "Saudis bomb Yemen rebels across border", Associated Press, 5 November 2009). However, the UK under the terms of a memorandum of understanding with Saudi Arabia, has supplied and maintains a range of military aircraft for the Saudi Arabian Air Force, including Tornado fighter-bombers and (since

mid-2009) Typhoon fighter-bombers, together with “associated support services, equipment, weapons, ammunition and electronic warfare systems”. See Witness Statement of Stephen Pollard, Deputy Director General, UK Ministry of Defence Saudi Armed Forces Programme (MODSAP) Team, in the matter of an appeal to the Information Tribunal under Section 57 of the Freedom of Information Act 2000 between Campaign Against the Arms Trade and the Information Commissioner and Ministry of Defence, Case no. EA 2007/0040, 19 November 2007. The oral transcript of his cross-examination at the Tribunal describing the types of weapon systems supplied is at <http://www.caat.org.uk/infotribunal/transcript-2008-03-04.pdf>, accessed on 30 June 2010. Stephen Pollard also reported that: “The MODSAP team is headed by a serving air-vice marshal as Director-General, and consists of some 200 military and civilian staff based in the UK and Saudi Arabia... Since its inception, MODSAP has been part of DESO [the UK Defence Export Services Organisation].”

In addition, under a government-to-government assistance agreement, private UK contractors also had over 2,000 staff working at Saudi Arabian air force bases. Saudi Arabia has also bought arms, including airborne missiles, directly from US companies. Such purchases included the \$300 million upgrade and support system for the Peace Shield radar system acquired in 1998, which is designed to allow the Saudi Arabian Air Force to manage its airborne and ground-based resources. It includes a Central Command Operations Center, regional centres, long-range radars, US-supplied AWAC surveillance aircraft, and a number of remote facilities under system managed by a private US contractor. See for example: US Department of Defense, “Contracts for June 15, 2009”; and <http://www.globalsecurity.org/military/world/gulf/rsaf.htm>, accessed on 30 June 2010.

¹⁷⁴ SEYAJ, *Situation of children in Armed Conflict, Sadah war and Harf Sofian, North Yemen, 2009*. The report covered the period of 12-13 December 2009.

¹⁷⁵ For more information see “YEMEN: The ever-present landmine threat”, IRIN (humanitarian news and analysis website, a project of the UN Office for the Coordination of Humanitarian Affairs), 3 May 2010.

¹⁷⁶ See “YEMEN: The ever-present landmine threat”, IRIN, 3 May 2010.

¹⁷⁷ For more information regarding land mine and UXO incidents in and around Yemen please see the Land Mine Monitor Report for Yemen for 2009 at: http://www.the-monitor.org/index.php/publications/display?act=submit&pqs_year=2009&pqs_type=lm&pqs_report=yemen#footnote-11301-35-backlink, accessed on 30 June 2010.

¹⁷⁸ See UN Office for the Coordination of Humanitarian Affairs (OCHA), *Yemen 2010 Humanitarian Response Plan*, at [http://ochadms.unog.ch/F00839A5-118C-4D49-89D1-13778B0B1AB3/FinalDownload/DownloadId-FB9FACF267FA71D9A73F798B982024B7/F00839A5-118C-4D49-89D1-13778B0B1AB3/quickplace/cap/main.nsf/h_Index/2010_Yemen_HRP/\\$FILE/2010_Yemen_HRP_SCREEN.pdf?OpenElement](http://ochadms.unog.ch/F00839A5-118C-4D49-89D1-13778B0B1AB3/FinalDownload/DownloadId-FB9FACF267FA71D9A73F798B982024B7/F00839A5-118C-4D49-89D1-13778B0B1AB3/quickplace/cap/main.nsf/h_Index/2010_Yemen_HRP/$FILE/2010_Yemen_HRP_SCREEN.pdf?OpenElement), accessed on 30 June 2010.

¹⁷⁹ The total funding requested has also been revised to \$187 million. See “Humanitarian Response Plan for Yemen 2010, Mid-Year Review”, UN Humanitarian Appeal, Consolidated Appeals Process, at http://ochaonline.un.org/HUMANITARIANAPPEAL/webpage.asp?MenuID=13990&Page=1881#_ftn1, accessed on 30 June 2010.

