

CHILD SOLDIERS

INTERNATIONAL

Yemen

Report to the Committee on the Rights of the Child in advance of
Yemen's initial periodic report on the Optional Protocol to the
Convention on the Rights of the Child
on the involvement of children in armed conflict

March 2013

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Who are child soldiers?

Child Soldiers International considers the term child soldier to be equivalent to the following description of children associated with armed forces or groups:

A child associated with an armed force or armed group refers to any person below 18 years of age who is, or who has been, recruited or used by an armed force or armed group in any capacity, including but not limited to children, boys and girls, used as fighters, cooks, porters, spies or for sexual purposes. It does not only refer to a child who is taking, or has taken, a direct part in hostilities.

Child Soldiers International was formerly the **Coalition to Stop the use of Child Soldiers**. Child Soldiers International is an international human rights research and advocacy organization. Child Soldiers International seeks to end and prevent the military recruitment and use in hostilities of child soldiers (boys and girls below the age of 18), and other human rights abuses resulting from their association with armed forces or groups. It seeks the release of child soldiers from armed forces or groups, promotes their successful return to civilian life and accountability for those who recruit and use them. Child Soldiers International promotes global adherence to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

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Introduction and principal recommendations

Child Soldiers International submits this report for consideration by the Committee on the Rights of the Child (the Committee) in view of its examination in June 2013 of Yemen's initial report under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPAC).

This report was compiled through desk-based research of available secondary sources and through communication with a national non-governmental organisation (NGO).¹ On the basis of the information gathered, this report summarises Child Soldiers International's concerns about Yemen's implementation of some of its obligations under OPAC, including in relation to:

- The unlawful recruitment of children in state armed forces and allied armed groups (tribal militias) and their participation in hostilities.
- The unlawful recruitment of children in armed opposition groups and their use in hostilities.
- The lack of criminalisation and accountability for the unlawful recruitment and use of children in hostilities.

In light of these concerns, Child Soldiers International makes a range of recommendations for immediate action by the government of Yemen, including to:

- Ensure that the minimum age for recruits is strictly enforced and that military units are regularly monitored in order to prevent and detect any underage recruitment.
- Standardise and centralise recruitment procedures for state armed forces, including through the establishment of a central database containing the personal information of all state armed forces personnel, such as their date of birth supported by a copy of their birth certificate or another official identity document and the full name and rank of the recruiting officer to enable verification and release of underage recruits, including those who were in the past recruited below 18.
- With the assistance of UNICEF, immediately carry out a comprehensive screening process to identify all children in the state-allied tribal militias; ensure that any children in their ranks are immediately released and provided with support for their recovery and reintegration.
- Include in national legislation provisions which explicitly criminalise violations of the provisions of OPAC regarding the recruitment of children by state armed forces and armed groups in both peace and times of armed conflict and their use in hostilities.
- Seek technical assistance from the UN and the international community to put in place the necessary recruitment procedures, age verification mechanisms and independent monitoring and oversight of the state armed forces to prevent unlawful recruitment of children.

Terminology

A range of armed actors are active in Yemen and recruit and use children in hostilities. In this report reference is made to the following:

¹ The Seyaj Organization for Childhood Protection, who specialise in defending child rights through monitoring, documentation and providing judicial advocacy for child victims of crimes and violations, <http://seyaj.org/en/default.aspx>.

- Yemeni army: refers to the state's army, air force and navy.
- State armed forces: refers to the full range of Yemeni government armed forces, including the Yemeni army, police, border guards and other official forces regulated by law.
- State-allied armed groups: refers to non-state armed groups which are backed by or allied to the state armed forces but which are not officially part of them, including the tribal militias.
- Armed opposition groups: refers to non-state armed groups which are fighting the state armed forces, including the breakaway First Armoured Division (FAD).

Background and context

Currently ranking 154 out of 187 countries on the Human Development Index,² with 38.59 per cent of its population living below the poverty line,³ Yemen is the poorest country in the Arabian Peninsula with high levels of unemployment and endemic corruption.⁴ These conditions have been exacerbated by a series of internal armed conflicts and recent political unrest.

Following the collapse of negotiations on electoral and constitutional change between the Yemeni government and the opposition coalition in late 2010 and fuelled by unrest in other countries in the region (dubbed the 'Arab Spring'), protests erupted in Yemen in early 2011 calling for governmental reform. Initially peaceful, the intensity of these protests increased in spite of President Saleh's promise not to seek re-election in 2013 or pass power to his son. The protests were subsequently met with violence by the state armed forces and the President's supporters, resulting in a number of deaths and injuries. Following the killing of protestors in March 2011 by government forces, a number of officials resigned. The commander of the FAD, General Ali Mohsen, defected from the Yemeni army and ordered his soldiers to form a protective ring around 'Change Square' to defend the protestors from future attacks from the state armed forces and state-allied armed groups.

In April 2011 a Gulf Cooperation Council (GCC) brokered deal was proposed and the opposition coalition, the 'Joint Meeting of Parties' (JMP) signed the agreement on 21 May. However, President Saleh refused to sign and on 22 May fighting erupted, causing dozens of deaths and thousands of internally displaced persons. In late May, state armed forces used live ammunition against peaceful protestors in Ta'izz causing the mobilisation of anti-government protestors and a subsequent increase in violence. It was reported that both government forces and anti-government protestors used tanks, mortar shells, machine guns and rocket-propelled grenades in their attacks against each other.⁵ On 3 June 2011 an explosion inside the mosque of the presidential palace killed 11 and seriously injured President Saleh.

