

International Federation for Human Rights (FIDH)

Report

Yemen: Impunity granted, transition at risk

The human rights violations committed during the repression of the protest movement February-December 2011

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1. Introduction

In February 2011 the Yemeni authorities began a massive crackdown on an unprecedented wave of protests, during which hundreds of thousands of demonstrators assembled for weeks on end in several cities, namely Sana'a, Aden, Taiz, Ibb and Hodeidah. Although they initially had gathered to express their solidarity with the Tunisian people, the demonstrators rapidly began to call for political reforms in Yemen, and as the repression became more and more violent, for the resignation of President Ali Abdullah Saleh who has been in power for 33 years. The demands for reform were fuelled by the announcement by the Government a few weeks earlier of a plan to amend the Constitution so as to enable President Saleh to be re-elected indefinitely as Head of State. This initiative was condemned at the beginning of January 2011 by a coalition of opposition parties called the “Joint Meeting Parties.”¹ The uprising soon reached unprecedented proportions, and a group that called itself the Youth Revolution (*thawrat chabab al-cha'b al-yemeni*) gradually emerged as representative of the movement.

Government forces were quick to use force to put down the demonstrations. Serious and recurrent human rights violations – excessive use of force resulting in death; arbitrary arrest and detention; cases of forced disappearance; acts of torture and ill-treatment; and preventing access to medical care for wounded people – have been documented. These violations not only affected the predominantly peaceful protestors, but also whole sectors of the population. Civilians who were not directly involved in the protest movement were, on numerous occasions, victims of indiscriminate attacks by government forces, both in the context of the government’s repression of the protest movement and when government forces engaged in violent confrontations with armed opposition groups. Particularly in the cities where the uprising was most strongly felt, the general population was subjected to constant reprisals, in the form of electricity cuts and severe restrictions on gas, petrol and water. In addition, the humanitarian situation in the country has deteriorated considerably, despite already having been of grave concern considering Yemen is not only the poorest country in the Arab world but has also been afflicted for many years with intermittent armed conflict in the North with critical humanitarian consequences.

In view of the persistent disturbances in the country linked to the strengthening of the protest movement and its repression by the Yemeni government, in April 2010 the UN High Commissioner for Human Rights proposed to send a fact-finding mission to the country. Following the approval of the Yemeni authorities, a delegation from the Office of the High Commissioner was able to visit Yemen from 28 June to 6 July 2011. The report of the mission notes a disproportionate and excessive use of lethal force against demonstrators and denounces acts of violence and violations of human rights committed against members of the civilian population who had not taken part in the demonstrations².

On October 21, 2011, the UN Security Council adopted a Resolution on Yemen in which it “strongly condemns the continued human rights violations by the Yemeni authorities, such as the excessive use of force against peaceful protestors”, and calls for the

¹ The Joint Meeting Parties, or *Ahزاب al-Liqa al-Mushtaraka*, is a group of six opposition parties, including the Yemeni Congregation for Reform (*al-tajamu' al-yamani li al-islaha*) and the Yemeni Socialist Party (*Hizb al-ishtiraki al-yamani*).

² Report A/HRC/18/21, 13 September 2011

signing and implementation of an agreement on the transition of power, negotiated by the Gulf Cooperation Council (GCC).³

Beginning in April 2011, the GCC submitted the draft agreement to the President of the Republic and the opposition parties belonging to the “Joint Meeting Parties”, but the signing of the agreement was postponed a number of times, mostly owing to a refusal on the part of President Saleh⁴. President Saleh finally signed this GCC initiative on 23 November 2011. The main feature of the agreement was the transfer of effective power to Vice-president Abd-Rabbou Mansour Hadi, who was charged with the task of forming a National Unity government. For three months following the transfer of power, President Saleh was to remain the nominal president. Under the agreement, following the next presidential elections the new President and the government will draw up a new Constitution. In addition to these provisions concerning the transfer and the organisation of power during an interim period, the agreement also contained a clause granting “the President and all those who had worked with him during his term of office immunity from all judicial proceedings”. For this clause to be in effect, the Parliament had to adopt specific legislation concerning this immunity. On 21 January 2012, the Yemeni Parliament thus passed a law granting the President “total immunity against all legal or judiciary proceedings”, and granting all his “civilian, military and security” staff immunity “for politically motivated acts performed in the course of their official functions.”⁵

This agreement was overwhelmingly rejected by Youth Revolution, which remains the main coordinating body of the protest movement, and by national and international human rights NGOs. Tens of thousands of protestors continued to demonstrate in Yemen to condemn the planned immunity for those responsible for human rights violations, and to demand that they be brought to justice.

³ United Nations Security Council resolution S/RES/2014

⁴ According to this agreement (unofficial translation) :

- Saleh will immediately give authority to the current vice-president, Abd-Rabbuh Mansour Hadi, to establish a national unity government.
- On the 29th day after the signing of the agreement, the Parliament will pass a law granting immunity from prosecution to President Saleh and those who worked with him during his reign.
- On the 30th day after the signing of the agreement, President Saleh shall submit his resignation to the Parliament, and upon approval of the Parliament the Vice-President shall be appointed as the Acting President.
- President Saleh shall conserve his title of Acting President until the presidential elections scheduled to take place at the end of February 2011
- The Acting President shall hold presidential elections within 90 days in accordance with the Constitution.

The agreement also outlines elements to be addressed by the government during the transition, including:

- “[taking] the necessary steps ... to ensure cessation of all forms of violence and violations of humanitarian law”
- “immediate commitment to standards of good governance and the rule of law and respect for human rights”
- “seek legal and administrative measures for prosecutors and police ... to act according to law and international standards and to release those detained illegally”.

⁵ The initial text proposed on 9 January 2012 by the Yemeni government granted “President Ali Abdullah Saleh and those who had worked with him, including the civilian, military and security institutions, during his presidency, legal and judicial immunity for political crimes.” The text that was actually adopted on 21 January 2012 – Law n° 1, 2012 – specifies that the immunity “does not apply to acts of terrorism.”

Methodology

The present report was produced by FIDH on the basis of information received from its Yemeni partners, Human Rights Information and Training Center (HRITC), Sisters' Arab Forum for Human Rights (SAF) and the Yemeni Network for Human Rights (YNHR).⁶ This report aims to contribute to the documentation of violations committed in Yemen from February 2011 to January 2012, and to encourage the establishment of an International Commission of Inquiry for an impartial and thorough investigation of the crimes committed, as a call against impunity.

Despite the difficulties resulting from the prevailing insecurity in Yemen since the beginning of the protest movement, particularly the dangers faced by human rights activists and those who dare denounce violations, Yemeni human rights organisations have sought to monitor and expose violations committed during the protest movement. At the request of HRITC, FIDH has decided to support the action of its above-mentioned members and partner organisations by producing this analytical report based on the information they provided. FIDH wishes to thank them for their valuable cooperation.

Each fact presented in this report was checked against several sources⁷. Personal testimonies were collected by FIDH's partner organisations in the field. The report only cites the names of witnesses who previously revealed their identities to local organisations. FIDH's Yemeni partner, HRITC, supports the conclusions of the present report.

The events reported in the present document mainly refer to the repression of the peaceful protest movement. Information on serious violations of human rights committed against civilians who did not take part in the demonstrations is also included. These illustrate the extent of the repression and the indiscriminate nature of certain measures employed by the Yemeni authorities.

⁶ The Yemeni Network for Human Rights (YHRN) is composed of six Yemeni NGOs: HRITC, Yemeni Observatory for Human Rights (YOHR), National Organisation for Defending Rights and Freedom (Hood), Women Journalists Without Chains (WJWC), Yemeni Organisation for the Defence of Rights and Democratic Freedoms, Democratic School and Sisters Arab Forum for Human Rights.

⁷ Some facts presented in this report are not attributed to a specific source or published document. In these cases, the information provided was collected through interviews and exchanges between FIDH and its member organizations.

2. Context

In 2011 a large protest movement developed in Yemen, after nearly a decade of progressively weakening state authority due to the permanent state of crisis and internal contestation accompanied by flagrant human rights violations. Since 2004, the Yemeni Government has been in conflict with the Huthi rebels in the Sa'adah Governorate in the north of the country⁸. Hundreds of civilians were killed during the intermittent conflict, which also displaced thousands of people and exposed the region to a very worrying humanitarian situation. The authorities are also faced with a protest movement led by the "Southern Movement" (*al-harak*), which since 2007 has denounced acts of discrimination against the population of South Yemen and called for reforms. This movement has gradually come to call for the secession of South Yemen. In recent years repression against this movement has intensified.

