



UPR Submission
Yemen
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Background

Popular discontent, already rising due to widespread unemployment and government corruption, soared in late 2010 after then President Ali Abdullah Saleh proposed to amend electoral laws and the constitution so that he could again seek re-election when his seventh presidential term expired in 2013. In January 2011, inspired by mass protests in Tunisia and Egypt, thousands of Yemenis took to the streets calling for an end to Saleh's 33-year rule.

In response, government security forces repeatedly used excessive force causing deaths and injuries to largely peaceful protesters. At least 250 demonstrators and bystanders, including at least 35 children, died in government crackdowns in Sanaa, Taizz and Aden. In all three places, security forces prevented wounded protesters from obtaining medical assistance, detained or assaulted medics seeking to treat the wounded, looted hospitals and used them for military purposes.

Armed confrontations arose in May and June 2011 between government security forces and fighters from the opposition al-Ahmar clan. There were credible reports that government forces carried out extrajudicial killings and indiscriminate attacks on densely populated areas.

In Aden, security forces committed abuses against activists of the Southern Movement, an umbrella group seeking independence or greater autonomy for southern Yemen, a separate state until 1990, after the movement joined anti-Saleh protests in February 2011. Security forces briefly detained dozens of Southern Movement members and made at least eight forcibly disappear for days or weeks. In Aden, government soldiers killed the son of a Southern Movement leader in June when he tried to persuade them to cease blocking a funeral procession.

On November 23, 2011, Saleh agreed to relinquish the presidency in the face of mounting domestic and international pressure. He signed an accord brokered by the Gulf Cooperation Council (GCC) and largely endorsed by the UN Security Council, the United States, and the European Union, in which he agreed to transfer power to his vice president, Abdu Rabu Mansour Hadi, over a three-month period.

The accord granted Saleh full immunity against prosecution and gave all "those who worked" with him during his 33-year rule – a sweepingly broad category of people - immunity against prosecution for "political" crimes other than terrorist acts. The immunity law violates Yemen's international legal obligations to prosecute those responsible for serious human rights violations.

Some fighting continued after the change of president. Both the security forces and opposition armed groups continued to be deployed in schools, exposing children to serious risk and undermining education. More than 170 schools were attacked or used for military purposes between January and June 2012, according to the UN Office of the High Commissioner for Human Rights.

On February 21, 2012, Yemenis voted to appoint Hadi, the sole candidate, as a two-year interim president. Under a UN-facilitated "Implementing Mechanism" that serves as a transition blueprint, Hadi's government is to bring security forces—including those run by Saleh's relatives—under civilian command, pass a transitional justice law, draft a new constitution, reform the electoral and judicial systems, and hold general elections in 2014. The

mechanism also obligated the government to convene a national dialogue conference to address grievances by groups including the northern Huthi rebels and the Southern Movement; it launched this in March 2013.

Loyalists of Saleh, who remains in Yemen as head of the General People's Congress political party, have resisted transition measures, sometimes with violence. In the south, new demonstrations advocating secession began in January 2013 and were continuing in June as this report went to print; many were violent and resulted in deaths.

Accountability for Past Violations

President Hadi has begun to wrest control of the security forces from Saleh's close relatives and to address the grievances of people in the south. He has also ordered the military to cease using child soldiers. The pace of reform, however, has been slow and Hadi has yet to appoint members to a commission of investigation that he announced in September 2012 to investigate human rights crimes committed during the uprising against his predecessor.

In January, Hadi presented a long overdue transitional justice law to parliament after amending the version prepared by the minister of legal affairs, but it has yet to be enacted due to disagreement over the period it should cover – whether 2011 only, the period since Yemen's 1994 civil war or the full extent of Saleh's 33-year rule.