On 21 October 2011 the UN Security Council adopted resolution 2014 (2011) condemning the continuing human rights violations by the Yemeni government and others. On 23 November the Yemeni authorities signed the GCC brokered agreement. This agreement paved the way for the transition process and called for elections in February 2012, with the Vice-President holding the power in the interim.⁶ It also granted an amnesty for the President and his associates. Elections were held in February 2012, resulting in the swearing in of President Hadi who has been mandated to lead a two year political transition process. A

² International Human Development Indicators, Yemen country profile, <http://hdrstats.undp.org/en/countries/profiles/YEM.html>.

³ United Nations Development Program, Republic of Yemen, 11 March 2013 <http://www.undp.org/ye/poverty.php>.

⁴ Report of the UN High Commissioner for Human Rights on the visit by the Office of the High Commissioner for Human Rights (OHCHR) to Yemen, UN Doc. A/HRC/18/21, 16 September 2011, paragraph 7.

⁵ Report of the UN High Commissioner for Human Rights on the human rights situation in Yemen, UN Doc. A/HRC/19/51, 13 February 2012, paragraph 14.

⁶ Former President Saleh remains the head of the General People's Congress, which controls the Parliament.

significant part of this process is focused on the restructuring of the state armed forces (announced in December 2012). The National Dialogue Conference currently scheduled for March 2013 will be conducted over six months and will feed into the drafting of a new constitution. It is hoped that its inclusive nature will ease tensions between groups in the lead up to the 2014 general elections.⁷

In addition to the 2011-2012 anti-government protests, Yemen has a history of instability and internal armed conflict. Since 2004, the northernmost governorates of Yemen have experienced successive armed conflicts waged between an armed opposition group called the *Al-Houthi* and the state armed forces and state-allied tribal militias, causing thousands of deaths.⁸ The most recent conflict occurred between 2009 and February 2010 when a ceasefire agreement was signed. Despite this agreement, the *Al-Houthi* have used to their advantage the government forces' shifting of resources and attention to dealing with the 2011 protest by consolidating and extending its control. Meanwhile, fighting against a rival tribe in Al-Jawf Governorate has recently erupted, causing renewed insecurity in the region.⁹

Another conflict is ongoing in the south of Yemen, where the *Ansar al-Sharia* armed opposition group operates. This group reportedly has links to *al-Qaeda* in the Arab Peninsula (AQAP)¹⁰ and it attempts to impose a strict interpretation of Islamic law. By 2010 they had established a strong presence in the south, taking advantage of an absence of viable state institutions.¹¹ Exploiting the insecurity and instability caused by the 2011 protests, the armed opposition group made large territorial gains in the south, particularly in Abyan. During this time it was reported that the *Ansar al-Sharia* committed widespread and grave human rights abuses, including summary killings and amputations. Soon after *Ansar al-Sharia* took control of Abyan and other areas in the south, the state armed forces began an armed offensive against the group, and successfully drove them out of Abyan and the surrounding areas in June 2012.¹² During this military campaign against the *Ansar al-Sharia*, the armed opposition group carried out a suicide attack in May 2012 which targeted a Yemeni military parade rehearsal in Sana'a and killed more than 90 people.¹³ Subsequent armed attacks claimed by, or attributed to, AQAP continue to occur and there remains a risk that conflict will re-erupt. During this armed conflict the *Ansar al-Sharia*, the state

⁷ Report of the UN High Commissioner for Human Rights on the visit by the Office of the High Commissioner for Human Rights to Yemen, UN Doc. A/HRC/18/21, 16 September 2011, paragraphs 7-16; Report of the UN High Commissioner for Human Rights on the human rights situation in Yemen, UN Doc. A/HRC/19/51, 13 February 2012, paragraphs 7-17; What's in Blue, Insights on the Work of the UN Security Council, "Yemen Presidential Statement", 29 March 2012, <http://www.whatsinblue.org/2012/03/yemen-presidential-statement.php>; What's in Blue, Insights on the Work of the UN Security Council, "Yemen Briefing and Consultations" 6 February 2013, <http://www.whatsinblue.org/2013/02/yemen-briefing-and-consultations.php>; *BBC News*, "Arab uprising: country by country – Yemen", 4 September 2012, <http://www.bbc.co.uk/news/world-12482293>; *The New York Times*, "Yemen: Overview", <http://topics.nytimes.com/top/news/international/countriesandterritories/yemen/index.html>.

⁸ Report of the UN High Commissioner for Human Rights on the visit by the Office of the High Commissioner for Human Rights to Yemen, UN Doc. A/HRC/18/21, 16 September 2011, paragraph 7.

⁹ Children in armed conflict, Report of the Secretary-General, UN Doc. A/66/782-S/2012/261, 26 April 2012, paragraph 166.

¹⁰ "State Department: Ansar al Sharia an alias for AQAP", *The Long War Journal*, 4 October 2012, http://www.longwarjournal.org/archives/2012/10/state_department_ans.php#ixzz2JHaE7PM1.

¹¹ Amnesty International (AI), *Yemen: Abyan conflict a human rights 'catastrophe'*, 4 December 2012, page 10, <http://www.amnesty.org/en/news/yemen-abyan-conflict-human-rights-catastrophe-2012-12-04>.

¹² AI, *Yemen: Abyan conflict a human rights 'catastrophe'*, 4 December 2012, <http://www.amnesty.org/en/news/yemen-abyan-conflict-human-rights-catastrophe-2012-12-04>.