Such political tensions were exacerbated by the resurgence of a profound political crisis between the regime and a coalition of opposition parties grouped under the name "Joint Meeting Parties"⁹, which came to a head in January 2011 with a disagreement on planned amendments to the Constitution that notably did away with the provision that limited the number of terms of office of the President of the Republic to two.¹⁰ The protests intensified, becoming a widespread social movement and then a genuine opposition movement that swept the country for nearly a year, the after-effects of which are still being felt at the time of writing.

Since 22 January 2011, students, activists and human rights defenders have participated in a massive demonstration in Sana'a, calling first for political reforms, and then the resignation of the President of the Republic, Ali Abdallah Saleh. Demonstrators including Tawakkol Karman, president of "Women Journalists Without Chains,"¹¹ were arrested and charged with participating in an unauthorised rally.¹² The next day other human rights defenders were arrested while participating in a peaceful demonstration calling for the release of Ms. Karman and the other arrested persons. The protest movement was then joined by the "Joint Meeting Parties" and by a group made up mainly of students and young activists who called themselves "Youth Revolution." The protest continued to develop and spread to other provinces, from the coastal city of Hodeida in the West, to al-Mukalla in the East, Saa'da in the North and Aden in the South, demanding the resignation of the President and more social justice. In the South, the protests that had been taking place since 2007 were now largely

⁸ Since the death of the Zaydi Shia religious chief Hussayn Badr al-Din al-Huthi in 2004, violent warfare has raged in the Sa'adah region (in the north) between the Yemeni army and al-Huthi's followers, who protest against the state-sponsored expansion of Sunni Islam in the northern provinces, where the majority of the population is Zaydi Shia. The last cease-fire between the Huthis and the government was reached in February 2010.

⁹ In 2009 these parties had already decided to boycott the parliamentary elections, owing to disagreements with the ruling party around the reform of the electoral system, the establishment of a two-chamber parliamentary system, and the general level of democracy in political affairs. For further information on the details of these disagreements, see *Comprehensive Assessment of Election Framework*, a joint report of The Democracy Reporting International (DRI) and Human Rights Information and Training Center (HRITC), November 2008.

¹⁰ President Saleh was elected in 1999, and his second term of office would have ended in 2013.

¹¹ Tawakkol Karman was soon to become coordinator of Youth Revolution, and on 7 October 2011 was awarded the Nobel Peace Prize.

¹² See the Urgent Intervention issued by The Observatory for the Protection of Human Rights Defenders, 27 January 2011: <http://www.fidh.org/Death-threats-against-Ms-Tawakkol>

centred on the resignation of the President. In the North, demonstrators increasingly called for the fall of the regime. The uprising intensified, and took on the form of sit-ins, permanently occupying symbolic locations in major cities: University square in Sana'a, now called "Change Square," and Freedom Square in Taiz.

As the protest movement developed, the government forces reacted with increasing violence. During the March 18th demonstration in Sana'a, undercover snipers killed 53 demonstrators and wounded several hundred. A state of emergency was decreed the same week for 30 days.¹³ The massacre was a turning point of the revolution. Several politicians withdrew from the government, notably the Yemeni minister for human rights.¹⁴ Members of the army also joined the protest movement: on 21 March 2011 General Ali Mohsen al-Ahmar, commander of the first armoured division and close advisor to the President, decided to join the movement, followed by other army officers.

The repressive and increasingly violent reaction of the authorities was accompanied by a succession of concessions announced by the Head of State. On 2 February 2011, President Saleh announced to the Parliament that he would leave power in 2013, at the end of his term of office. He also said he would be prepared to open a dialogue with the "Joint Meeting Parties." Later he announced the postponement of the parliamentary elections scheduled for 27 April 2011, which the opposition considered should not be held in the absence of substantial political reforms.¹⁵ On 20 March 2011, after the Sana'a massacre, the President of the Republic dismissed the government and ordered an inquiry into the events of 18 March 2011. On 23 March he proposed a constitutional referendum, legislative and presidential elections, and his resignation from office before the end of 2011.

Despite these promises, the protest movement continued to develop. During March and April, there was a countrywide convergence of the various protests. Activists in the North and the South, members of the opposition, socialists, liberals and Islamists all called for the resignation of the President and the removal of his son, Ahmed Ali Abdullah Saleh, from his position as commander of the Republican Guard and the Special Forces, and for the appointment of a government of national unity. Large rallies of supporters of the regime were also organised each Friday, but they were meagre compared to the massive and daily gatherings of protestors all over the country. Nevertheless, the President refused to comply with the demonstrators' demands, and government forces continued their violent repression.

The civilian population was also affected by the repeated air attacks on the districts near the squares occupied by the protestors. From February to April 2011, around a hundred people were reportedly killed by government forces for having taken part in peaceful demonstrations or by bombings on areas close to sites occupied by the protestors.¹⁶ On 11 April 2011,

¹³ The state of emergency was lifted on 28 April 2011.

¹⁴ This was Ms. Huda al-Ban. The under-secretary of the same ministry, along with the minister for Tourism and the minister for the *Waqfs* (religious property) also decided to leave the government.

¹⁵ In 2009, the ruling party (General People Congress) and the "Joint Meeting Parties" agreed on a set of electoral and constitutional reforms. This agreement postponed for 2 years the legislative elections initially planned for April 2009. However, the dialogue collapsed in late 2010 when the ruling party put forward a series of proposed constitutional amendments, including the reduction of the Presidential term from 7 to 5 years and the removal of the 2-term presidential limit, which were strongly contested by opposition parties and sparked public protests.

¹⁶ As of 1 April, the figure was 75 according to YNHR, and 94 according to Amnesty International. See *A*

President Saleh accepted a mediation plan proposed by the GCC. Under the plan he would leave power in 30 days in exchange for judicial immunity. Part of the opposition accepted the plan, but the young protestors, in particular Youth Revolution, rejected it, condemning the immunity the President would enjoy.

As the conflict dragged on, part of the protest movement became militarized. There were regular skirmishes between loyalist forces and General Ali Mohsen al-Ahmar's first armoured division. At the same time, fighters from tribes opposed to the President entered into armed conflict with the State and its loyalist forces, creating several conflict zones. Such was the case of Sheikh Sadeq al-Ahmar, head of the Hached tribe, one of the most powerful in the country. While his men occupied several public buildings, fighting with the government forces intensified, forcing many inhabitants to flee. Between 23 and 26 May, the Sana'a residence of Sheikh Sadeq al-Ahmar was under attack, and there was violent combat between tribal insurgents and loyalist forces. In Taiz, armed insurgents loyal to Sheikh Hammoud Said al-Mekhlafi, head of the Taiz tribal council, gained control over part of the city in June, and fighting occurred regularly with government forces positioned on the hills surrounding the city or in public buildings. The regular army and the Republican Guard frequently raided residential districts accused of supporting or harbouring men belonging to groups of the armed opposition. At the same time Islamist activists gained control over some cities in the Abyan province in the South, while Huthi rebels extended their control in the North. As the crisis intensified, the government lost control over more and more parts of the territory. On 3 June, an explosion inside the mosque of the presidential palace in Sana'a killed 11 persons and wounded many more, including President Saleh and his Prime minister, the Presidents of both houses of Parliament, and other members of the government. The authorities officially attributed the attack to tribal chiefs, without however providing any evidence.

On 23 November 2011 the President signed the GCC agreement, and on 9 January 2012 the Yemeni government adopted a draft bill – passed by the Parliament on 21 January – granting judicial immunity to the President and his staff. In February 2012, when the agreement was being finalised, demonstrations supported by Youth Revolution continued, notably in Sana'a, Taiz and Aden, demanding that the President and his staff be brought to justice, and that those close to him who were still in office resign. The protestors opposed the presidential elections scheduled for February 21, and accused the new government and Parliament of undermining national reconciliation by granting immunity to the President. The Huthi movement in the North and the “Southern movement” in the South also threatened to boycott the elections, and accused the new government of having excluded them from the negotiations. Other more sporadic demonstrations took place in various provinces, denouncing corruption and calling for social reforms. Despite promises made by the Yemeni authorities and their commitment to “take steps to prevent violations of human rights and humanitarian law” as outlined in the GCC agreement, some of the rallies were still quashed by government forces, although to a lesser degree than in previous instances.

Decisive Moment For Yemen, Amnesty International, April 2011.

3. Institutions and units responsible for human rights violations

Several institutions, from the army and security forces to the Republican Guard and the police, appear to have been mobilized to suppress opposition rallies and demonstrations and to take part in attacks targeting civilians in Yemen. In many cases, due to the difficulty in conducting systematic and thorough investigations on the ground, it was difficult to clearly identify the unit responsible for the violations, especially since armed civilians, often identified as supporters of the regime, were very active alongside the security forces in the crackdown.

