

BRIEFING
YEMEN:
SECURITY AND
HUMAN RIGHTS

AMNESTY
INTERNATIONAL



FOREWORD

This briefing highlights some of Amnesty International's key human rights concerns in Yemen along with a limited number of illustrative cases, and some general recommendations for action by EU institutions. The briefing is based on a previous document, 'Media briefing: Yemen: Security and human rights' (Jan 2010), prepared ahead of a high-level international meeting on Yemen convened by the UK government, which was held in London on 27 January 2010. Case details are therefore to date of that publication date. However, Amnesty International's concerns and analysis, as set out, remain the same and have been confirmed by a recent visit to Yemen by delegates in March 2010.

If you are interested in any particular case/s please contact the Amnesty International EU Office for an update to the situation. A new report on Yemen will be issued this summer by Amnesty International following a recent research trip to Yemen.

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INTRODUCTION

In the month following the apparent attempt by Umar Farouk Abdulmutallab on 25 December 2009 to blow up a US airliner, international media has been shining a spotlight on security issues in Yemen, where the 23-year-old Nigerian allegedly received jihadist training. Attention has largely focused on the threat posed to the stability of Yemen and to the security of European and North American states by al-Qa'ida militants in the country. Statements by international leaders have tended to focus on the need to provide security assistance to Yemen, as well as continuing development aid, given its status as one of the world's poorest countries.

By contrast, scant attention has been given in recent weeks to the Yemeni government's human rights record. There is no doubt that the actions of jihadists are a continuing concern; militants affiliated to al-Qa'ida or other jihadist groups have been responsible for serious human rights abuses, including a number of lethal attacks against civilians in recent years. However, the main security fear facing many Yemenis is to be caught up in the government's repressive and sweeping response both to these actions and to what are in fact the most serious and destabilizing crises facing the country: the conflict in the northern governorate of Sa'da and unrest in the south.

An unknown number of civilians – possibly several hundred or more – have been killed in the Sa'da conflict, as have dozens of protesters in the south and seemingly dozens of relatives of suspected al-Qa'ida militants. Hundreds, possibly thousands, of people suspected of links with the rebel movement in Sa'da, protests in the south or jihadist groups have been subjected to prolonged detention without charge or trial or prosecuted in proceedings which fall short of international standards. Many have reportedly been subjected to torture or other ill-treatment, which is widespread in places of detention. Those speaking out against such government practices have increasingly been targeted. In summary, the human rights situation in Yemen has been deteriorating at gathering speed in the last few years.

Until relatively recently Yemen showed promising signs that it was taking meaningful steps towards greater respect for human rights. It had become a party to many of the core international human right treaties by the 1990s, created a Ministry of Human Rights in 2003 and over much of the last two decades allowed civil society to develop in a relatively unrestricted way. As well, for years the authorities have generally maintained an open-door policy towards refugees fleeing the ongoing conflict in Somalia. However, what was an improving human rights framework is being eroded by a series of institutional changes, such as the creation of flawed specialized courts, and proposed legislative amendments, particularly the introduction of repressive counter-terrorism laws.

The Yemeni authorities now appear to be under redoubled pressure from the US and EU governments, concerned for their own security, to take measures to combat al-Qa'ida. While Amnesty International supports efforts to bring to justice perpetrators responsible for serious human rights abuses in proceedings which meet international standards and exclude recourse to the death penalty, it is concerned that new measures taken in the name of security may further undermine human rights protection. Security co-operation involving the

USA and EU, on the one hand, and the countries of origin of suspected jihadist militants, on the other, has been characterized by a disregard for human rights protection and has resulted in serious violations including torture and other ill-treatment and enforced disappearance.

This briefing sets out Amnesty International's current assessment of security and human rights issues in Yemen. It does not address other human rights concerns such as violence and discrimination against women, torture and other ill-treatment of detainees, the death penalty, freedom of expression and association, and the detention and deportation of refugees and asylum-seekers insofar as they do not relate directly to security and human rights issues.¹

JIHADIST ATTACKS AND GOVERNMENT RESPONSE

JIHADIST ATTACKS

Armed Islamist militants and their role in politics in Yemen rose to prominence during the civil war in 1994 when they fought alongside the armed forces of the former Yemen Arab Republic, commonly known as North Yemen, to defeat those of the former People's Democratic Republic of Yemen, commonly known as South Yemen. The militants consisted of Yemenis and other, mainly Arab, nationals, many of whom had settled in Yemen, with the encouragement of the government, 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 of the country, where they attempted to enforce, at times violently, their own vision of Islamic morality, such as strict dress codes for women and the prohibition of alcohol.