¹³ *BBC News*, "Al-Qaeda attack' on Yemen army parade causes carnage", 21 May 2012, <http://www.bbc.co.uk/news/world-middle-east-18142695>.

armed forces and their allied tribal militias have all been accused of violating international humanitarian law.¹⁴

Prevention

Article 1

Direct participation

According to Article 149 of Yemen's Law No. 45 (2002) on Child Rights, "persons under the age of 18 cannot participate in armed conflicts or be recruited". Yet, despite this prohibition there have been consistent reports of child recruitment and use in hostilities by state armed forces¹⁵ and in 2012 the Yemeni armed forces were listed for the first time in the annexes of the Secretary-General's report on children and armed conflict, as a party that recruits and uses children.¹⁶

In recent years state armed forces and state-allied armed groups have been involved in numerous internal armed conflicts. There have been multiple reports of the recruitment and use of under-18s by the Yemeni army, indicating that such practices are historic and entrenched. In 2007 there were reports of the Yemeni army recruiting, arming and sending 15-year-olds into conflict against the 'Believing Youth' Shiite Zaidi rebels.¹⁷ In 2010 Human Rights Watch (HRW) reported that under-18s had been recruited by the Yemeni army to fight in the 2009-2010 conflict against the *Al-Houthi* armed group.¹⁸ Additionally, in the districts of Khanfar and Zinjibar in the Abyan Governorate children were recruited and deployed by Yemeni army to fight against *Ansar Al-Sharia* in 2011.¹⁹

Since the outbreak of anti-government protests in January 2011 and the ensuing violence and civil unrest, there have been reports that children in the ranks of the state armed forces were deployed to quell the violence and were used by the military as scouts, spies²⁰ and human shields.²¹ The September 2011 and April 2012 reports on Yemen by the Office of the UN High Commissioner for Human Rights (OHCHR)

¹⁴ AI, "Conflict in Yemen: Abyan's Darkest Hour", December 2012, <http://www.amnesty.org/en/library/asset/MDE31/010/2012/en/5c85d728-a9ab-4693-afe9-edecc2b8670e/mde310102012en.pdf>.

¹⁵ For example see: Jane Novak, "Yemen: From Nepotism to Internal Jihad", *Worldpress.org*, 21 March 2007, <http://www.worldpress.org/Mideast/2725.cfm>; Coalition to Stop the Use of Child Soldiers, *Child Soldiers Global Report 2008*, Yemen, page 370; US Department of State, *Trafficking in Persons Report*, 2010, page 353; Human Rights Watch (HRW), *All Quiet on the Northern Front? Uninvestigated Laws of War Violations in Yemen's War*, 2010.

¹⁶ Children in armed conflict, Report of the Secretary-General, UN Doc. A/66/782-S/2012/261, April 2012, Annex 2.

¹⁷ Jane Novak, "Yemen: From Nepotism to internal Jihad", *Worldpress.org*, 21 March 2007, <http://www.worldpress.org/Mideast/2725.cfm>.

¹⁸ HRW, *All Quiet on the Northern Front? Uninvestigated Laws of War Violations in Yemen's War*, 2010, pages 31-33; see also AI, *Yemen: Cracking down under pressure*, August 2010, page 49, <http://www.amnesty.org/en/library/asset/MDE31/010/2010/en/da8bd0cc-37ab-4472-80b3-bcf8a48fc827/mde310102010en.pdf>.

¹⁹ Children in armed conflict, Report of the Secretary-General, UN Doc. A/66/782-S/2012/261, April 2012, paragraph 164.

²⁰ Catherine Shakhdam, "Child Soldiers in Yemen", *Foreign Policy Association*, 8 August 2011.

²¹ Eman Tuhama, "Child rights organizations silent on child military recruitment", *Yemen Times*, 16 April 2012, <http://www.yementimes.com/en/1564/report/723/Child-rights-organizations-silent-on-child-military-recruitment.htm>.

both recorded that children had been directly involved in the violence, patrolling the streets in military uniform, serving at government checkpoints whilst armed,²² or searching anti-government protestors.²³ In 2011 the various conflicts occurring in Yemen caused the deaths of at least 159 children and the maiming of 363 more.²⁴ Whilst Child Soldiers International is unable to identify how many of these under-18s were associated with state armed forces or state-allied armed groups, such figures clearly indicate the seriousness of the risks faced by under-18s who participate in hostilities in Yemen.

Recommendations

Child Soldiers International recommends that the government of Yemen is requested to provide detailed information from official sources on:

- Disaggregated data on the number of under-18s used by state armed forces in hostilities since 2007, including information on the roles played by under-18s in hostilities and details of the specific destination of deployment.
- What action the government is taking to ensure the screening of all military ranks, including state-allied tribal militias, to enable the release and rehabilitation of under-18s.

Child Soldiers International recommends that the government of Yemen is requested to:

- Take immediate measures to ensure that no under-18s are used in hostilities, in any capacity, by the state armed forces, including by strengthening the recruitment procedures.

Articles 2 and 3

Unlawful recruitment of children

In September 2007 the government announced its intention to reinstate compulsory military service,²⁵ following its abolition in 2001 by the National Defence Council.²⁶ However, information received by Child Soldiers International indicates that conscription is not yet in operation.²⁷

In addition to the prohibition on the recruitment or use in hostilities of under-18s,²⁸ national law also stipulates a minimum age of 18 years for voluntary recruitment into the military reserves and police.²⁹

²² Children in armed conflict, Report of the Secretary-General, UN Doc. A/66/782-S/2012/261, April 2012, paragraph 164.

²³ Report of the UN High Commissioner for Human Rights on the human rights situation in Yemen, UN Doc. A/HRC/19/51, 13 February 2012, paragraph 43. Acting as human shields or spies, or guarding checkpoints and other military targets have been interpreted as amounting to taking an active part in hostilities by the International Criminal Court (ICC), and the Special Court for Sierra Leone. See: ICC, Trial Chamber judgment, *The Prosecutor v. Thomas Lubanga Dyilo*, ICC-01/04-01/06, 14 March 2012; Special Court for Sierra Leone, *The Prosecutor vs Brima, Kamara and Kanu* (AFRC Case), 20 June 2007, paragraph 737.

²⁴ Children in armed conflict, Report of the Secretary-General, UN Doc. A/66/782-S/2012/261, April 2012, paragraph 167.