Nevertheless, according to information collected by local NGOs, the Central Security Organization¹⁷ and the Republican Guard were mainly responsible for acts such as shelling and bombing that caused the death of civilians as part of the repression of the protest movement between February 2011 and January 2012. Between 22 October and 14 November 2011, the organisation Hood documented 67 violent attacks against civilians – either demonstrators or people living near protest rally sites. These attacks were attributed to the Republican Guard (23), the Central Security Organization (11), and the remainder (19) to armed militias linked to the regime or government military units.

Created in 1980, the Central Security Organization is a paramilitary unit under the authority of the Ministry of Interior. One of its principal tasks is to maintain public order. Deployed countrywide, it is generally the only law enforcement agency present in rural areas, and is headed by General Yahya Mohammed Abdullah Saleh, the President's nephew. The Republican Guard, responsible for security operations, is led by General Ahmed Ali Abdullah Saleh, the President's eldest son. Its forces are mainly concentrated around major cities. These two institutions are widely thought to be behind most killings of demonstrators by government forces, in addition to the bombardments and raids targeting residential housing areas.

Yemen's Political Security Organization and National Security Force¹⁸ report directly to President Saleh, are not subject to judicial oversight, and have reportedly been the main bodies involved in the abduction and arbitrary arrest of protesters.¹⁹ The National Security Force was created by decree 261 issued in 2002 to safeguard national security and interests. Its forces regularly intervene in the fight against terrorism. The Political Security Organization was established by decree 121 in 1992 to combat crime and acts of sabotage. These two agencies control detention centres throughout the country and, in recent years, have been mainly responsible for the arrest and detention of political opponents of the regime and human rights defenders. It should be noted that most cases of torture reported by protesters who have been arrested occurred during such detentions.

Recruitment of armed groups in the suppression of peaceful demonstrations

From the start of the protest movement, the regime has used armed militia groups who are not officially affiliated to the state security forces to disrupt peaceful sit-ins and marches. These

¹⁷ Known in Yemen under the name "*al-amn al-markazi*"

¹⁸ Known in Yemen under the name *al-amn al-siyassi* and *al-amn al-'am*

¹⁹ Detainees abducted or arrested by these units are held in centres under the authority of the security services that are not subject to judicial control.

groups, consisting of individuals recruited by the government, have been accused of attacking demonstrators with live ammunition, knives, sticks and stones. In addition, eyewitnesses say these groups have also abducted and detained protesters as they arrive or leave sit-in venues. The official media depict these groups as supporters of President Saleh, and portray their attacks against peaceful protesters simply as clashes between independent pro-regime and opposition elements.

There is significant evidence to prove that the security forces have been involved with the mobilisation of these groups, either by directly participating in or supervising their attacks, ensuring their protection, providing them with financial aid and material supplies including weapons, or by facilitating their movements. YOHR has collected a great deal of evidence confirming allegations by peaceful protesters that these groups are part of the security and military forces, use military vehicles and official military camps, and coordinate closely with the security agencies during operations to disrupt protest rallies and marches.

Rizwan Masood, president of the Yemeni students union, said that on 13 February 2011, “individuals dressed in civilian clothes and carrying sticks, bladed weapons and pistols participated, along with security personnel, in dispersing the march, and in attacking demonstrators.” He further stated that individuals wearing civilian clothes came in two jeeps accompanied by a senior official from the local council of the “capital secretariat.”

Influential personalities in the ruling party and government officials have also participated in managing these groups and supervising their work.

On 14 February, armed militia dressed in civilian clothes led by a ruling party official in Taiz province attacked peaceful protesters in Taiz city’s Freedom Square, pelting them with stones and empty bottles, injuring 22 people.

On the night of 23 February, a man whose testimony was collected by YOHR was arrested by security forces after an attack by men in civilian clothes on protesters in front of the gates to Sana'a University. He was taken to a police station where he was told by the duty officer questioning him that “7 of our companions” – meaning armed militiamen – were killed during the clash with protesters and that he was one of the killers, although there was never any report filed of these supposed homicides. Nevertheless, the use of the term “our companions” illustrates the cooperation that exists between the security forces and armed groups.

On 2 March, an armed group attacked a peaceful demonstration in the People's Garden in the town of Hodaidah, wounding at least 16 protesters. Another 66 people were wounded in a further attack there on 16 March.

On 18 March, an eyewitness who spoke with YOHR reported seeing large groups of Central Security officers dressed in civilian clothes – some wielding sticks – leaving the Central Security camp and heading towards Change Square, located outside Sana'a University’s eastern gate, moments before an attack on protesters there.

4. Allegations of use of force by protestors

Since the beginning of the protest movement, and particularly since March 2011, armed clashes have regularly pitted government forces against members of the army loyal to General Ali Mohsen al-Ahmar or armed men from tribes opposed to President Saleh. These clashes have resulted in casualties on both sides.

Conversely, according to information obtained from local NGOs, not a single member of the security forces was killed or seriously injured by demonstrators taking part in the protests held throughout Yemen between February 2011 and January 2012. Moreover, no cases have been reported of demonstrators resorting to the use of firearms against law enforcement personnel.²⁰ While there were some reports of protesters throwing stones at government forces using violent methods to disperse them, these acts do not in any way justify the use of excessive force against the demonstrators.

²⁰ The report of the United Nations Commissioner for Human Rights mentions only one case of the use of force by demonstrators. On 29 May 2011, demonstrators reportedly briefly kidnapped security officers during a rally outside the security service offices in Taiz demanding the release of fellow anti-regime protestors being held there. The security officers were quickly released by the demonstrators who were chased to Freedom Square where security forces fired live ammunition at people gathered there, causing a number of deaths and injuries. This incident has not been confirmed by YNHR.

5. Killing of unarmed protestors and civilians

The number of victims of the crackdown on the protest movement remains unclear both due to the absence of systematic investigations at a national level, and the difficulty in distinguishing direct victims of the repression against demonstrators from people killed or wounded in armed clashes in various parts of the country. According to information collected by local NGOs, an estimated 484 civilians were killed in Yemen between January and November 2011. These victims were mostly unarmed demonstrators who were peacefully exercising their right to protest, and civilians residing in areas close to the main demonstration sites.²¹ For example, in Taiz, one of the first towns to call for the resignation of President Abdullah Saleh and a principal target of the government crackdown, local NGOs recorded 169 civilian casualties between the start of the protest movement on 11 February 2011 and 5 December 2011.²²

a. Excessive use of force against protestors causing death and injury

Yemeni law strictly confines the right to peaceful assembly. Law No. 29 (2003) stipulates that public demonstrations and marches must be announced at least three days in advance to the security services of the provincial or district authorities. The organizers must communicate the place, time, and purpose of the event, as well as the slogans that will be chanted. Based on this information, the local security services have the authority to ban the demonstration or demand a change in its proposed venue, or a rerouting of any planned march associated with the event.²³ Government forces have repeatedly used excessive force to disperse unauthorized protest rallies, claiming that they were unlawful.

Central Security forces, the Republican Guard and armed militia suspected of being paid by the regime have reportedly used a variety of methods and weapons to violently suppress demonstrations, including tear gas, live ammunition, electric batons and water cannons, and on many occasions, even heavy artillery.

Between 16 and 26 February 2011, government forces launched several violent offensives to disperse demonstrations being held almost daily in different parts of Aden province demanding more social justice and the President's departure.²⁴ Security forces, in particular

²¹ According to WJWC, by October 2011 455 civilians had been killed. According to YNHR, 370 deaths had been recorded by early September, while Hood gives the figure of 114 civilians killed between 22 October and 11 November 2011. Human Rights Watch documented 270 deaths of demonstrators or bystanders in 2011. Amnesty International reported that more than 200 people were killed in Yemen in 2011 as they were peacefully exercising their right to protest, and that hundreds of others lost their lives during armed clashes in the country. See *Year of Rebellion: State of Human Rights in the Middle East and North Africa*, Amnesty International, 9 January 2012.

²² Only two of these victims were reportedly killed during armed clashes. According to HRW, 120 people were killed in the town of Taiz between February and December 2011. Of this total, 57 were demonstrators and bystanders killed by the security forces and armed militias during peaceful demonstrations, and 63 were civilians who are believed to have died in bombardments and other attacks during military operations against tribes opposed to the regime. See *No Safe Places: Yemen's Crackdown on Protests in Taiz*, Human Rights Watch, February 2012.

²³ See articles 3, 4 and 5 of the law.

²⁴ On 16 and 17 February, protestors gathered near the al-Ruwaishant bus station in the town of al-Mansoura.