The version of the draft law that the presidency submitted to parliament omitted an earlier provision to create a historical record and limited investigations to 2011, explicitly requiring that they be subject to the immunity law. Many local and international nongovernmental organizations criticized the president's draft; in response, Hadi told the UN Security Council in January that he would resubmit the earlier draft prepared by the minister of legal affairs, although five months later he had still to fulfill this commitment.

In April a Yemeni court issued an order to investigate the former president and 11 others, including his nephews Yahya Saleh and Tareq Saleh, in connection with the "Friday of Dignity Massacre" on March 18, 2011, when security forces killed at least 45 anti-government protesters in Sanaa. The court decision sought to undo the findings of a previous Saleh government investigation on grounds of political interference and failure to investigate evidence possibly implicating senior officials.

In December 2012, Hadi decreed that Yemen's military forces should be reorganized into five units – army, navy, air force, border force, and strategic reserve – and ordered the dissolution of the Republican Guard, commanded by the former president's son, Gen. Ahmad Ali Saleh, and the rival First Armored Division, commanded by Gen. Ali Mohsen al-Ahmar. In April he issued a further decree that reassigned various military commanders to civilian roles, making Ahmad Ali Saleh Yemen's ambassador to the United Arab Emirates and Ali Mohsen al-Ahmar the presidential military advisor.

However, Hadi's government has not undertaken any vetting of military officials or brought any prosecutions against those responsible for human rights violations during the 2011 uprising. At the time, Human Rights Watch documented serious rights violations, including arbitrary detentions, torture, enforced disappearances and indiscriminate shelling of civilians by units of the First Armored Division, the Republican Guard and the Central Security Forces.

In January, Hadi ordered the establishment of two separate committees to address southern grievances, one to resolve land disputes and the other to review the dismissal of southern civil, security and military personnel after their defeat in 1994 by northern forces in the civil war. Both committees lack basic resources to compile a database of complaints and their members lack appropriate training.

Recommendations

- Promptly create the independent commission ordered through presidential decree in September 2012 to conduct a transparent and independent investigation, in accordance with relevant international

standards, into serious human rights violations during the 2011 uprising. The commission's findings should form the basis for investigations and criminal prosecutions as appropriate.

- If independent and impartial investigations are not forthcoming, comply with any efforts to establish an international probe to carry out investigations.
- Ensure that the transitional justice law that is enacted is victim-centered and accords fully with international standards of justice, truth-telling, and reparation, including victim compensation.
- Comply with international obligations prohibiting immunity from prosecution for those responsible for serious human rights violations.
- Increase technical and financial support to the two committees addressing southern grievances to assist them to fulfill their mandates.
- Establish an independent national human rights commission that complies with the Paris Principles, without further delay, as under recommendations 91.9 and 91.10 agreed by Yemen during its previous UPR.
- Ratify the Rome Statute of the International Criminal Court (ICC) and fully align Yemen's national legislation with the obligations of the Rome Statute, including provisions requiring Yemen's full and prompt cooperation with the ICC and its effective investigation and prosecution of genocide, crimes against humanity and war crimes before Yemen's national courts.

Attacks on Journalists

During its previous UPR, Yemen had accepted several recommendations to remove restrictions on the right to freedom of expression and to guarantee the protection of journalists. Since President Hadi took office Yemen has experienced greater freedom of expression as the authorities have eased formal controls on the media – but the legal restrictions have not been removed. This has also come at a price – a rising incidence of assaults on journalists, bloggers and others who express their views, both by the authorities and their supporters and by nongovernmental groups, including Saleh loyalists, Huthis and religious conservatives. The government generally has neither condemned such attacks nor investigated them and held those responsible to account. In 2012, according to the Freedom Foundation, a Yemeni organization that monitors press freedom, it recorded 260 incidents involving 432 victims, ranging from attempted murder and enforced disappearance to criminal prosecution, confiscation, and verbal harassment. In the first four months of 2013, it recorded a further 137 attacks involving 184 victims.