Some militants increasingly adopted a jihadist approach to their actions and, from the late 1990s. The bombing of the *USS Cole* in the port of Aden in October 2000, which killed 17 US sailors, was the most high-profile early manifestation of this. According to *26 September*, a pro-government daily, in December 2009, "al-Qa'ida elements" had carried out 65

¹ 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.

“terrorist operations” in Yemen since 1998.²

According to media reports, in early 2009 al-Qa’ida in Yemen merged with its counterpart in Saudi Arabia, some of whose members are said to be in hiding in Yemen, to form a new group called al-Qa’ida in the Arabian Peninsula, said by some to comprise several hundred militants, but by others far fewer. While the government tends to blame all jihadist violence generally on al-Qa’ida, militants have also claimed to belong to jihadist groups bearing other names, such as Yemeni Islamic Jihad and the Brigades of the Soldiers of Yemen, or have been accused of belonging to such groups when brought to trial. However, it is unclear to what extent they are or are not affiliated with al-Qa’ida.

Since 2000, armed attacks by jihadist groups, whether al-Qa’ida or not, have targeted government officials, foreign embassies and tourists, killing more than 25 civilians in suicide bombings and other attacks. In March 2009, four South Korean tourists and their Yemeni guide were killed by a bomb explosion in Shibam in Hadramawt. In September 2008 a suicide bomb attack against the US embassy in Sana’a killed at least 16 people, including civilians waiting outside, security guards and six attackers. In July 2007, eight Spanish tourists and two Yemeni drivers accompanying them were killed in Ma’rib in an attack by a suicide bomber.

UNLAWFUL KILLINGS OF SUSPECTED MILITANTS AND BYSTANDERS

In response, the government has killed scores of people it accuses of being al-Qa’ida members; such attacks appear to have intensified in the last year, particularly since mid-December 2009. Some of the deaths have been reported as occurring during exchanges of fire between fugitive militants and security forces trying to apprehend them. Reports about other deaths, however, suggest that the security forces made no attempt to detain the militants and that the killings may have amounted to extrajudicial executions. In some instances, the security forces appear to have used excessive force and thereby unlawfully killed unarmed men, women and children. Amnesty International is not aware of judicial investigations being conducted into any such incidents to establish whether or not the use of lethal force by security forces was justified.

The most serious recent incidents were the killing of scores of people in air raids against suspected al-Qa’ida facilities on 17 and 24 December 2009. In the case of the 17 December attack, it was reported that among the dead were 36 unarmed relatives of suspected militants, including women and children. The authorities announced that they had targeted a training camp in the southern governorate of Abyan and, while acknowledging that some women and children may have been killed, blamed the al-Qa’ida suspects for bringing their families into the camp. A parliamentary committee has reportedly been asked to investigate the incident and to present its findings later in January 2010. While such investigations have raised human rights concerns in the past, they have not led to any accountability for abuses committed by the security forces. The 24 December attack involved a raid by the Yemeni

² Article published on 24 December 2009.

security forces in the eastern governorate of Shabwa which killed at least 34 people described as suspected members of al-Qa'ida.

The armed attacks by al-Qa'ida and the government response to them have not, up to this point, crossed the threshold of intensity and scale as to categorize the situation as an armed conflict³ (unlike the Sa'da conflict, described below, where the situation does amount to an armed conflict). Accordingly, the proper standards applicable to operations against al-Qa'ida in Yemen are law enforcement standards. These standards place an obligation on Yemen to try to arrest suspected militants rather than kill them, not to use unnecessary or excessive force during arrest operations, and to conduct prompt and effective investigations after incidents where suspects are killed.