Central Security personnel, fired live ammunition at demonstrators, killing 10 people and wounding 100 others.²⁵ Most victims were young men, including three minors. One person was killed on 25 February while watching the demonstrations from the window of his home in the al-Ma'alla district of Aden. On 18 February in another incident in Aden, government forces violently disrupted a demonstration of unemployed workers chanting slogans against corruption.

Civilians identified as supporters of the regime also participated in the repression of demonstrators. On 17 February snipers on the rooftops of buildings close to rally locations, notably in the Rimi district of the town of al-Mansoura, opened fire on demonstrators, killing three people and wounding 17 others.

During the demonstration in Sana'a on March 12, attacks against protesters by Central Security officers and people in civilian clothes believed to belong to the security services led to the death of one demonstrator and wounded several hundred others, most of whom suffered from tear gas inhalation. A second protestor was killed after being hunted down by an armed group following the demonstration.²⁶

On 18 March 2011, the attack against demonstrators killed 53 people and injured at least 638 others in Sana'a. The demonstrators had assembled after Friday prayers in Change Square, when bursts of gunfire were fired simultaneously from several neighbouring buildings. Snipers dressed as civilians and suspected of belonging to the security services fired live ammunition at the demonstrators, targeting the head, neck or chest, denoting obvious intent to kill.²⁷ Despite being present at the scene, the police did not intervene to stop the attack, which lasted nearly two hours and clearly appeared to be coordinated. The unarmed demonstrators were attacked without warning while holding a peaceful rally that posed no danger to the safety of others. Several politicians left the government after this murderous assault, including the Yemeni Minister of Human Rights²⁸ and members of the army who then joined the protest movement.²⁹ Les forces de l'ordre pourtant présentes sur les lieux ne sont pas intervenues pour mettre fin à cette attaque, de toute évidence coordonnée, qui a duré près de deux heures.

Again, on the night between 29 and 30 May 2011, Central Security forces and the Republican Guard launched a bloody crackdown on demonstrators in the city of Taiz, firing live ammunition at demonstrators gathered outside the local security service offices demanding the release of fellow protestors detained there.³⁰ Government forces used water cannons and tear gas to disperse the demonstrators, who moved back to Freedom (Tahrir) Square, the main assembly point in the city since the start of the protest movement. Government forces then launched an all-out attack on Freedom Square, headed by armoured vehicles and tanks that

On 18 February, they started to march from al-Mansoura towards Cheikh Othmane. On 25 February the security forces attacked them in different districts in the town of Aden (notably al-Arish and al-Mau'alla).

²⁵ See list of victims established by WJWC and *Days of Bloodshed in Aden*, Human Rights Watch, March 2011.

²⁶ See YOHR *Report on the extent of the casualty toll during the demonstrations*, and Hood press release, 17 February 2011, and Human Rights Watch report *op.cit.*

²⁷ See HRITC press release, 19 March 2011, and YOHR report *op.cit.* This attack was also documented by international NGOs such as Amnesty International, as well as in a report by the United Nations High Commissioner for Human Rights, 13 September 2011, *op.cit.*

²⁸ Mrs. Huda al-Ban

²⁹ Notably General Mohsein al-Ahmar, a member of the president's inner circle and commander of the 1st armoured division, and his troops.

³⁰ See YHRN report *op.cit.*

razed and burned the tents set up by the demonstrators.³¹ A makeshift hospital in the square caring for the wounded was also targeted by gunfire from government forces.³² The attack resulted in ten deaths among the protesters and around one hundred wounded.³³

The international pressure that led to the adoption on October 21, 2011 of UN Security Council resolution 2014 on 21 October 2011 condemning the crackdown did not result in any change of attitude on the part of the Yemeni authorities. The bloody repression continued. Between 22 October and 11 November 2011, a total of 114 civilians were killed and more than 1,000 were injured, mostly victims of firearms or tear gas inhalation.³⁴ The majority of these civilians were simply participating in peaceful rallies being staged almost daily in Yemen's major cities. For example, every day between 22 and 27 October, the Central Security forces used tear gas and live ammunition to disperse protesters in Sana'a, causing many injuries, and the death of one protester on 25 October. Similarly, in Taiz city members of the Republican Guard fired on unarmed demonstrators gathered in Freedom Square, causing the death of a child aged 13 on 22 October. On several occasions, government forces attacked demonstrators when they were most vulnerable. On 11 November 2011, hundreds of thousands of people had gathered in Freedom Square in Taiz for Friday prayers. At around midday, during the sermon preceding prayers, machine gun fire followed by a heavy artillery barrage targeted the western part of the square where women had gathered for prayer, killing eleven people, including three women and two children, and injuring many others.³⁵

The signing by President Saleh of the GCC-brokered agreement by President Saleh on 23 November and the transfer of power to his vice president did not end the violent repression of demonstrators. The demonstrators continued to gather to condemn the agreement to grant immunity from prosecution to the president and his collaborators, and to demand that those principally responsible for human rights violations be brought to justice. On 24 December 2011, 13 demonstrators were shot dead and hundreds more were wounded when government forces opened fire and used tear gas and water cannons to halt the progression of a march by tens of thousands of people calling for the prosecution of President Saleh. They had marched for four days from Taiz and were attacked as they arrived at the southern entrances of the capital. Nearly two million people are estimated to have joined the march at one stage or another to pressure the government into cancelling the immunity agreement.³⁶

b. Raids on residential areas

Demonstrators have not been the only targets of government repression. On numerous occasions government forces bombarded and attacked various residential areas, causing many

³¹ Information provided by YOHR, 30 May 2011

³² Information provided by HRITC, 30 May 2011

³³ 7 victims were identified by WJWC and 10 by HRITC and YHRN. See lists of victims established by these organisations. The report of the High Commissioner for Human Rights mentions the death of a dozen demonstrators in relation to this attack, while Human Rights Watch reports that it resulted in 15 deaths.

³⁴ 114 people were killed and 1,096 were wounded countrywide.

³⁵ Information gathered by HRITC. According to the information received, 16 people were killed in Taiz on 11 November, including 11 people killed during the attack on Freedom Square. Human Rights Watch reported that 14 people were killed in that attack.

³⁶ See HRITC, press release, 24 December 2011.

civilian casualties and widespread destruction of homes.³⁷ Since the beginning of the protest movement, several cities have been regularly attacked by the army, which deliberately targeted residential areas.

The city of Taiz has been a particularly frequent target of air raids and shelling, which occurred daily during some periods. Starting in May 2011, this city has also been the scene of armed clashes between government forces and armed tribesmen who declared their intent to protect the demonstrators from government repression. Allegedly, the trigger event was the attack that began on 29 May, when government forces forcibly dispersed a week-long sit-in in Freedom Square by burning and bulldozing tents set up by the protesters, and simultaneously firing live ammunition at demonstrators. In response to this repression, tribes in the region deployed to the city, stating their intent to lend support to the protesters. Tribesmen took control of some city areas and occupied certain public buildings. The city and its surroundings gradually split into two zones, one controlled by government forces and the other by tribesmen. Republican Guards and Central Security forces were deployed in the hills overlooking the city from where they launched air raids on residential areas stating that armed fighters were entrenched there. However, it became clear that these attacks, sometimes occurring at night, were random and not targeted. Given the unrelenting frequency of the attacks, inhabitants of the targeted districts were prevented from fleeing to safer areas. Government forces also deployed to the city's airport and to Republican Guard and Central Security military camps. In addition, Republican Guards occupied the al-Thawra hospital near the city centre from where they launched heavy artillery bombardments on demonstrators gathered in Freedom Square and on the al-Rawda and al-Masbah residential districts, whose inhabitants were accused of supporting anti-government armed groups.

From 21 to 25 July 2011, parts of the city of Taiz were again targeted, including a raid carried out at around three o'clock in the morning on 24 July killing two children and injuring four others. On 25 July, security forces attacked a bus, wounding another three people.³⁸

From the evening of 24 October to 26 October 2011, following the adoption of Resolution 2014 by the UN Security Council, regular heavy artillery shelling struck several parts of Taiz, notably in the districts of al-Rawda and Wadi al-Qadi, killing 13 people and injuring over 30 others.³⁹ Yet again, on 11 November 2011, Taiz came under bombing and heavy artillery attacks, leaving 16 people dead, including four women and four children, and 50 others wounded.⁴⁰ These attacks, described by the opposition as the "Taiz massacre", were aimed at several areas of the city and also hit al-Rawda hospital where the wounded were being treated. Seven shells reportedly struck the hospital, killing two people inside. Similarly, between 1 and 2 December 2011, continuous, massive and indiscriminate bombardments of at least 13 Taiz residential neighbourhoods by government troops left another 11 civilians dead.⁴¹

c. Legal classification of crimes committed

³⁷ Between 22 October and 11 November 2011, 42 people including women and children were killed and more than 100 injured during attacks against residential areas. See Hood report *supra*.