²⁵ Global Security, Yemen Military, <http://www.globalsecurity.org/military/world/yemen/military-intro.htm>.

²⁶ Coalition to Stop the Use of Child Soldiers, *Child Soldiers Global Report 2008*, Yemen, page 370.

²⁷ Confidential Yemeni source.

²⁸ Article 149 of Law No. 45 (2002) on Child Rights.

The recruitment process requires proof of age and age verification through the testimony of two witnesses.³⁰

However, in practice the recruitment process is localised and no consistent attempt is made to verify age. Only 22 per cent of Yemeni births are registered³¹ and counterfeit documents are rife and easily obtained.³² It is reported that recruiters have been told to turn a blind eye to underage recruits and to falsify documents.³³ Additionally, the practice of supplying officers with pay and equipment according to the number of soldiers registered in their unit creates incentives for recruiters to enlist the maximum number of recruits, regardless of their age. Loyalty felt by an individual officer towards their tribe can cause them to recruit heavily from their own or other allied/linked tribes in order to increase the tribe's standing and importance. Such recruitment practices can encompass under-18s in an effort to boost numbers.

The risk of underage recruitment is further exacerbated by widespread poverty, limited access to education and few employment opportunities. The 2012 UN Secretary-General annual report on children and armed conflict highlighted that many families in the Abyan Governorate were driven to enlist their children in the armed forces for financial reasons.³⁴ Moreover, weapons are easily available and bearing arms, including by children, is considered normal in many parts of Yemen. It is seen as integrally linked to masculinity and tribal honour, and essential to the protection of communities.³⁵ Given these conditions, it is alleged that unlawful child recruitment by the Yemeni army has existed for decades, with the military exploiting the poor economic conditions of families,³⁶ and actively targeting orphans and runaways.³⁷

Since 2011 the widespread enlistment of children has been reported within the ranks of state armed forces including in the Republican Guard, the Central Security Forces (a paramilitary force formally under Ministry of Interior control), and the FAD.³⁸ In 2011 HRW observed under-18s serving within the General Security, a Yemeni police force in Sana'a.³⁹

In April 2012, the Ministry of Interior sent a letter to the heads of all security forces instructing them to adhere to the minimum age of recruitment of 18 years, and to release any underage members. In

²⁹ Article 4(b) General Reserve Act No. 23, 1990 and article 139 paragraph 2 Police Force Act, Third periodic report of Yemen to the Committee on the Rights of the Child on the implementation of the Convention on the Rights of the Child, UN Doc. CRC/C/129/Add.2, 3 December 2004, paragraphs 264-265.

³⁰ Email correspondence with Seyaj Organization for Childhood Protection, 13 July 2011.

³¹ See ChildInfo, *Monitoring the situation of children and women*, January 2013,

http://www.childinfo.org/birth_registration_tables.php.

³² Seyaj Organization for Childhood Protection, *Summary Report of: Situation of Children in armed conflict, Sa'dah War and Harf Sofian north Yemen*, 2009, page 6.

³³ Catherine Shakdam, "Child Soldiers in Yemen", *Foreign Policy Association*, 8 August 2011.

³⁴ Children in armed conflict, Report of the Secretary-General, UN Doc. A/66/782-S/2012/261, April 2012, paragraph 164.

³⁵ United Nations Child Protection Sub-Cluster, *Interagency Comprehensive Child Protection Assessment in conflict affected governorates in North Yemen*, 2011, page 27.

³⁶ Eman Tuhama, "Child rights organizations silent on child military recruitment", *Yemen Times*, 16 April 2012

³⁷ Catherine Shakdam, "Child Soldiers in Yemen", *Foreign Policy Association*, 8 August 2011.

³⁸ Report of the UN High Commissioner for Human Rights on the visit by the Office of the High Commissioner for Human Rights to Yemen, UN Doc. A/HRC/18/21, 16 September 2011, paragraph 58; Report of the UN High Commissioner for Human Rights on the human rights situation in Yemen, UN Doc. A/HRC/19/51, 13 February 2012, paragraph 21.

³⁹ HRW, *US: Don't finance child soldiers*, 4 October 2011, <http://www.hrw.org/news/2011/10/04/us-don-t-finance-child-soldiers>.

November 2012, President Hadi directed all military and security bodies not to recruit or use under-18s,⁴⁰ pledged to stop recruiting and using child soldiers, and agreed to implement an action plan in accordance with Security Council Resolution 1612 (2005).⁴¹ In addition, the Yemeni government endorsed the Paris Principles and Guidelines on Children Associated with Armed Forces or Armed Groups, on 3 December 2012.⁴² However, just 3 months previously in September 2012 it was reported that enlistment of under-18s by the state armed forces continued.⁴³

These commitments come at time when the government is attempting to reform its armed forces. In November 2011 the government established a Military Affairs, Security and Stability Committee mandated to rehabilitate combatants who do not meet the conditions of service within the armed forces, which should include underage recruits. This was reportedly followed in December 2012 by a Presidential decree ordering the restructuring of the Yemeni army into four major units (land forces, navy, air force and border guards) and the abolishment of some army units, including the Republican Guard and the FAD,⁴⁴ both of which have a history of child recruitment.⁴⁵

Whilst the UN has begun working with the above committee to create a concrete, time bound action plan to end the recruitment and use of under-18s,⁴⁶ it is too early to say whether these commitments and reforms have had a significant impact on the recruitment of underage children. Child Soldiers International does not have information on the pace of the current reform efforts, what will happen to members of the disestablished units or the mechanisms envisaged to ensure that any child soldiers within them are identified and demobilised rather than merely subsumed into the ranks of other sections of the armed forces.