There have been reports that US forces were involved in recent attacks against al-Qa'ida in Yemen, or provided support to such attacks by Yemeni forces. Amnesty International has not been able to confirm such reports. However, Amnesty International notes that on 3 November 2002 six men suspected of being al-Qa'ida members were killed in the governorate of Ma'rib when the car they were travelling in was hit by a missile fired from a CIA-controlled Predator drone, and that previously the USA has stated in general that it "believes that it is in a continuing state of international armed conflict with Al Qaida", and that "Al Qaida terrorists who continue to plot attacks against the United States may be lawful subjects of armed attack in appropriate circumstances".⁴ Such a position, implying a global battlefield and that the USA can kill suspects anywhere in the world, is clearly inconsistent with international law. US co-operation with the Yemeni government must be in a law enforcement framework.

DETENTIONS AND TRIALS

The authorities have detained hundreds, possibly thousands, of individuals they suspect of jihadist militancy over the last decade. 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 for an arrest to be lawful according to Yemen's Code of Criminal Procedures. 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. Often they are also deprived of contact with their families for weeks or months after arrest. Such treatment is in contravention of safeguards in both Yemeni legislation and international

³ According to the International Committee of the Red Cross (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."

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.

⁴ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Summary of cases transmitted to Government and replies received A/HRC/4/20/Add.1, 12 March 2007.

human rights standards. The Code of Criminal Procedures, for example, states that a detainee must be brought before a judge or prosecutor within 24 hours of being detained, must be allowed to inform their family of their arrest immediately after being taken into detention and can refuse to respond to questioning in the absence of a lawyer, and must not be detained for more than seven days without a court order. These guarantees are routinely flouted in cases of security suspects and critics of the state.

Many are held in detention centres operated outside the framework of the law, particularly that run by Yemen's domestic intelligence agency, Political Security, in the capital Sana'a and, to a lesser extent, those run by a more recently created security force, National Security. Neither Political Security nor National Security is subjected to judicial oversight. Torture and other ill-treatment are reported to be common practice in these places of detention.

While there may well have been reasonable grounds to arrest some of those detained, the security forces have increasingly carried out waves of arrests in which a disturbingly broad set of individuals have been caught up. They include individuals who may have raised the suspicions of the authorities for no other reason than, for instance, having a connection with Afghanistan, being a student in a religious school or taking an interest in Islamism. In some cases, relatives of suspects have been arrested and taken hostage by security forces to force the suspects to surrender themselves to the authorities.

Also among those detained by Political Security for varying periods of time are returnees from US custody in Guantánamo Bay, where over 90 Yemenis continue to be held. Salim Hamdan was detained following his return to Yemen in November 2008 and held incommunicado for a week by Political Security. He was released from detention without charge in January 2009. Six Yemenis returned in December 2009 were detained by Political Security for several days before being released uncharged.

Foreign detainees who are suspected of jihadist links tend to be forcibly returned to their countries of origin with no regard for the risks they may face on their return. In April 2009, the Yemeni authorities forcibly returned 'Ali 'Abdullah al-Harbi and four other Saudi Arabian nationals to Saudi Arabia without giving them access to asylum procedures or any means to contest their deportations. The five were reportedly suspected supporters of al-Qa'ida and were at risk of serious human rights violations in Saudi Arabia. They are thought to have been detained on their return to Saudi Arabia but Amnesty International has not been able to confirm this.

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* in December 2009, there had been 25 court cases involving over 270 "al-Qa'ida elements" since 1998. Many have been tried before the Specialized Criminal Court (SCC), established in 1999. Although the court follows the regular Code of Criminal Procedures, defence lawyers contend that the SCC's judges are not impartial and do not allow them to mount an effective defence; they say that their right to prepare a defence is hindered by restrictions that are placed on their access to their clients' case files and that when they challenge procedural irregularities by the court these are routinely ignored.

In 2009 at least 24 people were tried by the SCC for alleged links to al-Qa'ida, including

eight who were sentenced to prison terms of up to seven years after being convicted of planning terrorist acts. Sixteen others, referred to as the Tarim Cell or the Brigades of the Soldiers of Yemen were convicted by the SCC in July of carrying out acts of terrorism in 2007 and 2008, including the killing of two Belgian women tourists and an attack on a police station in Hadramawt; six were sentenced to death and the other 10 were sentenced to prison terms of up to 15 years.