¹⁸⁰ OCHA, *Yemen Humanitarian update*, Issue no. 6, 31 March 2010.

¹⁸¹ “Yemen: No ID, no registration as an IDP”, IRIN, 8 April 2010.

¹⁸² Office of the United Nations High Commissioner for Refugees (UNHCR), Yemen Factsheet March 2010.

¹⁸³ "Yemen: No ID, no registration as an IDP", IRIN, 8 April 2010.

¹⁸⁴ "Houthi-held Saudi soldier freed", Saba, 15 February 2010 and "2 Saudi soldiers go home released by Houthi rebels", Saba, 19 February 2010.

¹⁸⁵ "Rebels hand over Yemeni captives", Saba, 18 March 2010.

¹⁸⁶ "Over 50 detainees of al-Houthi group released", Saba, 5 April 2010.

¹⁸⁷ "161 rebel-linked detainees released", Saba, 6 April 2010 and "Yemen releases al-Houthi supporters", *Yemen Observer*, 8 April 2010.

¹⁸⁸ "Saada, riots detainees released", Saba, 25 May 2010, at <http://www.sabanews.net/en/news215430.htm>, accessed on 30 June 2010.

¹⁸⁹ Interview on 18 March 2010, Sana'a.

¹⁹⁰ Interview on 18 March 2010, Sana'a.

¹⁹¹ Interview on 9 March 2010, Sana'a.

¹⁹² Interview on 10 March 2010, Sana'a.

¹⁹³ Case no. 95 of 2009 Prosecution of the Specialized Appeal Court, registered under no. 94 2009, Prosecution of the Specialized Criminal Court of First Instance.

¹⁹⁴ All 10 were charged with participating in an "armed gang" to execute a criminal project collectively for acts carried out between 2004 and 4 July 2008, including preparing to carry out killings, bombings, destruction, use of violence, and subject the security of society to danger; "preparing" the necessary weaponry; "preparing" heavy and light weapons and ammunition, missiles and explosives; collecting money and means of transport; preparing their position and digging barricades in the governorate of Sa'dah and directorate of Bani Hushaysh and its surroundings which resulted in the killings and injuries of a large number of members of the security forces, citizens, women, children, and destruction and devastation, looting of material and means of transport.

¹⁹⁵ Interview on 10 March 2010, Sana'a.

¹⁹⁶ The UN Guiding Principles on Internal Displacement, UN Doc E/CN.4/1998/53/Add.2; 11 November 1998. The Guiding Principles do not constitute an independently binding set of legal principles, but rather "are based upon, reflect, and are consistent with international human rights law and international humanitarian law, as well as international refugee law where it can be applied by analogy." Walter Kälin, "The role of the Guiding Principles on Internal Displacement," *Forced Migration Review, IDP Supplement*, October 2005.

¹⁹⁷ Statistics calculated to approximately 3,687,762 people, found in *Population Statistics 2003*, the Yemeni Central Statistical Organisation. Governorates and cities included in count are: Aden, Lahj, Abyan, Shabwah, Hadramawt, al-Mahrah and al-Dali'.

¹⁹⁸ "One person killed and five others, including a woman, are injured as shelling renewed in the villages and cities of Radfan", *al-Ayyam* website, 4 May 2009.

¹⁹⁹ Interview on 15 March 2010.

²⁰⁰ The resident spoke to Amnesty International delegates in March 2010; the name is withheld for fear of reprisal.

²⁰¹ "Two dead as 'banditry' hits south Yemen", Saba, 30 November 2009. See also al-Sahwa.net, 30 November 2009.

²⁰² "Soldiers killed, injured as fierce clashes erupt between security and Mareb tribesmen", *Yemen Post*, English language news website, 7 February 2010.

²⁰³ See Yemen Observatory for Human Rights, *2010 Annual Report on Human Rights and Democracy in 2009*, published in June 2010.

²⁰⁴ See "Southern movement elements kill 8, wound 18 in south Yemen", *Yemen Observer*, 23 July 2009.