³⁸ Information provided by HRITC, July 25, 2011

³⁹ Information provided by HRITC, October 26, 2011 + list of victims in Taiz between October 24 and 26

⁴⁰ 3 women and 3 children were killed in the attack on Freedom Square and another woman and child died during the shelling of al-Hasaba.

⁴¹ At least 13 different districts in the town were targeted in these bombardments. See YOHR, 2 December 2011

The right to life is a fundamental principle of international human rights law. It is guaranteed and protected by Article 6 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Yemen on 9 February 1987, and by article 5 of the Arab Charter on Human Rights, signed by Yemen in 2004, which entered into force in 2008.⁴² Article 21 of the ICCPR states: "The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others." These three articles combined prohibit the repression of peaceful demonstrations.

Moreover, the power of State authorities to use lethal force in the context of law enforcement operations, notably during demonstrations, is subject to strict conditions in conformity with international standards. United Nations Basic Principles applicable to the use of force and firearms by those responsible for law enforcement, and the relevant provisions of that organization's Code of Conduct stipulate that the use of force is permitted only if it is necessary to respond to acts endangering the lives and safety of others and if it is proportionate to the threat.⁴³ However, according to information gathered by local organizations, it was found that government forces have used disproportionate and lethal force to repress unarmed demonstrators posing no serious threat to the safety of others. Furthermore, the Basic Principles of the United Nations stipulate that the use of force and firearms by those responsible for maintaining law and order must be preceded by a clear warning allowing sufficient time for the warning to have effect.⁴⁴ However, the information and consistent testimonies gathered by Yemeni NGOs clearly indicate that the attacks against protesters were launched without any prior warning.

Reports from local NGOs establish that hundreds of demonstrators suffered upper body wounds (head, neck, chest), clearly showing intent to kill as opposed to crowd control, as well as the use of heavy artillery to suppress the demonstrations, strictly incompatible with the objective of maintaining public order, particularly during demonstrations.

Although the Yemeni authorities are required to ensure security and public order, the information collected by local and international NGOs, and corroborated by the report of the

⁴² Article 6.1 of the International Covenant on Civil and Political Rights stipulates: "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life." Article 5 of the Arab Charter on Human Rights stipulates: "Every human being has an inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life".

⁴³ Article 3 of the United Nations Code of Conduct for Law Enforcement Officials stipulates: "Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty." See Code of Conduct for Law Enforcement Officials adopted by General Assembly resolution 34/169 on 17 December 1979. Article 4 of the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials stipulates: "Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result. Article 9 adds: "Law enforcement officials shall not use firearms against persons except in self-defence or ... when strictly unavoidable in order to protect life." See United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990.

⁴⁴ Article 10, *ibid.*

United Nations High Commissioner for Human Rights, points to serious human rights violations, notably the repeated and manifestly excessive use of lethal force against peaceful demonstrators.

Furthermore, military attacks against civilians that occurred in the context of an internal armed conflict between government forces and armed groups constitute a serious violation of international human rights law as well as of international humanitarian law. Indeed, the use of lethal force during an armed conflict must respect the relevant provisions of international humanitarian law, in particular Article 3 common to the four Geneva Conventions of 1949, ratified by Yemen on 16 July 1970, which prohibits "murder of all kinds ... and humiliating and degrading treatment" against "persons taking no active part in the hostilities."⁴⁵ Moreover, two fundamental principles of international humanitarian law stipulate that in armed conflicts a strict distinction must be made between civilian and military targets, and that indiscriminate attacks are prohibited.⁴⁶ In Yemen, however, particularly in Taiz, massive and indiscriminate attacks against residential neighbourhoods have been launched by government forces, notably by the Republican Guard, as illustrated by its use of heavy artillery to repress the protest movement.

⁴⁵ Article 3 common to the four Geneva Conventions of 1949 adopted on 12 August 1949, entered into force on 21 October 1950. It states, "in the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions..." These include prohibitions "at any time and in any place whatsoever" with respect to civilians and captured combatants on (a) murder, torture and other mistreatment; (b) taking of hostages; (c) outrages upon personal dignity, in particular humiliating and degrading treatment; (d) the passing of sentences without trials meeting international due process standards.

⁴⁶ See Special Rapporteur report on summary or arbitrary extrajudicial executions, *op.cit.*

6. Killing and injuring of children and women

Women and children were not spared in the violent wave of repression: dozens of women and children were killed by government forces in shootings and shelling between February 2011 and January 2012.

According to the report of the United Nations High Commissioner for Human Rights, children suffered the same level of extreme violence as adults, in clear violation of their rights. Between February and November 2011, the report indicates that nearly 70 children were killed and hundreds were wounded by firearms or in mortar or artillery attacks on their homes or in vehicles transporting them.⁴⁷ The most frequently reported incidents involving children related were cases of suffocation due to exposure to tear gas used by government forces. In one case, a child died on 30 April 2011 after reportedly being brutally raped by security forces in the town of al-Mukalla on 4 April.⁴⁸

Students were also victims of violence and intimidation from school administrations or their teachers for chanting anti-government slogans or refusing to participate in pro-government demonstrations.⁴⁹

Homicides and deadly attacks committed by government forces against minors and children also constitute a violation of article 24 of the ICCPR, which states that "every child shall have {... the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State," and by the Convention on the Rights of the Child ratified by Yemen on 1 May 1991.

As a result of their participation in the protests, women as well as men were exposed to various forms of abuse and suffering during the protests. At worst, they were killed; others were wounded or lost a child in the violence, or were kidnapped or arrested. About 39 women were reportedly killed and nearly 100 wounded, while 26 were arrested and held incommunicado by government forces.⁵⁰

There have also been reports of verbal harassment and beating of women protesters at public places and sit-ins, in response to their participation in either pro or anti-government protests. On 10 October 2011, dozens of women taking part in peaceful marches in Taiz to celebrate the award of the Nobel Peace Prize to Tawakkol Karman were injured by pro-government groups of men, who threw stones into the crowd. Male relatives of women activists have received phone calls asking them to "control" their daughters or sisters.⁵¹

⁴⁷ See *Report on Crimes against women and children in Yemen during the period 1/1-21/11/2011* prepared by a number of independent experts and validated by HRITC, December 2011. According to the Hood report, 110 children were killed and 376 wounded, *op.cit.*

⁴⁸ Omar Obali reportedly died after allegedly being brutally raped by security forces in apparent reprisal for testimony given by his mother as a witness in the death of a child shot by government forces on 12 March 2011 during a peaceful protest in al-Mukalla.

⁴⁹ Between February and June 2011, members of National Education, head teachers and professors in the city of Sana'a have beaten students or thrown them out of school.

⁵⁰ See *Report monitors the crimes against women and children in Yemen during the period 1/1-21/11/2011*, *op.cit.*

⁵¹ See, Report by the United Nations High Commissioner for Human Rights, 13 September 2011, *op.cit.*

7. Arbitrary arrests, abductions and forced disappearance

During the protests, hundreds of people were victims of arbitrary arrest, abduction and incommunicado detention. Between February and May 2011, the Yemeni Observatory for Human Rights documented over 60 cases of people being abducted, where some of the victims remained missing for six weeks. 350 people were arrested during the same period following their participation in demonstrations.⁵² On 22 January 2011, Ms. Tawakkol Karman was arrested by three police officers who detained her for 36 hours without serving an arrest warrant. She was accused of "undermining public social peace" because of her involvement in organizing the protests in the country. The day after her arrest, human rights defenders, journalists and students organized a march to the attorney general's office to demand her release. Again, without issuing arrest warrants, the police arrested 20 march participants, including Mr. Khaled al-Ansi, a lawyer and executive director of Hood, and Mr. Ali al-Dailami, executive director of the Yemeni Organization for the Defence of Rights and Democratic Freedoms. The march participants were released the next day after being charged with "participation in an unauthorized demonstration".