Human Rights Watch has documented 22 incidents between February 2012 and May 2013 involving attacks on and harassment of journalists, including killings, arbitrary arrest and detention, unwarranted criminal and civil prosecution, and threats and public vilification by both government authorities and nongovernmental groups.

The government has yet to provide any judicial remedy in any of the cases. The authorities have failed to hold to account state officials responsible for attacks on journalists or to take appropriate action in response to attacks perpetrated by non-state armed groups.

Recommendations

- Fulfill recommendations 91.74, 91.75, and 91.76, accepted by Yemen during its previous UPR, to cease intimidation and threats against journalists, to take steps to guarantee and promote freedom of expression, and to amend and enforce the Press and Publication Act so as to protect the rights of journalists and uphold media freedom by repealing provisions that curtail journalists' rights and prescribe excessive penalties.

- Enshrine freedom of the press in Yemen's new constitution.
- Train all law enforcement officers on their obligations under international law during demonstrations, including the prohibition on excessive use of force against all protesters, including members of the media.
- Publicly condemn and promptly and impartially investigate all attacks on journalists, and hold those responsible to account, including as a matter of command responsibility.

Compliance with the 1997 Mine Ban Treaty

Yemen is a state party to the 1997 treaty prohibiting antipersonnel landmines and, as such, has committed never to use antipersonnel mines and to prevent and suppress activities that the treaty prohibits. Yemen informed the UN in 2002 that it had destroyed its stockpile of antipersonnel munitions.

However, witnesses interviewed by Human Rights Watch in April 2013 during a site visit to the Bani Jarmooz area northeast of Sanaa said they had seen Republican Guards deploying antipersonnel landmines around two of their military camps there in 2011. A local human rights organization and an international journalist provided similar information. Local community leaders said that the Republican Guard had refused to remove these prohibited munitions although they have caused the death and injury of at least 15 civilians, including at least 9 children. The commander of the Republican Guard's 63rd Brigade at Bani Jarmooz is reported to have told community representatives on June 21, 2012 that his forces had placed 8,000 antipersonnel landmines around their camp and others in cliffs adjacent to nearby Mount Asama (*Yemen Rights*, April 10, 2013).

The landmine incidents that have caused civilian casualties have occurred close to the military camps that the Republican Guard's 63rd and 81st Brigades were based at in Bani Jarmooz in July, 2011 and continues to use. The area has not seen other military activity that could explain the presence of these prohibited munitions.

Recommendations

- Conduct an immediate investigation into the deployment of antipersonnel mines and other prohibited munitions in the Bani Jarmooz area, in order to establish when, by whom, and under what authority they were deployed, the types of munitions used, and the extent of their deployment.
- Immediately mark and cordon off the areas where antipersonnel mines and related munitions are deployed so as to reduce the risk of further casualties among the local population, and promptly embark on a mine clearance program to remove or destroy the munitions from the vicinity of the Republican Guard camps and any other areas in which antipersonnel mines have been deployed.
- Identify and prosecute those responsible for deploying antipersonnel mines in accordance with the legislative measures taken by Yemen in implementing the Mine Ban Treaty.
- Provide appropriate compensation, assistance, and support to those killed or injured as a result of the deployment of these mines and their families, including medical care, the provision of prosthetics where appropriate and on-going rehabilitation needs, as well as to other landmine victims in Yemen.
- Disclose the source of the antipersonnel mines laid in the Bani Jarmooz area, indicating whether they came from a hitherto undisclosed Yemeni stockpile or from a foreign source or sources and, if so, the identity of the suppliers and the dates on which the Yemeni authorities received them.
- Immediately collect and destroy any remaining stockpiles, as required by the Mine Ban Treaty.