²⁰⁵ Interview on 15 March 2010, Aden.

²⁰⁶ Interview on 15 March 2010, Aden.

²⁰⁷ Interview on 15 March 2010, Aden.

²⁰⁸ Interview on 15 March 2010, Aden.

²⁰⁹ Interview on 15 March 2010, Aden.

²¹⁰ Interview on 14 March 2010, Aden.

²¹¹ He gave Amnesty International a medical report of his injuries provided by al-Naqib Hospital.

²¹² Interview on 13 March 2010, Aden.

²¹³ Interview on 15 March 2010, Aden.

²¹⁴ Interview on 15 March 2010, Aden.

²¹⁵ Interview on 15 March 2010, Aden.

²¹⁶ Interview on 15 March 2010, Aden.

²¹⁷ "Media: All newspapers that prejudice national unity will be suspended" (in Arabic), *26 September*, 4 May 2009, and "Information Ministry: Papers harming national unity will be halted", Saba, 5 May 2009.

²¹⁸ Interview on 13 March 2010, Aden.

²¹⁹ Reporters without Borders, "Soldiers overrun media company to suppress story about army raid on police station", 23 April 2010.

²²⁰ Article 41 of the Yemeni Constitution states: "Every citizen has the right to participate in the political, economic, social and cultural life of the country. The state shall guarantee freedom of thought and expression of opinion in speech, writing and photography within the limits of the law."

²²¹ One of the main international standards, Article 19 of the ICCPR, provides:

"1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

3. *The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:*

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (ordre public), or of public health or morals.”

²²² This report will not cover the draft information law of 2009 that has been before parliament since 2009. Article 3 states its aims to: “ensure and facilitate the citizen’s right to have access to information without delay and develop the rules of exercising rights and freedoms”; “strengthen the components of transparency and increase the opportunities for a conscious and responsible participation”; and “enable society to develop its capacities and to increasingly benefit from information”. The initial draft was subject to detailed analysis by the NGO Article 19 in its report *Comment on the Draft Law concerning the information of Yemen*, October 2009.

²²³ See Article 103 of the Press and Publications Law:

“All those working in the written and audiovisual media, particularly the officials in audiovisual broadcasting, all newspaper owners and editors-in-chief, owners of printing and publishing houses, and journalists, must commit not to print, publish, disseminate or broadcast the following:

1. *Anything that prejudices the Islamic faith and its lofty principles or degrades divine religions and human beliefs;*
2. *Anything that prejudices the highest interest of the country, such as confidential documents and information or the divulgence of security and defence secrets about the nation in accordance with the law;*
3. *Anything that leads to the stirring of tribal, sectarian, racial, regional or ancestral feuds and to the propagation of discord and division between members of society or anything that calls for labelling them as infidels;*
4. *Anything that leads to the promotion of ideas hostile to the objectives and principles of the Yemeni revolution or to the prejudicing of national unity or to the distortion of Yemeni, Arab and Islamic heritage and civilization;*
5. *Anything that leads to the breaching of public morals and anything that prejudices people’s dignity and personal freedoms with the aim of publicity and personal defamation;*
6. *The details of private sessions of the supreme authorities of the state;*
7. *Such details of an investigation during the stages of investigation and trial that would affect the course of justice and whose publication is prohibited by the investigation, inquiry and prosecution services and the judiciary;*
8. *Intentionally publishing false statements, news, information or reports with the objective of affecting the economic situation and causing confusion or disorder in the country;*
9. *Inciting the use of violence and terrorism;*
10. *Adverts which contain phrases or photographs that contradict Islamic principles and public morals or defamation and distortion of individuals’ reputations or an assault on the*

rights of others or a deception of the public;

11. *Adverts for medical and beauty products and foodstuffs without permission from the competent authority;*
12. *Subjecting to direct and personal criticism the person of the president, who must have no words attributed to him or photographs of him published without prior permission from the president's office or the Ministry of Information unless the words were said or photographs taken during a public address to the people or in a general interview; these rules do not apply necessarily to constructive objective criticism."*

²²⁴ See Article 135 of the Penal Code.

²²⁵ See Article 197 of the Penal Code.