SA'DA CONFLICT

KILLINGS AND RESTRICTIONS ON HUMANITARIAN ACCESS

The armed conflict in the northern governorate of Sa'da began in 2004 and has continued intermittently since. Tensions were originally sparked when followers of the late Hussain Badr al-Din al-Huthi, a cleric and former member of parliament who had founded a movement in the 1990s to revive Zaidism, a branch of Shi'a Islam, organized protests against the USA and Israel before, during and after the US-led invasion of Iraq in 2003. The protests focussed primarily on the Yemeni government's relations with the USA and were invariably followed by arrests and detentions; in June 2004, after failed reconciliation attempts, the government ordered al-Huthi to surrender. Armed clashes ensued between the security forces and Huthis, as the followers of al-Huthi became known, until al-Huthi was killed in September 2004.

Several rounds of fighting have occurred since then. 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. The government launched a military offensive codenamed "Scorched Earth" that included aerial bombing and deployment of ground troops. In November 2009, the fighting spilt over the border with Saudi Arabia, which has deployed its army and air force against the rebels in Sa'da.

An estimated 200,000 people have been displaced by the fighting, according to a statement by a spokesperson of the UN High Commissioner for Refugees on 12 January 2010, and many of them are now living in camps run by international humanitarian agencies. An unknown number of civilians – possibly several hundred or more – have been killed since 2004.

All parties to the conflict are alleged to have committed serious human rights abuses, although Yemeni government restrictions on access to the area by journalists and independent observers has meant that reliable information on abuses has been difficult, often impossible, to obtain. The government has accused the Huthi rebels of killing civilians and captured soldiers.

The rebels have alleged that Yemeni government forces have carried out indiscriminate attacks in which scores of civilians have died. In one recent aerial attack, at least 80 civilians, most of them women and children, were reported to have been killed in September 2009 when the Yemeni air force bombed Adi village in the Harf Sufyan district of the

governorate of 'Amran, which borders Sa'da. The government was reported to have appointed a commission to investigate the killings, but no findings have so far been announced.

The Yemeni authorities, in addition to enforcing an information blackout on the governorate of Sa'da, have, at various times during the conflict, imposed restrictions on access by national and international humanitarian agencies to the region, and as result of which the population may have been denied much needed relief supplies and effectively punishing in a collective manner civilians living in affected areas.

The Saudi Arabian authorities, for their part, have similarly been accused of indiscriminate attacks since they entered the fighting last year. An aerial bombardment by the Saudi Arabian air force on 20 December 2009 was alleged by the Huthis to have killed 54 people, including 50 unarmed women. Neither the Saudi Arabian nor Yemeni government has provided any explanation regarding the circumstances of the attack. The Saudi Arabian government has, in addition, denied access across its border with Yemen to people fleeing the conflict.

DETENTIONS AND TRIALS

Several hundred people are reported to be held in connection with the conflict in Sa'da, but the authorities have not disclosed their number or other information, such as the legal basis for their detention. There are concerns that some have been subjected to enforced disappearance since the authorities have either failed to acknowledge the deprivation of their liberty or concealed where they are being detained and under what conditions. Many are believed to be held without charge or trial in the detention centres of Political Security and National Security in Sana'a or in the central prisons in Sana'a and Sa'da. Many have allegedly been tortured or otherwise ill-treated under interrogation during prolonged incommunicado detention.

Since 2006, at least 140 detainees have been tried before the SCC, dozens of whom have been sentenced to death following proceedings which failed to satisfy international fair trial standards. In 2009, some 190 individuals charged with forming an armed gang and committing violent crimes, including killing soldiers, in 2008, particularly in the Bani Hushaysh district of the governorate of Sana'a, were brought to trial or were awaiting prosecution by the SCC. They had been arrested in 2008 together with at least 50 others who were subsequently released uncharged. They are being tried before the SCC in separate groups. By the end of 2009, at least 34 had been sentenced to death, while at least another 54 had been given prison terms of up to 15 years.

A number of critics of government policies in Sa'da have been targeted by the authorities in recent years and, when they have been detained, have been considered by Amnesty International to be prisoners of conscience, imprisoned solely for the peaceful exercise of their right to freedom of expression.

Muhammad al-Maqalih, a journalist and member of the Socialist Party who had criticized government policies, particularly killings of civilians by the army in Sa'da, became a victim of enforced disappearance in September 2009; there is growing concern about his safety. He

was abducted from a street in Sana'a, apparently by security officials. The Minister of Information acknowledged in December 2009 that he was being detained by the state, but the Yemeni authorities have refused to disclose his whereabouts and legal status or allow him access to his family or lawyer. He is believed to be detained by Political Security or National Security.

