

## Introduction

In the last three-and-a-half years, Yemen has experienced significant political and social developments. The massive protests of 2011 finally resulted in the resignation of President Saleh in November 2011, when he signed the agreement brokered by the Gulf Cooperation Council (GCC). The road-map associated with it involves a series of measures to be implemented in order to guarantee an effective political transition. In parallel, Yemen has been subjected to the attention of the Human Rights Council (UNHRC) and has taken some steps to improve the human rights situation in the country. For instance, it has implemented some of the recommendations made during its first UPR (2009). Yemen has also significantly strengthened cooperation with the UN and allowed the establishment of an OHCHR field office.

UNHRC resolutions 18/19 (2011) and 19/29 (2012) acknowledged the government's cooperation with the OHCHR and steps taken both to ensure accountability for violations and to improve the human rights situation in Yemen, while inviting partners to assist the transitional process. Resolution 21/22 (2012) further encouraged Yemen to pursue reforms, appreciating the establishment of a committee to investigate human rights violations that occurred in 2011. The last Council resolution on Yemen (24/32 in 2013) was more substantive on the issues to be addressed, from accountability to violence against journalists, fair trial guarantees, violations of children's and of women's rights, and arbitrary detentions. Lastly, in June 2014, a series of recommendations were addressed to Yemen at the occasion of the UPR.

Yemen has been facing a dire humanitarian crisis and challenging political and security issues. This has contributed to compromise the political transition but the Yemeni government, despite some important developments such as the National Dialogue Conference, has also failed to implement some key measures. The next milestone in the transitional process is the drafting and adoption of a new Constitution. This is a crucial opportunity to make concrete some pledges taken by the Yemeni government in order to ensure that the new Constitution guarantees international human rights standards. The Human Rights Council has a key role in this regard.

Cooperation between Yemen and OHCHR has often been cited as an example. However, many challenges remain. In terms of accountability and guarantees of non-repetition, the establishment of an independent commission to investigate the human rights violations perpetrated during the 2011 events was announced over three years ago. The commissioners are still to be appointed. The transitional justice law has yet to be adopted. The draft law still fails to fully guarantee the right to effective remedy for victims. The Amnesty Law that grants immunity to those responsible for serious human rights violations remains in force. Moreover, the situation of women's rights, as well as of freedom of expression, peaceful assembly and association, remains dire. Attacks on journalists and human rights defenders are ongoing, the activities of civil society organizations are restricted. The death penalty is used for a wide series of offences, and it endemic use, as well as other grave human rights violations, is of utmost concern. This has been under-addressed by the Council.

UNHRC initiatives on Yemen should reflect both progress recorded and remaining challenges. The resolution to be adopted under item 10 during HRC 27 in September 2014, while being an opportunity to reflect on the former, should also include more substantive language on the latter in order to encourage the Yemeni authorities, with OHCHR assistance, to fulfil their obligations to protect the most vulnerable groups, to combat impunity, and to uphold expressive rights. It should also recommend the establishment of an international independent commission of inquiry to carry out investigation into human rights violations committed in relation to the 2011 demonstrations, and call on the Government of Yemen to fully cooperate with it.

### **Accountability and end of impunity:**

Massive human rights violations committed in 2011 have neither been investigated nor prosecuted. FIDH documented human rights violations committed during this period by government forces including

excessive use of force resulting in death; arbitrary arrest and detention; forced disappearances; acts of torture and ill-treatment; and preventing the injured from accessing medical care.<sup>1</sup>

A Presidential decree was passed in September 2012 establishing a national commission of inquiry into the 2011 violations. The concrete establishment of this commission has been continuously delayed and members are yet to be appointed. By delaying and neglecting the accountability process, the Yemeni authorities not only deprive the victims of justice but fail to send a clear message of accountability for those responsible of such crimes. Yet accountability contributes to guarantees of non-repetition.

The President of Yemen set up a commission to investigate the events that occurred in December 2013 in the Dhale'e governorate, where military operations resulted in the death of civilians. The absence of public information regarding the findings of this investigation commission contributes to question the willingness and capacity of the Yemeni authorities to shed light on human rights violations and ensure accountability.