Several cases reports by local NGOs have documented security forces coming to the homes of protesters to arrest them, sometimes in the middle of the night. On 13 February 35 people were arrested at dawn in their homes in the city of Taiz because of their participation in a peaceful rally the previous day. Most of them were released without charge a few hours later after being interrogated in the local police station⁵³. Those who were detained were indiscriminately placed either in centres controlled by the security, military or police authorities; in the criminal investigation department; or were transferred to unknown locations.⁵⁴ According to corroborated reports, abductions by armed gangs reportedly engaged or even supported by the authorities have also been frequent.⁵⁵ Furthermore, checkpoints have been installed throughout the country to prevent access to places of assembly but also to arrest protesters and political activists. On 28 July, Mr. Nabil Youssef al-Hajaji al-Sami'i, a southern activist, was kidnapped with three of his relatives at a Republican Guard checkpoint in Sana'a, and then transferred to an unknown location⁵⁶. On 20 February 2011, Mr. Hassan Baoum, the leading figure in the protest movement in south Yemen⁵⁷, was kidnapped with his son in a hospital in Aden, where he was undergoing medical examinations. He was taken by security forces to an unknown destination before being released in December 2011 after 10 months in detention without charge or trial, or being allowed any contact with his family.

Cases of wounded demonstrators being abducted and taken to secret places of detention have been reported on several occasions. On 9 April, a peaceful march in Sana'a near Kentucky tower was violently disrupted by security forces and persons dressed in civilian clothes using

⁵² Information provided by YOHR and YNHR.

⁵³ Three of them were brought before the public prosecutor's office. Information provided by HRITC, 13 February 2011.

⁵⁴ The criminal investigation department is under the authority of the executive powers and is not attached to judiciary.

⁵⁵ See section 3 of this report.

⁵⁶ See YOHR press release, 10 August 2011, and YNHR report *Summary of human rights violations in Yemen in 2011*. Mr. Nabil Youssef al-Hajaji al-Sami'i and his brother were released later after being detained in a Republican Guard prison before being transferred to a military prison.

⁵⁷ Mr. Hassan Baoum is head of the Supreme Council of the South Yemen separatist movement.

tear gas and live ammunition. Eyewitnesses said that after this demonstration, security forces abducted 18 wounded people in al Zubayri street and held them in police station 45, without medical care. An official complaint was lodged by YOHR for arbitrary arrest and torture, but no further action was taken. Other wounded protestors were taken to an unknown location. On 13 and 27 April, two wounded protestors were abducted, one in Algiers street in Sana'a, the other in al Thawrah al Riyadiyah, a suburb of the capital. During the repression of protest rallies in Taiz in May, army personnel were seen taking away wounded demonstrators to an unknown location.⁵⁸

In the period between the adoption of the UN resolution on Yemen on 21 October and 11 November 2011, 196 protestors were arrested, the majority because of their participation in the protest movement. They were held for varying periods in detention centres, without being charged or put on trial, and were denied the opportunity to contact family members.⁵⁹

Legal classification of crimes committed

Arbitrary arrests and detentions are a violation of both article 9 of the International Covenant on Civil and Political Rights (ICCPR) and article 14 of the Arab Charter on Human Rights. These articles state: "Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention." It also stipulate: "Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release."

Furthermore, Yemen's Code of Criminal Procedures stipulates that individuals can only be arrested if they are apprehended while committing a criminal act or served with an arrest warrant. Detainees must also be charged within 24 hours of arrest or released. The code also states that a detainee may not be held longer than seven days without a court order.

Yemen has not ratified the International Convention for the Protection of All Persons from Enforced Disappearance. Notwithstanding, the Yemeni authorities violated both domestic and international laws by arresting hundreds of people without issuing arrest warrants following their participation in the protest movement and detaining them without charge or trial, sometimes for extended periods.

⁵⁸ Information provided by YOHR.

⁵⁹ See Hood report, *supra*.

8. Torture and ill treatment

Dozens of demonstrators testified that they were tortured in the days following their arrest. Between February and May 2011, the YOHR identified over 57 cases of torture or ill treatment. Fifty of the victims reported that they were tortured on the premises of the National Security forces in Sana'a. Various forms of abuse and torture were reported, including beatings with sticks, punching, electric shocks, death threats, denial of medical care for the sick and wounded, and solitary confinement. Several inmates were also handcuffed, blindfolded and placed in unfamiliar areas or prisons.

According to testimony collected by YOHR, on the night of 23 February a young man who tried to assist demonstrators wounded in a night attack by men in civilian clothes in front of the entrance to Sana'a University was arrested by security forces. He was placed in a security vehicle, beaten, punched, slapped and kicked, causing his nose and mouth to bleed, and taken to a police station near Kuwait hospital.

There, he was severely beaten by the chief security official assisted by security patrol personnel, had his personal documents confiscated, and was threatened with electric shock torture while being interrogated about his work history and political affiliations.

On 25 October 2011, Samir al-Yahiya Aqari and Khaled Ali al-Shamati were arrested by a soldier of the Fourth Army Brigade in al-Tawila in the governorate of Mahwit (West of Sana'a), while they were going by motorcycle to a rally to demand the departure of President Saleh and social and political reforms. Members of the Central Security forces intervened and aimed their weapons at the two protesters in order to intimidate them before taking them away in an ambulance to the office of the Central Security. During the trip, they were repeatedly beaten by soldiers. At the office of the Central Security, their belongings were confiscated and they were forced to be photographed with weapons they were given. Al-Aqari was placed in a cell for nine days without being allowed to use the toilet or bathe. The third day after his arrest, he was taken blindfolded to an office, beaten, and subjected to questioning on his connections to and role in the protest movement, as well as on persons identified by the security agents as being affiliated to the protest movement. After his release, he was handed over to members of National Security who took him to a police office in Sana'a where he was detained until 17 November 2011. Meanwhile, Al-Shamati was taken to a dark room where he was attached to a bar, beaten with sticks and subjected to electric shocks until he lost consciousness. He was also questioned about his role in the protest movement and about some people he did not know. He was released on 12 December 2011.⁶⁰

On 8 November 2011, Mr. Nawaf al-Marhabi was found lying unconscious on the ground in a district of the capital. He had been abducted on 21 September 2011 after participating in a peaceful rally in Sana'a, taken to an unknown location and placed in an individual cell for several days. He reported that he was subjected to various forms of torture: electric shock, beatings, and sleep and food deprivation. Before being released, he was forced to sign a document without knowing its content. It took several days of medical treatment before Mr. Nawaf al-Marhabi was able to move around again.⁶¹

⁶⁰ Testimonies collected by Hood.

⁶¹ See Hood report, *supra*.

Legal classification of crimes committed

According to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified by Yemen on 5 November 1991, "torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions". The acts described above correspond to torture as defined under the aforementioned convention; they inflicted both mental and physical harm on the detained persons concerned. They also violate article 7 of the CCPR which stipulates: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment," as well as article 8 of the Arab Charter on Human Rights which stipulates: "No one shall be subjected to physical or mental torture or to cruel, inhuman or degrading treatment or punishment. The State Parties shall protect every person in their territory from being subjected to such practices"

9. Violation of rights linked to health and access to care

In the context of the crackdown on peaceful demonstrations, there have been numerous instances of injured persons whose lives have been endangered owing to denial of access to medical care. On several occasions, government forces prevented ambulances from reaching protestors wounded during a rally. They also occupied hospitals, blocking access to care, or fired on caregivers trying to help victims.

On 25 February 2011, for an hour and a half members of the security forces and of the army prevented ambulances from moving persons wounded during the crackdown on a demonstration in the city of al-Mansoura, in Aden province, where two persons were killed, one of them a child, and around 30 injured. On 12 and 18 March 2011, security forces again prevented injured persons from having access to care following two murderous attacks in Sana'a. Emergency vehicles were prevented from reaching wounded demonstrators, or even from taking medical supplies to the field hospital set up in Change Square in Sana'a.

Medical doctors were also threatened with reprisals if they attempted to go to the aid of demonstrators. On 13 March 2011, members of the security forces threatened to abduct the children of Dr Olwan Ahmed Chawqi if he continued to give voluntary medical assistance to wounded protestors in the field hospital of Change Square in Sana'a. According to YOHR, several private hospitals were also pressured not to accept patients wounded during the protests.⁶² On 30 April 2011 in al-Mansoura, government forces fired on an ambulance, wounding a doctor and a nurse. On 11 November 2011 the Yemeni army shelled the al-Rawda hospital in Taiz, where civilians injured during the crackdown were being cared for, killing two persons and injuring others. The report by the UN High Commissioner for Human Rights, documenting the 29 May events in Taiz, mentions shelling, acts of vandalism and destruction of medical equipment at the al-Safwa hospital set up on Freedom Square, and the eviction of persons receiving medical care, thereby placing their lives at risk.