Recommendations

Child Soldiers International recommends that the government of Yemen is requested to provide detailed information from official sources on:

⁴⁰ Saba News Agency, "President directs not to recruit children under 18", 27 November 2012, <http://www.sabanews.net/en/news289368.htm>; Saba News Agency, "Govt not to hesitate to prevent recruiting children", 27 November 2012, <http://www.sabanews.net/en/news289414.htm>.

⁴¹ United Nations News, "Press Conference by Special Representative for children and armed conflict", 3 December 2012, http://www.un.org/News/briefings/docs//2012/121203_Guest.doc.htm; Office of the Special Representative for the Secretary-General for Children in Armed Conflict, *SRSR Zerrougui secures commitments from the Yemeni authorities and Al Houthi armed group to end child recruitment*, 28 November 2012, <http://childrenandarmedconflict.un.org/srsg-zerrougui-secures-commitments-from-the-yemeni-authorities-and-al-houthi-armed-group-to-end-child-recruitment/>.

⁴² Office of the Special Representative for the Secretary-General for Children in Armed Conflict, *Five new countries endorse the Paris Commitments to end the use of children in conflict*, 3 December 2012, <http://childrenandarmedconflict.un.org/press-releases/five-new-countries-endorse-the-paris-commitments-to-end-the-use-of-children-in-conflict/>.

⁴³ Report of the UN High Commissioner for Human Rights on the human rights situation in Yemen, UN Doc. A/HRC/21/37, 5 September 2012, paragraphs 43 and 64.

⁴⁴ Reuters, "Yemeni President abolishes two major military units", 19 December 2012, <http://www.reuters.com/article/2012/12/19/us-yemen-military-idUSBRE8BI1DY20121219>.

⁴⁵ See for example, Eman Tuhama, "Child rights organizations silent on child military recruitment", *Yemen Times*, 16 April 2012.

⁴⁶ Children in armed conflict, Report of the Secretary-General, UN Doc. A/66/782-S/2012/261, April 2012, paragraph 215.

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- Whether compulsory military service is currently in place, and what laws govern conscription.
 - Disaggregated data on the number of under-18s recruited into the state armed forces since 2007.
 - What measures the government has put in place to ensure that national registration cards and birth certificates are made accessible to all within Yemen, and to prevent the widespread falsification of age documents.

Child Soldiers International recommends that the government of Yemen is requested to:

- Ensure, with technical assistance from UNICEF, that the minimum age for recruits is strictly enforced and that military units are regularly monitored in order to detect any underage recruitment.
- Standardise and centralise recruitment procedures for state armed forces, including through the establishment of a central database containing the personal information of all armed forces personnel, such as their date of birth supported by a copy of their birth certificate or another official identity document, and the full name and rank of the recruiting officer to enable verification and release of underage recruits, including those who were in the past recruited below 18.
- Ensure (through training and circulation of directives and guidelines) that all those involved in the recruitment processes are aware of the prohibition on recruiting under-18s, of the documentation required for enlistment, age verification criteria and the sanctions applicable if they fail to uphold the enlistment criteria.
- Expressly instruct recruiters that in case of doubt over an individual's age they should not be recruited. In the absence of a birth certificate or other official identity documents, alternative measures to verify an individual's age should be established. These alternatives should depend on more than one form of documentation or approach, and should cumulatively provide objective proof of age. These alternatives may include school diplomas or other school records (more than one document) and methodologies involving cross-checking with families and local officials.
- Ensure that all children are registered at birth, free of charge and without discriminatory conditions. This process should include inter alia, conducting awareness raising campaigns and setting up mobile birth registration units for remote areas.

Article 4

State-allied armed groups

Tribal militias

In addition to Yemen's official state armed forces, the government has historically relied on tribal militias for support in armed confrontation. These state-allied armed groups are commonly called the *Al-Jaysh Al-Sha'bi* or the Popular Army. Whilst these militias are not formally under military command or legally connected to the Yemeni army, they have participated on the government's side in various internal armed conflicts. Material assistance, including funds and arms, has been provided to militias in return for their support.⁴⁷ Moreover, tribal sheikhs frequently serve as military officers, or collect salaries from the government for services rendered, and the government has recurrently incorporated tribal militias into the

⁴⁷ Villagers from different parts of Sa'ada and Amran told HRW that "the government provided weapons, money, and promises of future assistance" in exchange for support from fighters. HRW, *All Quiet on the Northern Front? Uninvestigated Laws of War Violations in Yemen's War with Huthi Rebels*, March 2010.

regular armed forces.⁴⁸ These tribal militias have been listed as a party that recruits and uses children in the annexes of the UN Secretary-General's 2011 and 2012 annual reports on children and armed conflict.

During the 2009-2010 conflict between the government and the *Al-Houthi* armed opposition group, state-allied tribal militias were heavily relied upon to provide armed support to the state armed forces. Children are known to have formed part of these militias,⁴⁹ with at least 282 documented cases of under-18s having been recruited.⁵⁰ In 2010 the Secretary-General for children and armed conflict noted that as many as half the total number of fighters, either from the state-allied tribal militias or the *Al-Houthi* armed opposition group, was below 18 years of age. Despite the signing of a 2010 ceasefire by all parties, in 2011 there were persistent reports that under-18s continued to make up approximately 15 per cent of the state-allied tribal militias.⁵¹ During this time, children were observed assuming security functions, with boys being used in combat and logistical roles and girls undertaking support roles including food preparation, gathering military intelligence and carrying detonators. There were also some allegations of recruitment through forced marriages of girls to members of the militias.⁵²

These state-allied armed groups also assisted President Saleh's government in opposing the 2011 anti-government demonstrations,⁵³ during which time there were reports of their widespread recruitment of under-18s.⁵⁴ The tribal militias are also reported to be recruiting children to fight against *Ansar al-Sharia*.⁵⁵ In 2011 no progress had been reported on the release of under-18s from these tribal militias.⁵⁶

Recommendations

The Yemeni government shares responsibility for the state-allied tribal militias' recruitment of children and their use in hostilities, as these militias are supported by and allied with the state, sometimes acting on the instruction or under the direction of the state armed forces.