Abdul Karim al-Khaiwani, another journalist, has also been persecuted for his peaceful criticism of government policy. He was arrested in June 2007 by plain-clothes National Security officers, who reportedly entered his home in Sana'a before dragging him from his bed. He was tried by the SCC in a case known as Sana'a Cell 2, involving over a dozen defendants who faced charges including murder, planning to poison the drinking water in Sana'a and other violent crimes in connection with the events in Sa'da. In June 2008, he was sentenced to six years' imprisonment for membership in the cell, although the evidence against him related merely to his journalistic coverage of the armed clashes in Sa'da. 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.

UNREST IN THE SOUTH

EXCESSIVE USE OF FORCE AND VIOLATIONS OF FREEDOM OF ASSEMBLY

There has been growing unrest in the south of Yemen since August 2007, when serving and retired soldiers from the south began to organize peaceful protests in Aden and other southern cities. Many are ex-soldiers of the army of the former People's Democratic Republic of Yemen who were dismissed from employment in the armed forces after the 1994 civil war and who have been protesting against the lower level of pensions they say they receive in comparison with soldiers from the army of the former Yemen Arab Republic in the north. Others are or were serving soldiers in the current unified army who allege that they are discriminated against with respect to the terms and conditions of their employment in favour of colleagues in the north.

The authorities reacted by arresting scores of the protesters and detaining them for short periods before releasing them without trial. The authorities' repressive approach added to the protesters' sense of grievance and the protests mushroomed as other sectors of southern society joined in to vent their frustration over harsh economic conditions and the lack of job opportunities which they attributed, at least in part, to government discrimination. A loose coalition of individuals, political groups and other organizations emerged and became known as the Southern Movement. Many factions of the movement now call for the south of the country to secede from the unified Republic of Yemen and therefore to regain the status of an independent state.

The Yemeni authorities have accused the Southern Movement of containing an armed

element, pointing to several incidents in 2009 when violent clashes between armed protesters and the security forces left casualties on both sides. However, these clashes have been exceptions to a general situation in which protests have not involved armed violence by protesters. The Southern Movement itself has repeatedly stressed the peaceful nature of its aims and campaign.

Most protests have been peaceful demonstrations. Where violence has occurred on the part of protesters, it has generally involved demonstrators throwing rocks in apparent reaction to attempts by the security forces to break up the protests. Even on such occasions, however, it seems that the actions of the protesters have not threatened the lives of security force personnel or members of the public. Despite this, in a disturbingly high number of instances the security forces have, resorted to firing live ammunition at protesters, generally, it appears, without warning or without first using non-lethal methods to try and control or disperse demonstrators. As a result, dozens of protesters are reported to have been unlawfully killed and many others wounded at the hands of the security forces.

Mansour Ahmed 'Abdullah was killed after taking part in a peaceful protest on 21 May 2009 to mark the 15th anniversary of the declaration by southern leaders to secede from the unified Republic of Yemen, a move which led to the 1994 civil war. The protesters sought to gather in al-Hashimi Square in Aden but were prevented from doing so by security forces. Mansour Ahmed 'Abdullah was reported to have been approaching the square and still about 300 metres north of it when security forces opened fire without prior warning. He was hit in the head, fell into a coma and died in hospital five days later. According to information received by Amnesty International, Mansour Ahmed 'Abdullah was unarmed and neither he nor the protesters with him used force or presented a threat to the members of the security forces. No investigation into his death has taken place to date. Four other protesters were killed and at least 10 injured in the protest on 21 May.

Earlier, Walid Salih 'Ubadi, aged 25, and another person were shot dead by security forces on 10 September 2007, during a peaceful demonstration in al-Dali' in support of demands by retired soldiers in the town. Eight other demonstrators were wounded.

Not all killings have taken place during protest demonstrations. One leading member of the Southern Movement, 'Ali Ahmed La'jam, was killed by security forces at his home, apparently in cold blood, and so outside the immediate context of the protests. 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. He is said to have presented no threat to the lives of the members of the security forces who shot him. If these reports are correct, the killing is likely to have been an extrajudicial execution. No independent investigation is known to have been carried out into the killing.