In Taiz, government forces also requisitioned hospitals to use them as a base for launching raids on neighbouring districts. On 30 May 2011, after the attack by government forces on Freedom Square, members of the Republican Guard positioned tanks and military vehicles in front of al-Thawrah hospital. Armed soldiers then deployed around and inside the hospital, denying access to patients and doctors, who were thus unable to reach their departments. From June to December 2011 the Republican Guard regularly launched raids from the hospital on neighbouring districts suspected of supporting the opposition.⁶³

Legal classification of crimes committed

The denial of access to medical care to wounded protestors on the part of the Yemeni authorities constitutes a violation of Article 12 of the Covenant on Economic, Social and Cultural Rights, ratified by Yemen on 9 February 1987, which stipulates that “the States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.” Denial of access to treatment, when it places the life of persons needing treatment at risk, also constitutes a violation of the

⁶² See the report by YOHR *Preliminary report on killed and injured during the protests*, *op.cit.*

⁶³ For more details, see Human Rights Watch report *No Safe Places: Yemen's Crackdown on Protests in Taizz*, *op.cit.*

right to life guaranteed by the International Covenant on Civil and Political Rights and by the Arab Charter on Human Rights.

Furthermore, if the confrontation between government forces and armed opposition groups were to fall within the definition of an internal armed conflict, the Yemeni authorities would be bound to comply with the 1949 Geneva Conventions which guarantee the protection of hospitals; in particular Additional Protocol II which prohibits attacks on hospitals. Thus the occupation, shelling and acts of vandalism perpetrated by government forces against medical facilities constitute a clear violation of international humanitarian law.

10. Deterioration of the humanitarian situation

Denial of medical care to injured protestors would seem to be part of an overarching policy applied since the beginning of the uprising of depriving the Yemeni population of basic services. Generally speaking, in the cities affected by the protest movement there has been no continuous supply of electricity, fuel or water, which have been regularly cut off, sometimes for a considerable period of time. In Taiz for instance, from July 2011 to February 2012, the electricity has been cut off in the whole of the city for several hours almost every day. Likewise in Sana'a, where there were electricity cuts everyday for up to 20 hours, particularly in October. The authorities accused the armed tribal forces of causing the cuts by attacking the country's main power station at Marib in the Northeast. The opposition denies this, accusing the government of being responsible for the repeated power failures.

The deprivation of essential services appears to part of a series of punitive measures inflicted on the whole of the Yemeni population.⁶⁴ The UN Human Rights Council mission notes in its report that from February to June 2011, at least 21 persons reportedly died due to the turning off of hospital generators because of power cuts. Furthermore, the inhabitants of Taiz were also confronted with public health and hygiene problems when, in June, there was no garbage collection for two weeks. As the refuse was piling up, the inhabitants began burning the waste themselves, exposing themselves to further serious health problems.

At the same time, attacks on civilians and armed confrontations between anti-regime fighters and government forces increased the number of internally displaced persons in Yemen, worsening a situation of already grave concern due to the armed conflict with the Huthis in the North of the country which had resulted in the internal displacement of more than 200,000 persons. According to the report of the High Commissioner for Human Rights (A/HRC/18/21), in July 2011 there were 400,000 internally displaced persons in Yemen. Most of the newly displaced persons were fleeing the fighting between government forces and Islamist activists in the South, notably in the region of Abyan, where between May and July, hundreds of people fled to Aden everyday to get away from the fighting. The massive repression during the uprising against both protestors and the civilian population also forced thousands of inhabitants to flee their homes. In Sana'a, 9,000 persons were displaced owing to serious threats to their security.⁶⁵

The political crisis in Yemen throughout 2011 has clearly led to a serious humanitarian crisis. On 29 November 2011, the UN Under-Secretary-General for Humanitarian Affairs, at the close of a four-day mission to Yemen, said she was concerned about the humanitarian situation of the country, in particular regarding malnutrition, essential services and public health, which had deteriorated with the continuation of the violence.⁶⁶ The UN World Food Program (WFP), is also concerned at the deterioration of food security in Yemen due to the increase in food prices and serious fuel shortages.⁶⁷ According to a WFP survey conducted in 2011 in four of the poorest governorates in the country, more and more people are no longer able to afford their basic food needs.⁶⁸

⁶⁴ Information provided by HRITC, 25 July 2011.

⁶⁵ See Report of High Commissioner for Human Rights.

⁶⁶ Catherine Bragg, press release, 29 November 2011.

⁶⁷ The price of bread doubled in the six months from April to October 2011, aggravating the problem of hunger and food insecurity.

⁶⁸ See WFP report, 12 October 2011.

11. Conclusions and recommendations

Since the start of the popular uprising, the Yemeni authorities have pursued a policy of violent repression against the protest movement.

The recurring nature of serious human rights violations committed by government forces against the protest movement over a period of several months seems to reflect a government policy carried out in an organised, deliberate manner, and is a flagrant violation of the right of free assembly.

The almost systematic use of lethal force against demonstrators causing several hundred deaths and thousands of wounded, the similarity of attacks in different places and at different times, and the established identity of the perpetrators of these crimes (State institutions such as the army, Republican Guard, and security forces, as well as individuals acting in coordination with government forces), all seem to confirm the existence of hierarchical orders issued from the topmost level of the armed forces and the government, with an aim to violently suppress and put an end to the demonstrations.⁶⁹ Most of the dead and wounded among the demonstrators were shot by government forces using live ammunition, or by armed gangs associated with the regime, and most of the wounds they inflicted were on the upper part of the body. These facts, in addition to the fact that attacks were conducted with no warning, and the use of heavy artillery in protest areas, supports the hypothesis of there being a deliberate intention to kill, and not just to disperse the demonstrators. The repeated denial of access of injured persons to medical care reflects this same logic.

In addition, both in the context of the crackdown on demonstrations and during raids on residential areas, several of the attacks are characterised by their indiscriminate nature. When government and loyalist forces engaged in violent confrontations with armed men from tribes opposed to President Saleh or dissident members of the army loyal to General Ali Mohsen al-Ahmar, the civilian population was regularly hit, even perhaps targeted. The use of firearms, and more often, of heavy artillery in residential areas caused many civilian victims, including women and children.

Most of the civilians were killed during raids or shelling by the Yemeni army, which indiscriminately struck houses, hospitals, or transport vehicles, in particular buses and ambulances.

Since the beginning of the protest movement, the Yemeni authorities have been seen to lack any respect for the most fundamental rights of the population, ever increasingly violating human rights law and their obligations under international treaties. Moreover, evidence points to their also having violated international humanitarian law on the protection of the civilian population during armed conflicts.

Political negotiations, particularly the agreement brokered by the Gulf Cooperation Council since April 2011, failed to put an end to the violations against the demonstrators, and more generally against whole sectors of the population. The repression continued all throughout the

⁶⁹ Most of the persons at the head of the institutions responsible for these crimes are close to President Saleh. The commanders of the Republican Guard, the Central Security forces and the National Security forces were respectively the son and nephews of the President: Generals Ahmed Ali Abdullah Saleh, Yahya Mohamed Abdullah Saleh and Colonel Ammar Mohamed Abdullah Saleh.

GCC negotiations, and even after the agreement was signed, in particular against demonstrators denouncing the GCC agreement's immunity clause.

The ambivalence of the international community's reaction

Determined to encourage a political solution to the “crisis” in Yemen, the international community was quick to support the GCC initiative. In addition to the negative consequences of the successive postponements of the signature of the agreement, the immunity guaranteed to those responsible for serious human rights violations endangered the process of transition that the agreement was supposed to encourage. In addition, the immunity clause is clearly contrary to international human rights law and thus unenforceable by any international court.

Most of the international bodies that took a public position regarding the situation in Yemen, made contradictory declarations by simultaneously giving unconditional support to the GCC agreement and calling out against impunity for those responsible for human rights violations.

UN Security Council Resolution 2014 for instance, invited the Yemeni Government to sign and implement the GCC initiative, while at the same time insisting, “all those responsible for violence, human rights violations and abuses should be held accountable.” On 28 November 2011, the President of the UN Security Council, while welcoming the signature of the GCC agreement, reasserted that “authors of violence, human rights violations and abuses should be held accountable”.⁷⁰ The UN Security Council reiterated the statement on 22 December.⁷¹ In the same vein, the Council of Europe, in its several Conclusions on Yemen adopted since 12 April 2011⁷², called for the persons responsible for violence against demonstrators to be brought to justice, all the while supporting the GCC agreement.

On 6 January 2011, while the Yemeni government was preparing to put before Parliament the draft legislation granting judicial impunity to President Saleh and those close to him, the High Commissioner for Human Rights recalled the fact that under international law it was forbidden to grant amnesty to persons suspected of having committed serious human rights violations.⁷³

International law aims to counter impunity for the most serious crimes. Notably, the Rome Statute of the International Criminal Court requires that State Parties guarantee the opening of legal proceedings against suspected authors of serious crimes and persons having given orders concerning such crimes.⁷⁴

Impunity sanctioned and transition jeopardized

⁷⁰ Security Council Press Statement on the situation in Yemen SC/10460, 28 November 2011.