Child Soldiers International recommends that the government of Yemen is requested to:

- Immediately carry out a comprehensive screening process to identify all children in the state-allied tribal militias.

⁴⁸ Yezid Sayigh, *Fixing Broken Windows: Security Sector Reform in Palestine, Lebanon and Yemen*, Carnegie Middle East Centre, October 2009, <http://www.carnegieendowment.org>.

⁴⁹ Judith Evans, "Yemen child soldier tells of his hatred for al-Houthi rebels", *The Times*, 10 October 2009, <http://www.unhcr.org/cgi-bin/tevis/vtx/refdaily?pass=463ef21123&id=4ad2c4305>.

⁵⁰ Children in armed conflict, Report of the Secretary-General, UN Doc. A/64/742-S/2010/181, April 2010, paragraph 161; Seyaj Organisation for Childhood Protection, *Summary Report of Situation of Children in Armed Conflict: Sa'dah War and Harf Sofian North Yemen*, December 2009, page 6.

⁵¹ Children in armed conflict, Report of the Secretary-General, UN Doc. A/65/820-S/2011/250, April 2011, paragraph 197.

⁵² Children in armed conflict, Report of the Secretary-General, UN Doc. A/65/820-S/2011/250, April 2011, paragraph 197.

⁵³ Report of the UN High Commissioner for Human Rights on the visit by the Office of the High Commissioner for Human Rights to Yemen, UN Doc. A/HRC/18/21, 16 September 2011, paragraph 20.

⁵⁴ Catherine Shakdam, "Child Soldiers in Yemen", *Foreign Policy Association*, 8 August 2011; Eman Tuhama, "Child rights organizations silent on child military recruitment", *Yemen Times*, 16 April 2012.

⁵⁵ Children in armed conflict, Report of the Secretary-General, UN Doc. A/66/782-S/2012/261, April 2012, paragraph 164.

⁵⁶ Children in armed conflict, Report of the Secretary-General, UN Doc. A/66/782-S/2012/261, April 2012, paragraph 216.

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- Ensure that any children in the ranks are immediately released and provided with support for their recovery and reintegration.
 - Explicitly prohibit civilian and military officials from providing support to tribal militias which recruit and use children.

Armed opposition groups

Breakaway First Armoured Division

Between March and November 2011 the FAD of the Yemeni armed forces protected anti-government demonstrators⁵⁷ and was reported to have used children. FAD has now been abolished after having returned to the control of the Yemeni government.

In 2011 HRW reported the presence of under-18s in the ranks of FAD. Some of these children had been recruited several years earlier and involved in the fighting against the *Al-Houthi* but were subsequently used by FAD to protect anti-government protestors from attack by state armed forces.⁵⁸ It was reported that these under-18s were armed with handguns and AK-47 assault rifles, and tasked with security duties, including manning checkpoints around Sana'a's 'Change Square',⁵⁹ and protecting protestors.⁶⁰

FAD members have indicated to the UN that many children have been associated with this division.⁶¹ Statements from officers within FAD revealed that 15-year-olds were permitted to enlist in the division, whilst even younger children were occasionally recruited.⁶²

In November 2011, General Ali Mohsen of FAD issued a decree for the release of 100 children. However, verification of their release by the UN has not been possible and according to UNICEF, between 1 January and 30 June 2012 FAD recruited at least two under-18s.⁶³ In 2012 FAD was listed in the annexes of the Secretary-General's annual report on children and armed conflict, as a party that recruits and uses children.⁶⁴

Al-Houthi group

⁵⁷ Report of the UN High Commissioner for Human Rights on the visit by the Office of the High Commissioner for Human Rights to Yemen, UN Doc. A/HRC/18/21, 16 September 2011, paragraph 13.

⁵⁸ HRW, *Yemen: Stop Using Children in Armed Forces*, 14 April 2011.

⁵⁹ Catherine Shkadam, "Child Soldiers in Yemen", *Foreign Policy Association*, 8 August 2011; HRW, *Yemen: Stop Using Children in Armed Forces*, 14 April 2011; Children in armed conflict, Report of the Secretary-General, UN Doc. A/66/782-S/2012/261, April 2012, paragraph 165.

⁶⁰ Report of the UN High Commissioner for Human Rights on the human rights situation in Yemen, UN Doc. A/HRC/19/51, 13 February 2012, paragraph 62(b).

⁶¹ Children in armed conflict, Report of the Secretary-General, UN Doc. A/66/782-S/2012/261, April 2012, paragraph 165.

⁶² HRW, *Yemen: Stop Using Children in Armed Forces*, 14 April 2011.

⁶³ Report of the UN High Commissioner for Human Rights on the human rights situation in Yemen, UN Doc. A/HRC/21/37, 5 September 2012, paragraph 43.

⁶⁴ Children in armed conflict, Report of the Secretary-General, UN Doc. A/66/782-S/2012/261, April 2012, Annex 2.