DETENTIONS, TRIALS, TORTURE AND ATTACKS ON THE MEDIA

Since the protests began in 2007, 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 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 allege that they have been tortured or otherwise ill-treated in detention. Tens of detainees arrested in May 2009 following a peaceful protest in al-Mukalla in south-eastern Yemen calling for the release of Southern Movement activists have reportedly since been subjected to torture or other ill-treatment in the city's Central Prison after chanting demands for the independence of the south of the country and for their release from prison. According to information received by Amnesty International, seven men who were seen as ringleaders, including Salim 'Ali Bashawayh, had their wrists and ankles handcuffed to fixed bars and were suspended from them for several hours, causing them severe pain. Others were reportedly tear-gassed, subjected to beatings with sticks, punched and kicked.

In a few cases, detainees, particularly individuals considered to be protest leaders, have been charged and brought before the SCC after lengthy incommunicado detention. They include possible prisoners of conscience such as Qassim 'Askar Jubran, a former diplomat, and Fadi Ba'oom, a political activist, who were arrested in April 2009, charged with endangering national unity by organizing protests and calling for the independence of the south and are currently detained in Sana'a and on trial before the SCC.

Critics of government policies towards protests in the south have also been targeted and in some cases charged with the vaguely worded charge of "undermining national unity". Dr Mohamed al-Saqaf, a lawyer and university lecturer, aged 60, was arrested 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 Criminal Investigation Prison in Sana'a for a few days then released on bail, charged with "undermining national unity". Charges against him were dropped following a presidential pardon in September 2008. He appears to have been targeted for his criticism of repressive government measures against protesters in the south and for acting as the defence lawyer of Hassan Ba'oom, an active member of the Socialist Party who has repeatedly been subjected to arrest and short-term arbitrary detention without charge or trial.

Fahd al-Qirni, an artist sentenced by the Criminal Court in Ta'iz in July 2008 to 18 months' imprisonment and a fine on charges of insulting the President after he satirized him and criticized the government's crackdown on protests in the south, was freed in September 2008, after the same presidential pardon.

The independent media has also come under sustained attack in connection with the unrest in the south, particularly after the coverage by a number of newspapers of protests in the south of the country in the lead-up to 27 April 2009, the 15th anniversary of the start of the civil war of 1994. On 30 April 2009 the authorities confiscated every copy of *al-Ayyam*,

which was established in 1958 and is one of Yemen's largest-circulation daily newspapers, from street news stands and distribution points in the capital Sana'a and southern cities. They took similar action against several other newspapers in early May, when the offices of *al-Ayyam* were also then blockaded by the security forces to prevent copies of the newspaper from being distributed. The government announced a ban against all newspapers which it considered had expressed support for the secession of the south of the country in coverage of protests in the south of Yemen. Several newspapers were forced to close, but all of them have since resumed publication, except *al-Ayyam* which remains effectively prevented from publishing.

In May the creation of a new court with jurisdiction to try cases relating to the media was announced. In January 2010 Anissa 'Uthman was convicted in January 2010 by this court on charges of defamation of the President and sentenced in her absence to three months' imprisonment.

In May 2009 the security forces attacked *al-Ayyam'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. He may have been targeted solely because of coverage of the protests in the southern part of the country.

Most recently, Hisham Bashraheel and others began a sit-in protest on 4 January 2010 at the newspaper's offices in Aden to mark eighth months since the authorities effectively banned them from printing and distributing copies of *al-Ayyam*. The security forces opened fire on the protesters on 4 January and the newspaper's security guards returned fire: one member of the security forces was killed, and three wounded; one security guard was killed and three wounded. Hisham Bashraheel, along with his two sons Hani and Muhammad, were arrested on 5 and 6 January and have since been held at the Criminal Investigation Department in Aden.

HUMAN RIGHTS FRAMEWORK

The Yemeni government took a number of significant measures to improve human rights protection during the 1990s and 2000s. At a national level, it set out rights in the constitution and other legislation, and in 2003 created a Ministry of Human Rights, which has developed into an important official voice for the promotion of human rights in the country. It allowed civil society to flourish over the last two decades; national non-governmental organizations and media were generally able to scrutinize and publicly criticize government policy and practice without negative repercussions. It has also generally permitted international non-governmental organizations access to the country, albeit with restrictions on the areas they are able to visit, and to engage in substantive dialogue with them.