Death Penalty and Juvenile Offenders

Since 1994, Yemen's penal code has prohibited the execution of juvenile offenders, providing a maximum 10-year prison term for individuals who commit capital offenses when under 18 years old. Yemen is a state party to the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child, both of which specifically prohibit the use of capital punishment against individuals who were under 18 at the time of the offense. During its previous UPR, Yemen had accepted recommendations 91.55, 91.56, 91.57 and 91.58 not to impose capital punishment for offenses committed by persons below 18 and take immediate steps to remove juvenile prisoners from death row.

However, Yemen continues to execute individuals in the face of credible evidence that they are juvenile offenders. Authorities sent at least 15 such men and women to their deaths before firing squads in the last five years; the last such execution was on 3 December 2012. At least 22 others are currently on death row and facing execution. State prosecutors have urged judges to impose death sentences on almost 200 other suspected juvenile offenders.

Defendants face serious obstacles when they try to prove in court that they were under 18 at the time of the offense for which they are charged, often due to their lack of a birth certificate. Yemen has one of the world's lowest rates of birth registration at only 22 percent of births. In some cases, judges have relied on error-prone forensic examinations to determine defendants' age and sentence them to death. On other occasions, judges have ignored evidence proving that defendants were under 18 at the time of the crime and imposed the death sentence.

Some juvenile offenders on death row told Human Rights Watch that police had beaten and tortured them in detention to coerce confessions. Some said police denied them access to legal representation during investigations.

Recommendations

- Cease executing juvenile offenders and applying the death penalty to juveniles as agreed under recommendations A-55, 56 and 58 of Yemen's previous UPR, and immediately transfer all juvenile offenders out of death row.
- Review all death sentences involving possible juvenile offenders, and commute all death sentences in cases where the offender's age cannot be conclusively determined.
- Instruct judges not to issue death sentences in cases where the age of a possible juvenile offender cannot be conclusively determined.
- Retry all cases in which courts accepted prosecution-ordered forensic examinations as determinative proof that a defendant was aged 18 or older at the time of the crime.
- Amend the Juvenile Care Law (Law No. 24 of 1992, as amended by Law No. 26 of 1997), to refer all cases involving defendants under 18 at the time of the crime to child courts, and fulfill its commitment under accepted recommendation A-61 from the previous UPR to raise the legal age of criminal responsibility to 18.
- Direct prosecutors to exclude from evidence all forced or compelled testimony, in particular, admissions or confessions obtained by means of torture, cruel, inhuman, or degrading treatment.
- Ensure that all arrested juveniles are afforded legal representation at all stages of investigation, prosecution and trial, including during their questioning by police and prosecutors.

Annex

Human Rights Watch, *Unpunished Massacre: Yemen's Failed Response to the Friday of Dignity Killings*, February 12, 2013, <http://www.hrw.org/reports/2013/02/12/unpunished-massacre-0>

"Yemen: Justice Deficit Marks Transition Anniversary," Human Rights Watch news release, February 23, 2013, <http://www.hrw.org/news/2013/02/23/yemen-justice-deficit-marks-transition-anniversary>.

"Yemen: Military Changes a Major Transition Step," Human Rights Watch news release, April 12, 2013, <http://www.hrw.org/news/2013/04/12/yemen-military-changes-major-transition-step>

"Yemen: Court Orders Investigation of Ex-President," Human Rights Watch news release, April 30, 2013, <http://www.hrw.org/news/2013/04/30/yemen-court-orders-investigation-ex-president>

"Yemen: Reveal Any Military Role in Journalist's Killing," Human Rights Watch news release, April 3, 2013, <http://www.hrw.org/news/2013/04/03/yemen-reveal-any-military-role-journalist-s-killing>

"Yemen: Investigate, Respond to Landmine Use Reports," Human Rights Watch news release, May 27, 2013, <http://www.hrw.org/news/2013/05/27/yemen-investigate-respond-landmine-use-reports>

Human Rights Watch, *Look at Us with a Merciful Eye: Juvenile Offenders Awaiting Execution in Yemen*, March 4, 2013, <http://www.hrw.org/reports/2013/03/04/look-us-merciful-eye>