According to a 2009 review of the situation of children in armed conflict, more than 50 per cent of *Al-Houthi* members were under the age of 18.⁶⁵ In 2011, after the signing of the ceasefire agreement with the Yemeni government, it was estimated that under-18s still made up more than one fifth of the total *Al-Houthi* force.⁶⁶ Reports indicate that under-18s were lured into joining the armed opposition group through the provision of addictive drugs,⁶⁷ whereupon they were required to fight in combat against the state armed forces and state-allied armed groups⁶⁸ and used as human shields.⁶⁹ In February 2010, the Special Representative to the Secretary-General for Children and Armed Conflict (SRSG) declared that there had been “large-scale recruitment going on” within the *Al-Houthi*,⁷⁰ and for the past two years they have been listed in the annexes of the Secretary-General’s annual reports on children and armed conflict.⁷¹

Efforts by the *Al-Houthi* during the 2011 anti-government protests to extend their power in the north, coupled with the recent outbreak of fighting against a rival tribe in Al-Jawf Governorate have instigated a recruitment drive by the *Al-Houthi*, which included the targeting of children. Children were seen manning *Al-Houthi* checkpoints, guarding areas and fighting armed tribal groups in the Al-Jawf Governorate.⁷² Additionally, UNICEF reported that from 1 January to 30 June 2012 at least three children had been recruited by this armed group.⁷³

In December 2012 the SRSG for Children and Armed Conflict announced that the *Al-Houthi* had pledged to work to release under-18s from within its ranks and reintegrate them into civilian life.⁷⁴ No further information is available at this time regarding implementation of this pledge.

Ansar al-Sharia

Information provided to Child Soldiers International indicates that the *Ansar al-Sharia* has historically recruited and used under-18s,⁷⁵ whilst various media outlets have reported the widespread recruitment and

⁶⁵ Seyaj Organisation for Childhood Protection, *Summary Report of Situation of Children in Armed Conflict: Sa'dah War and Harf Sofian North Yemen*, December 2009, page 6.

⁶⁶ United Nations Child Protection Sub-Cluster, Interagency Comprehensive Child Protection Assessment, 2010, page 26. A UNICEF commissioned survey by Seyaj found that 402 of the 73,000 IDP children it surveyed had fought for the al-Houthi movement in “believing Youth” units.

⁶⁷ United Nations Child Protection Sub-Cluster, Interagency Comprehensive Child Protection Assessment, 2010, page 27.

⁶⁸ HRW, *All Quiet on the Northern Front? Uninvestigated Laws of War Violations in Yemen's War*, 2010, page 41.

⁶⁹ Al-Sahwah.net, “Human rights organization accuse Houthi rebels of using children as human shields”, 6 September 2009, http://www.alsahwanet.net/view_news.asp?sub_no=401_2009_09_06_72801.

⁷⁰ James Reinl, “UN calls for the prosecution of child soldier recruiters,” *The National (UAE)*, 14 February 2010, <http://www.thenational.ae/news/world/middle-east/un-calls-for-the-prosecution-of-child-soldier-recruiters>.

⁷¹ Children in armed conflict, Report of the Secretary-General, UN Doc. A/65/820-S/2011/250, April 2011, Annex 2; Children in armed conflict, Report of the Secretary-General, UN Doc. A/66/782-S/2012/261, April 2012, Annex 2.

⁷² Children in armed conflict, Report of the Secretary-General, UN Doc. A/66/782-S/2012/261, April 2012, paragraph 166.

⁷³ Report of the UN High Commissioner for Human Rights on the human rights situation in Yemen, UN Doc. A/HRC/21/37, 5 September 2012, paragraph 43.

⁷⁴ United Nations News, Press Conference by Special Representative for children and armed conflict, 3 December 2012, http://www.un.org/News/briefings/docs//2012/121203_Guest.doc.htm

⁷⁵ Confidential source, July 2011.

use of children as human shields by *al-Qaeda* in the Arab Peninsula in Yemen.⁷⁶ In 2012 the Secretary-General's annual report recorded that children were observed being recruited in mosques, and that a 15-year-old member of the *Ansar al-Sharia* was killed in combat in 2011.⁷⁷ In September 2012, UNICEF reported that despite the commitment made by armed opposition groups to release children from their ranks, at least 12 children were recruited in Abyan by *Ansar al-Sharia* between 1 January and 30 June 2012.⁷⁸

Recommendations

Child Soldiers International recommends that the government of Yemen is requested to:

- Ensure that the release, recovery and reintegration of children associated with armed opposition groups is addressed in any peace or ceasefire negotiations and agreements with armed groups, in line with the UN operational guidelines on addressing children's issues in peace agreements.
- Facilitate access by the UN and other independent humanitarian actors to armed opposition groups in order to monitor and verify reports of child recruitment and use and to ensure the safe release and reintegration of children associated with these groups.

Prohibition

Article 6.1

Criminalisation and accountability

The recruitment and use in hostilities of under-18s by state armed forces, the police, military reserves and non-state armed groups is not criminalised in Yemeni national legislation. The legal prohibitions on recruitment and use by state forces falls short of criminalisation and does not contain details of specific sanctions or penalties to be imposed when child recruitment and use does occur.⁷⁹

In September 2012 it was announced that a Commission of Inquiry will be tasked with investigating the human rights violations that were committed during the 2011 civil unrest. Child Soldiers International has no information on when the Commission of Inquiry will begin its work, whether it will investigate allegations of child recruitment and use, and what sanctions it may have the power to apply. Furthermore, in January 2012 Yemen's parliament granted immunity to President Saleh and those who served with him, which purportedly includes security personnel,⁸⁰ for any human rights violations committed during

⁷⁶ For example see Eman Tuhama, "Child rights organizations silent on child military recruitment", *Yemen Times*, 16 April 2012.

⁷⁷ Children in armed conflict, Report of the Secretary-General, UN Doc. A/66/782-S/2012/261, April 2012, paragraph 166.

⁷⁸ Report of the UN High Commissioner for Human Rights on the human rights situation in Yemen, UN Doc. A/HRC/21/37, 5 September 2012, paragraph 43.

⁷⁹ Law No. 45 (2002) on Child Rights, Article 149; Article 4(b) General Reserve Act No. 23, 1990 and article 139 paragraph 2 Police Force Act, Third periodic report of Yemen to the Committee on the Rights of the Child on the implementation of the Convention on the Rights of the Child, UN Doc. CRC/C/129/Add.2, 3 December 2004, paragraphs 264, 265.