⁷¹ Security Council Press Statement on the situation in Yemen SC/10504, 22 December 2011. The statement was made following the seventh mission to Yemen of the Special Advisor to the UN Secretary General on Yemen.

⁷² Conclusions adopted on 12 April, 20 June, and 10 October 2011.

⁷³ Press Statement by the High Commissioner for Human Rights, 6 January 2012. The High Commissioner had expressed herself similarly on several occasions. In her report on Yemen to the 18th session of the UN Human Rights Council, published in September, she had already called on the Yemeni Government and the international community to carry out “international independent and impartial investigations” on violations of Human Rights, and “to ensure that perpetrators be held accountable” (A/HRC/18/21). The call for proceedings against the authors of the crimes was not, however, heeded by the Human Rights Council.

⁷⁴ See the Preamble of the Statute of the International Criminal Court.

Although the violations were continuing, the Yemeni authorities took no effective steps to bring the authors of such crimes to justice. The complaints lodged by families of victims or by human rights NGOs for murders, acts of torture and arbitrary arrests were met with no response.⁷⁵ The General Prosecutor who initiated an investigation of the events of 18 March in Sana'a that caused the death of 53 demonstrators, was removed from his involvement in the investigation and transferred to an advisory post in the judiciary.⁷⁶ After the establishment of the Government of National Unity in December 2011, members of the government made announcements to the effect that investigations were under way on the attacks, and that the authors would be brought to justice.

These announcements were however soon contradicted by the adoption on 21 January 2012 by the Yemeni Parliament of Law n° 1, 2012, which, in accordance with the GCC agreement, granted immunity to President Saleh and his staff. The law condones the impunity of the main authors of serious human rights violations committed throughout 2011.

In addition to the fact that such provisions are contrary to Yemen's international obligations, they deprive victims of any chance of obtaining reparation and justice, and can but exacerbate the prevailing climate of mistrust and constitute a major obstacle to a peaceful transition.

A tense political situation

President Saleh's departure for the United States on 22 January 2012 for medical treatment failed to ease the tension, and on the eve of the presidential elections due to be held on 21 February 2012 the political situation was still very unsettled and volatile. Armed individuals and groups remained deployed in the main cities, threatening the country's security and stability.

The interim government set up in December 2011⁷⁷ is also weakened by the fragmented nature of the former opposition to President Saleh, part of which feels left out of the negotiations and contests the GCC plan. Such is the case of Youth Revolution, but also of activists in the South and in the North, who for several decades have challenged the regime in power.⁷⁸ Calls continue for the resignation of senior officials close to the President, such as General Ahmed Ali Abdullah Saleh, son to the President and commander of the Republican Guard and Special Forces who was accused of having participated in the crackdown of the protest movement. These are often coupled with calls for the repeal of Law n°1, 2012, and for the prosecution of those responsible for past violations.

For an independent international commission of inquiry

⁷⁵ According to the report by the UN High Commissioner for Human Rights, an official investigation on the events of 18 March 2011 in Sana'a led to proceedings against 78 persons, and an investigation was launched on the events of 29 May in Taiz. There is no evidence, however, that these initiatives have led to the conviction of those who ordered the repressive action or those who participated in it.

⁷⁶ See in particular the report of the mission of the Human Rights Council of the United Nations, A/HRC/18/21, 13 September 2011

⁷⁷ Formed in December 2011 by the Prime Minister, Mohamed Basindawa, an independent member of the opposition, the Government of National Unity is composed in equal numbers of members of the opposition and of the still-ruling General People's Congress (GPC), President Saleh's party. The opposition notably obtained control of the ministries of the Interior and of Human Rights, while the GPC kept, among others, the ministries of Defence and of Foreign Affairs.

⁷⁸ See the section on "Context".

In the light of all these elements, FIDH, in agreement with its Yemeni partners, considers that it is urgent and indispensable to launch an independent international commission of inquiry into the human rights violations committed in Yemen since January 2011.

Both the international organisations and, to a lesser extent, representatives of the Government of National Unity agree on the need to launch “transparent and independent investigations, which will adhere to international standards, into credible documented allegations of human rights violations.”⁷⁹

Houria Machhour, the Yemeni Minister for Human Rights appointed at the establishment of the National Unity Government, has also made repeated declarations concerning the creation of an independent and impartial commission of inquiry into human rights violations committed during the protest movement. Such demands had not been implemented at the time of the drafting of this report, nor had they succeeded in reassuring the demonstrators.⁸⁰ In addition, in the present context, implementing national investigation(s) to shed light on the violations and to ensure accountability for those responsible for these acts, is both difficult and risky. This is mainly due to the fact that officials close to the President suspected of having ordered the repression of the protest movement are still in office, and also that the Youth Revolution does not trust the new government, which it accuses of undermining the national reconciliation process by granting immunity to the President and his staff.

The establishment of an international commission of inquiry, as encouraged by FIDH and its partners, must however not preclude the competent Yemeni authorities from taking the necessary steps and initiating procedures for shedding full light on the crimes committed, and to ensure that the perpetrators are held accountable for their actions.

Recommendations

After holding presidential elections in February 2012, Yemen should formally engage in a process of political transition. In the medium term, this should in all likelihood lead to a process of national reconciliation driven by the transitional government, as provided for under the GCC-brokered agreement. For these necessary processes of political transition and national reconciliation to succeed the Yemeni authorities need to introduce a number of measures and assume certain commitments in order to ensure that the crimes of the past are not repeated, and to secure the emergence of a regime respectful of human rights and democratic principles.

⁷⁹ UN Human Rights Council Resolution, 14 October, (A/HRC/RES/18/19), and UN Security Council Resolution 2014, 21 October. Declaration by the President of the European Parliament, 30 November 2011. In its 10 October 2011 Conclusion, the Council of Europe also exhorts the Yemeni authorities to implement the recommendations of the report of the UN High Commissioner for Human Rights (A/HRC/18/21), including the need to launch impartial and independent international inquiries.

⁸⁰ Announcement made on 12 December 2011 during an interview given by the Minister for Human Rights to the al-Jazeera news network, and reiterated at a meeting on 1 February with the Middle East and North Africa director of the U.S. National Endowment for Democracy (NED).

The FIDH and the HRITC calls on the government of Yemen:

- To authorize and cooperate with an international, independent and impartial commission to investigate abuses committed since the start of the protest movement in February 2011;
- To repeal Law n°1 adopted by the Yemeni Parliament on 21 January 2012 granting immunity to President Saleh and his collaborators;
- To bring to justice the authors and instigators of serious human rights violations through a process consistent with international standards;
- To restructure the armed and security forces, and to take the necessary measures to ensure that those who committed crimes as part of the repressive response to the protest movement are held accountable for their acts;
- To take the necessary steps to ensure that law enforcement and security forces, in the exercise of their functions, comply with relevant international standards, in particular the United Nations Code of Conduct for Law Enforcement Officials and the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;
- To amend Law No. 29 of 2003 applicable to marches and demonstrations to ensure that it guarantees and protects freedom of peaceful assembly, and generally to amend all laws that do not meet international human rights norms;
- To ratify the Rome Statute of the International Criminal Court (ICC) and accept the jurisdiction of the ICC retroactively from January 2011 (pursuant to article 12.3 of the statute of the ICC) to permit it to open an investigation into violations of international criminal law falling within its purview;
- To comply fully with the provisions of international humanitarian law applicable in armed conflicts, particularly those related to the protection of civilians;
- To ratify the International Convention for the Protection of All Persons from Enforced Disappearance;
- To include all parties concerned, including opposition groups not participating in the Government of National Unity and civil society organizations, in the process of political reforms and in any future reconciliation and transitional justice process.

FIDH calls on the International Community, in particular the United Nations Security Council, the Human Rights Council, the Gulf Cooperation Council, the League of Arab States and the European Union:

- To urge the Government of Yemen to repeal Law No. 1 of 2012 on immunity and to comply with international human rights law prohibiting immunity for those responsible for serious crimes;
- To formally and publicly recognize that the immunity granted to President Saleh and his staff has no legal bearing outside of Yemen;
- To establish an independent international commission of inquiry into human rights violations committed in Yemen since February 2011, and to encourage the Government of Yemen to accept the opening of an international, independent and impartial investigation;
- To urge the Government of Yemen to prosecute the perpetrators and instigators of serious violations of human rights through a process consistent with international standards.