The lack of transparent investigations and of accountability hamper the rights of the Yemeni people to see the perpetrators punished, to know the truth, and to receive reparations. Yet these are central elements of the transitional process initiated by Yemen since 2012. A long-awaited amended draft Law on transitional justice was submitted to the Cabinet last May. According to information received, the draft law follows the recommendations made by the Transitional Justice Working Group of the National Dialogue Conference (NDC)<sup>2</sup> as integrated in the NDC final report adopted in January 2014. The working group's recommendations include State obligation to adhere to international human rights standards with regards to transitional justice mechanisms, and to take the necessary steps to achieve transitional justice and guarantee non-repetition within one year. While this constitutes a positive development, FIDH fears a continuation of the dead-lock regarding agreement over the final draft law, particularly in view of the ongoing and increased political tensions over the past months.

On the other hand, the immunity law which was passed by the parliament in January 2012, as a result of the GCC-brokered agreement, presents a major obstacle to transitional justice. It not only condones impunity for the main authors of serious human rights violations over the last decades, including throughout 2011, but also contravenes international human rights standards.

The Yemeni authorities should implement, without further delay, their repeated commitments towards the international community, in particular the UNHRC resolutions and more recently the outcome of the UPR process in June 2014 :

- Repeal Law No. 1 of 2012 (on the Granting of Immunity from Legal and Judicial Prosecution) and guarantee that no perpetrators for grave human rights violations are immune from punishment;
- Ratify the Rome Statute of the International Criminal Court;
- Guarantee that the transitional justice law is in line with international human rights standards, including ensuring the right to truth and justice to victims and guaranteeing that victims of human rights violations are provided with full reparations;

In addition to this and taking into account the extensive delay in effectively establishing a Commission of Inquiry into the 2011 events, we call upon the HRC to:

- Establish an international commission of inquiry to conduct an independent and impartial investigation into human rights violations during the events of 2011;

and the Yemeni authorities to :

---

<sup>1</sup> FIDH, *Yemen: Impunity granted, transition at risk*, March 2012, available at [http://www.fidh.org/IMG/pdf/yemen\\_report\\_en\\_vf.pdf](http://www.fidh.org/IMG/pdf/yemen_report_en_vf.pdf).

<sup>2</sup> The National Dialogue Conference was held between March 2013 and January 2014, as part of the GCC agreement. The outcomes of the conference, which had to be adopted by consensus, are the guidelines for the drafting of the constitution. The issues that were discussed included the Southern secession inclinations and Saada, national reconciliation, transitional justice, state building, good governance, rebuilding the army and security forces, the status of special entities, rights and freedoms, and comprehensive, integrated, and sustainable development.

- agree and fully cooperate with such a commission;

### **Ensuring equality and Protection of Women's Rights:**

Discrimination against women, both in law and practice, is widespread in Yemen. The Personal Status Law (PSL) imposes male guardianship for all activities including marriage, travel and choice of place of residence; it also allows the marriage of girls below the age of 15 with the consent of their guardian, recognizes polygamy and no-fault divorce (*khula*), which requires the woman to return her dowry and renounce all financial rights.<sup>3</sup> The Penal Code allows reduced sentences for “honour crimes” (a fine or a maximum one year imprisonment) and provides less financial compensation for female victims.

Gender equality and women's rights were discussed within the National Dialogue Conference. The recommendations to establish the minimum age of marriage at 18 years, to ban and penalize early marriages and guarantee equality in compensation for “diya” (blood money) are among positive, but insufficient, outcomes of the NDC. The NDC recommended that there should be no discrimination based on gender, religion, opinion, ethnicity, race, profession, and social and economic status including in the upcoming Constitution. Some key issues pertaining to equality and women's rights were blocked by political groups, mainly Islamist ones, such as the inclusion of constitutional or legal provisions guaranteeing gender equality and respect of international human rights law on women's rights.

In addition to the provisions of the PSL that constitute a flagrant discrimination against women and girls, widespread gender-based violence is not criminalized in domestic law. There are no legal provisions to punish deprivation of education, early marriage and forced marriage, restrictions and control over freedom of movement. A definition of sexual violence does not exist in the Penal code and there is no criminalisation of physical and psychological abuse within the family, sexual harassment and abuse or female genital mutilation.<sup>4</sup> FGM continues to be widely documented in rural and coastal areas despite a decree banning the practice in public hospitals.