⁸⁰ Report of the UN High Commissioner for Human Rights on the human rights situation in Yemen, UN Doc. A/HRC/19/51, 13 February 2012, paragraphs 48 and 51.

the anti-government protests.⁸¹ The legal status of this alleged amnesty, and its effect on the Commission of Inquiry, is unknown.

Information received by Child Soldiers International indicates that no government official or tribal leader has ever been held accountable for the recruitment and use of under-18s.⁸² Recent reports suggesting that former commanders of military units with child soldiers in their ranks might be appointed as commanders of two new military regions raise concerns about the willingness and/or capacity of the Yemeni authorities to fight impunity.⁸³

Recommendations

Child Soldiers International recommends that the government of Yemen is requested to provide detailed information from official sources on:

- The mandate of the Commission of Inquiry, specifically focusing on whether it has the authority to investigate and refer for criminal prosecutions instances of child recruitment and use.

Child Soldiers International recommends that the government of Yemen is requested to:

- Include in national legislation provisions which explicitly criminalise violations of the provisions of OPAC regarding the recruitment of children by armed forces and armed groups in both peace and in times of armed conflict and their use in hostilities.
- Provide extensive training for judges, prosecutors, defence counsel and investigators on the obligations under OPAC and provisions related to the criminalisation of recruitment and use of children.
- Ensure that military officials who allow children to be recruited into the armed forces are subject to appropriate sanctions, including suspension from duty, removal from office and criminal prosecution.
- Conduct effective and systematic investigations into reports of child recruitment and use by the armed forces and armed groups and prosecute those responsible.

International cooperation and assistance

Article 7

Security sector reform

The provision of Article 7 requiring states parties to cooperate in the implementation of OPAC specifies that this should include support for the “prevention of any activity contrary” to OPAC. This has been interpreted by the Committee as an obligation on those states that lack the capacity to fully implement the provisions of OPAC to actively seek assistance to do so. Conversely, Article 7 also confers an obligation on states parties with capacity to provide such assistance bilaterally or through international institutions such as the UN.

⁸¹ HRW, *Letter to the UN Security Council on human rights concerns in Yemen*, 27 January 2013, <http://www.hrw.org/news/2013/01/27/letter-un-security-council-human-rights-concerns-yemen>

⁸² Email correspondence with Seyaj Organization for Childhood Protection, 13 July 2011.

⁸³ Reuters, “Yemen general may head new unit after army overhaul”, 23 December 2012, <http://www.reuters.com/article/2012/12/23/us-yemen-military-idUSBRE8BM07E20121223>.

In states where protection of children from involvement in armed conflict depends on reform of the armed forces, support to security sector reform by the UN and the international community could effectively address child soldier recruitment.

This is particularly relevant in the context of Yemen, where security sector reform, including the reform of the armed forces, is a key element of the current transition phase in Yemen. In its June 2012 resolution, the Security Council urged the swift restructuring of the security and armed forces and expressed its readiness to consider the imposition of sanctions under Article 41 of the Charter of the UN against those individuals undermining or obstructing the restructuring of the armed forces.⁸⁴ The UN, through the Special Advisor to the Secretary-General on Yemen, is meant to support the Yemeni government in the transition process.

The reform of the military remains a politically very sensitive issue, with reported resistance to the restructuring of the armed forces from some military officials, particularly from those allied to the ousted President Saleh.⁸⁵ The Security Council has expressed concerns over interferences in the transition process.⁸⁶

Meanwhile, in May 2012 the US Department of Defense confirmed that US military personnel had recommenced their training of Yemeni armed forces in an effort to reduce *al-Qaeda*'s growing dominance in the south of Yemen.⁸⁷ Moreover, in December 2012 a US delegation met with President Hadi to discuss the possibility of the provision of US technical assistance to the restructuring of the Yemeni armed forces.⁸⁸ The outcome of these discussions is unknown to Child Soldiers International.

It is vital that any support for security sector reform from the UN or international community includes measures for the effective protection of under-18s from future recruitment and is not merely focused on the political transition or counter-terrorism operations. As the SRSR noted during her visit to Yemen in November 2012, "the re-structuring of the security forces envisioned during the transition period offers a unique opportunity to end grave violations against children and to professionalise the security force".⁸⁹

Recommendations

Child Soldiers International recommends that, in the context of the ongoing reform of the state armed forces, the government of Yemen is requested to:

⁸⁴ Security Council Resolution 2051 (2012).

⁸⁵ In December 2012 Brigadier General Ahmed Saleh, son of former President Saleh, refused orders from President Hadi to hand long-range missiles over to the Defence Ministry; the former commander of the air force, General Mohammed Saleh Al-Ahmar and half brother of former President Saleh, defied orders to step down from office for 19 days, forcibly closed Sana'a International Airport for 24 hours and threatened to shoot down any planes attempting to land or take off. For example see: Reuters, "Yemeni president in standoff with Saleh son over Scud missiles", 11 December 2012; Yemen Times, "Dismissed General Al-Ahmer finally leaves office", 26 April 2012.

⁸⁶ See Security Council Presidential statement, UN Doc. S/PRST/2013/3, 15 February 2013.

⁸⁷ US Department of Defense, *U.S. Trainers, Military Cooperation Return to Yemen*, 8 May 2012.

⁸⁸ Yemen Post, "US Military Delegation Arrives on Yemen Visit, Saba", 11 December 2012.

⁸⁹ See press statement of the Special Representative of the Secretary General, "SRSR Zerrougui secures commitments from the Yemeni authorities and Al Houthi armed group to end child recruitment", 28 November 2012.

- Seek technical assistance from the UN and international community to put in place the necessary recruitment procedures, age verification mechanisms and independent monitoring and oversight of the armed forces to prevent unlawful recruitment of children.

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