However, in recent years, the authorities have undertaken a number of institutional changes and have pursued practices which have seriously eroded the human rights framework. In 2002 the government created a new security force, National Security, which, like Political Security, reports directly to President Ali Abdullah Saleh and is not subjected by law to

judicial oversight, effectively giving it licence to operate outside the framework of the law. In 2004 the government expanded the jurisdiction of the SCC, established in 1999 to try the crime of *hiraba* (a Shari'a term referring to offences such as occupation of public land, theft of means of transport and aggression against officials), giving it jurisdiction to try people accused of vaguely worded state security offences. As already mentioned, although the court follows the regular Code of Criminal Procedures, its proceedings generally are reported to fall short of international fair trial standards. In May 2009 the government established a court to try cases relating to the media, which seems intended to further erode media freedom and prevent reporting or comment concerning issues considered sensitive or embarrassing by the government. Human rights lawyers in Yemen argue that both courts are unconstitutional.

An ongoing legislative review threatens to undermine human rights protection in the country further. The Money Laundering and Financing of Terrorism Law, which was introduced earlier this month, requires lawyers to disclose information about their clients in breach of the principle of lawyer-client confidentiality.⁵ The draft Counter Terrorism Law is dangerous on a number of counts. One is its definition of "terrorist action", which is so vague and sweeping that it risks being used to penalize legitimate peaceful dissent as well as acts of political violence.⁶ Another is that it expands the number of crimes punishable by death in Yemeni legislation. This is also a concern with the proposed amendments to the Penal Code, which, in addition, open the possibility that capital punishment could be imposed on individuals who were aged between 15 and 18 at the time of committing an offence, a practice that is currently outlawed even if there have been several instances of such juvenile offenders being sentenced to death and executed in recent years.⁷

The Republic of Yemen became a state party to many key human rights treaties, both in 1990 as a result of inheriting the legacy of ratifications before unification by the southern People's Democratic Republic of Yemen and in the early 1990s at its own initiative. They include the International Covenant on Civil and Political Rights, the International Covenant

⁵ The principle is articulated in Principle 22 of the UN Basic Principles on the Role of Lawyers, which states: "Governments shall recognize and respect that all communications and consultations between lawyers and their clients within their professional relationship are confidential."

⁶ See Article 2 (2) of the Counter Terrorism Law which defines "terrorist action" as follows: "Any act or threat of violence, whatever its motives or purposes, that occurs in the advancement of an individual or collective criminal agenda and seeking to disrupt public order or cause damage to the public interest or seeking to cause damage to the environment or to public or private installations or property or to occupying or seizing them, or seeking to jeopardize public health or the national economy or disrupting the work of the authorities or placing the security and safety of the society in danger or threatening peace and security of the republic or its political unity or its sovereignty or disrupting the application of the constitution or laws or seeking to sow panic among people, causing fear by harming them, or placing their lives, liberty or security in danger." This largely borrows from the definition of "terrorism" in the Arab Convention on the Suppression of Terrorism, which has been criticized by a number of UN human rights mechanisms.

⁷ Such a development would violate Article 6 (5) of the International Covenant on Civil and Political Rights and Article 37 of the Convention on the Rights of the Child, to both of which Yemen is a state party.

on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and the International Convention on the Elimination of All Forms of Racial Discrimination.

Until recently, the Yemeni authorities generally co-operated well with UN human rights mechanisms with regard to their obligations under these treaties. However, their failure in November 2009 to attend the UN Committee against Torture's examination of their second periodic report on implementing CAT was a worrying sign, particularly given the Committee's conclusion that the "practice of torture and ill-treatment" in Yemen was "widespread".

Yemen is also a state party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol and the Geneva Conventions of 12 August 1949 and Additional Protocols I and II to them.

RECOMMENDATIONS

Amnesty International urges the EU to:

- make clear to the Yemeni government that human rights must not be sacrificed in the name of counter-terrorism;
- insist that the Yemeni government complies fully with its obligations under international law, including in its pursuit of those who pose a threat of terrorism or are otherwise accused of committing crimes;
- ensure too that any military and security assistance made available to the Yemeni authorities in the name of fighting terrorism is not used to commit human rights violations, whether against those accused of belonging to or supporting al-Qa'ida or the many thousands of people affected by the continuing conflict in the Sa'da governorate and in the context of ongoing unrest and demands for secession of the south.

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