Participation of women in public life remains low. The NDC, which includes 29% women in its membership, has recommended a 30% representation of women in all state institutions and elected bodies. However, there have been no concrete measures taken to effectively increase women's participation in public affairs. The Constitutional Drafting Commission established in March 2014 and named by Presidential Decree included only 4 women out of the 17 members (23.5%). The Yemeni government reshuffle of June 2014 included only 2 women as ministers. The government was suspended again in September 2014, and at the time of writing has not yet been reformed.

The Yemeni government must take the necessary measures to ensure that NDC recommendations pertaining to the adoption of legislations to criminalize violence against women and “guarantee all civil, political, social, economic and cultural rights of women, enable them to practice all rights of equal citizenship, eliminate discrimination, and protect women against all forms of violence and inhumane practices” will be effectively implemented.

More concretely, we encourage the Yemeni authorities to:

- Amend all discriminatory laws and provisions, in particular the Personal Status Law and Penal Code provisions and bring them in line with international human rights standards on full equality between men and women;

---

3

For more information see “Women and the Arab Spring: Taking their Place?” (March 2012)  
<http://arabwomenspring.fidh.net>.

4

United Nations Yemen Country Assessment on Violence against Women, August 2012, available at:  
[http://www.un.org/womenwatch/ianwge/taskforces/vaw/Country\\_Assessment\\_on\\_Violence\\_against\\_Women\\_August\\_2\\_2010.pdf](http://www.un.org/womenwatch/ianwge/taskforces/vaw/Country_Assessment_on_Violence_against_Women_August_2_2010.pdf).

- Take effective measures to combat violence against women, including explicitly criminalizing and ensuring that incidents of domestic violence are investigated and those responsible held accountable, and provide safe shelters for victims of domestic violence;
- Immediately prohibit forced and child marriages under the age of 18, and ensure that violations will be duly investigated and prosecuted;
- Take effective measures to ensure the wide participation of women in all areas of public life;
- Ratify the Optional Protocol to CEDAW;

### **Protection of fundamental freedoms:**

Civil society activists, human rights defenders and journalists have been increasingly targeted for their human rights or information activities by state and non-state actors. Journalists, lawyers and activists have been killed over the past years. Hassan al Dawla, a lawyer representing victims who died in the protests of March 18th, 2011, was murdered in his house in December 2013. The Public Prosecution opened investigations but has yet to yield any result. In February 2013, activist Alaa al Khaiwani was subjected to an attempted assassination which led to several injuries. Beatings, insults, threats, and defamation campaign of journalists from non-state actors have been increasingly reported. Mansour Abu Ali and Wael Al Absi were physically assaulted due to their activities in monitoring and publishing information on human rights violations. Defamation campaigns, insults and beatings are common practice and the Yemeni authorities have neither condemned this practice nor taken any measures to ensure the protection of activists or journalists.

Repression against freedom of information by the authorities has also been reported. This includes threats against media workers and sanctions against media outlets. In July 2014, the authorities raided Yemen TV, a private TV station without any legal basis, confiscated the equipment, and banned broadcasting. This is still in effect at the time of writing. The state owned newspaper, Al Thawra, justified the raid by claiming that Yemen TV is unlicensed; however it is important to note that there is no law organizing private TV stations in Yemen. The NDC recommended the prohibition of closure or confiscation of media without a court order. It further encouraged the adoption of constitutional provisions for the protection of rights and freedoms, such as freedom of expression and opinion and the right to information.

Despite another NDC recommendation pertaining to the right to form associations and trade unions, according to which only notification is required to form an association or trade union and closure can only be imposed by judicial orders, there has been no legal development in this regard. Moreover, several government employees have been targeted by the authorities after their demands for establishing independent unions. Demands for establishing unions for government institutions have been rejected by several ministries, and leading activists involved in the mobilization, such as Nofal al Rofai and Yasser al Obaidi from the Ministry of Finance, have been prevented from entering the ministry, denied their salaries, and transferred to Maa'reb (a town removed from the capital). Mohamed Al Maktari, a leading activist in the Civil Services union was referred for administrative investigation based on alleged charges of attempting to create an independent union.

Taking this into account, FIDH calls upon the Yemeni government to:

- Put an end to acts of repression, guarantee the protection of human rights defenders, journalists and civil society activists targeted for the peaceful exercise of internationally recognized rights and freedom ; make sure that independent and impartial investigations into attacks against them will be launched and that those responsible will be held accountable;
- Guarantee the right to freedom of expression, opinion and assembly as well as the right to information, in practice and in law, and recognize these rights in the constitution and the domestic legislation.