²²⁶ See Chapter 7 of the draft Press and Publications Law initiated in 2005.

²²⁷ See Article 6 of the draft Law on the Organization of Private Audiovisual Media and Electronic Media Law.

²²⁸ See Article 4(11) of the draft Law on the Organization of Private Audiovisual Media and Electronic Media Law.

²²⁹ See Article 4(12) of the draft Law on the Organization of Private Audiovisual Media and Electronic Media Law.

²³⁰ See Article 4(14) of the draft Law on the Organization of Private Audiovisual Media and Electronic Media Law.

²³¹ See Article 47(7) of the draft Law on the Organization of Private Audiovisual Media and Electronic Media Law.

²³² See Article 17 of the draft Law on the Organization of Private Audiovisual Media and Electronic Media Law.

²³³ "Media and Justice: Race to stifle freedoms and confiscate rights" (in Arabic), al-Sahwa.net, 6 April 2010.

²³⁴ See Article 131 of the draft amendments to the Penal Code announced by the Minister of Justice in April 2010.

²³⁵ See Article 131 of the Penal Code.

²³⁶ See for example *Kim v the Republic of Korea*, Communication no. 574/1994 (4 January 1999) and *Park v the Republic of Korea*, Communication no. 628/1995 (20 October 1998); *Laptsevich v Belarus*, Communication no. 780/1997 (20 March 2000); Human Rights Committee, General Comment no. 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc CCPR/C/21/Rev.1/Add.13, 26 May 2004, para6. For text of Article 19 see note 221 above.

²³⁷ Report to the General Assembly, UN Doc A/HRC/7/14 (28 February 2008), paras 40-43, 78-79.

²³⁸ Report to the General Assembly, UN Doc A/HRC/7/14 (28 February 2008), para79.

²³⁹ Report to the General Assembly, UN Doc A/HRC/7/14 (28 February 2008), para85.

²⁴⁰ "al-Sahwa.net exclusively publishes Audiovisual and Electronic Media Law", (in Arabic), al-

Sahwa.net, 5 April 2010.

²⁴¹ See Article 109 of the PPL.

²⁴² See Article 110 of the PPL.

²⁴³ Decision of the Supreme Judicial Council no. 130 of 2009.

²⁴⁴ "Government establishes 'special court' for press", *Yemen Times*, an English-language newspaper, 13 May 2009.

²⁴⁵ See Article 150 of the Constitution which states: "Exceptional courts may not be established under any conditions."

²⁴⁶ "Yemen jails editor in ongoing media onslaught", Committee to Protect Journalists, 12 May 2010 and "Yemeni court gives five journalists suspended jail terms", Committee to Protect Journalists, 25 May 2010.

²⁴⁷ "Yemen jails editor in ongoing media onslaught" Committee to Protect Journalists, 12 May 2010.



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YEMEN: CRACKING DOWN UNDER PRESSURE

The Yemeni authorities, facing growing internal and external pressures, are abandoning human rights in the name of security. Internationally, tough action is being demanded to combat al-Qa'ida based in Yemen. Inside Yemen, the state is being challenged by a secessionist movement in the south, an intermittent conflict in the north, armed tribes that effectively control large areas of the country, and a desperate economic situation.

This report highlights how the government is increasingly resorting to repressive laws and illegal methods in response to the challenges it faces and to silence its critics. Citing many individual cases, the report documents various patterns of abuse, including political killings, arbitrary detentions, enforced disappearances, torture and unfair trials. It describes the consequences of the latest and deadliest round of fighting in the north, when hundreds, possibly thousands, of civilians were killed in aerial bombardments, many in apparently indiscriminate or disproportionate attacks by Yemeni and Saudi Arabian forces. It also shows that the international community has shown little concern about the impact any security operations might have on human rights.

The report calls on the Yemeni government to respect human rights at all times, however difficult the challenges and however intense the pressures. It also urges other governments to do all they can to ensure that human rights are fully respected and promoted in Yemen.

Amnesty International
International Secretariat
Peter Benenson House
1 Easton Street
London WC1X 0DW
United Kingdom

www.amnesty.org

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