



# **Universal Periodic Review: Yemen**

**Second Cycle**

**Submission to the Stakeholders' Summary**

**Alkarama, May 2013**

- 1 Context
- 2 Right to Life and Extrajudicial Executions
- 3 Arbitrary Detentions, Torture and Prison Conditions
- 4 Corruption and Lack of Independence of the Judicial System
- 5 Harassment of Journalists and Attacks on Freedom of Expression
- 6 Recommendations

## 1 Context

1. During the initial Universal Periodic Review of the Republic of Yemen, the State committed itself to improving the country's human rights situation by accepting a number of recommendations.
2. Yemen is currently experiencing a transitional phase following the departure of President Ali Abdullah Saleh. The National Dialogue Conference, which was attended by over 500 representatives of the majority party in Yemeni society, began its work in March 2013 and aims to draft a new constitution and hold general elections in 2014.
3. Despite significant undertakings by certain ministries to improve the human rights situation in Yemen, a number of human rights violations continue to occur, especially due to the actions of some security services. Consequently, many of the recommendations accepted by Yemen during its initial review have consequently not been implemented yet.
4. Extrajudicial executions carried out jointly by the Yemeni army, and United States (U.S.) intelligence services have reached alarming proportions in recent years. Arbitrary detentions, the use of torture and ill-treatment, endemic corruption in the judicial system, and the harassment of journalists documenting these violations are also serious concerns.
5. Impunity for those responsible for the repression of the demonstrations that led to the departure of President Saleh and the lack of sanctions against those responsible for the serious violations mentioned above are important issues that need to be resolved to ensure the success of Yemen's transition towards democracy.

## 2 Right to Life and Extrajudicial Executions

6. The policy of extrajudicial executions carried out in Yemen by the Yemeni and U.S. governments was adopted in the context of the 'war against terrorism' that the United States declared following 11 September 2001. Both governments justify these operations by the presence of armed groups, who they claim are part of Al Qaeda, in Yemen.
7. They have stated that the goal of these so-called targeted killing operations is to eliminate "senior operatives" of these armed groups. However, the choice of who is targeted is not subject to any legal control. They are decided upon in great secrecy and in disregard of the two countries' obligations under international law, including article 6 of the International Covenant on Civil and Political Rights, which has been ratified by both countries. In addition to this, many civilians, including women and children, have been victims of these attacks in recent years.
8. The method used to carry out the attacks varies. The Yemeni, Saudi air force and U.S. air forces have each carried out extrajudicial executions. Many cases of drone strikes have also been identified, as well as cruise missiles from U.S. ships stationed in the Gulf of Aden.
9. Despite the Yemeni government's acceptance of recommendation 105, to "[G]uarantee the protection of fundamental freedoms even in counter-terrorist legislation" (Hungary) and of recommendation 106, to "[T]ake all measures to ensure that the counter-terrorism efforts in Yemen are applied in accordance with human rights obligations" (Sweden), there has still been a disturbing increase in cases of extrajudicial executions since the initial review of the Republic of Yemen in 2009.
10. From November 2002 to May 2013 there were between 134 and 226 reported U.S. military operations, including strikes by aircraft, drones or missile fired from warships stationed in the Gulf of Aden.<sup>1</sup> However, the exact number of operations and victims is unknown due to the secrecy surrounding the American intervention in Yemen. In a study of victims of the strikes, journalist Ali Al-Sha'bani notes the difficulty in obtaining accurate data; in 2012, he counted 109 air strikes in nine provinces, which killed 490 people, including 390 civilians.<sup>2</sup>

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<sup>1</sup> These figures were established by the *Bureau of Investigative Journalism* which gathers credible information on clandestine operations by the U.S. in Yemen, Pakistan and Somalia. <http://www.thebureauinvestigates.com/>

<sup>2</sup> علي الشعيبي، ضحايا الطائرات الامريكية المدنيين في اليمن, Ali Al-Sha'bani, (in Arabic only - Civilian Victims of American Aviation in Yemen), unpublished study prepared in early 2013.

11. The Bureau of Investigative Journalism has counted nearly 1,150 deaths between 2002 and April 2013 following U.S. attacks. Dennis Kucinich, a representative from the U.S. Congress, speaking during a speech before Congress, put the number of deaths in Yemen at 1,952. He affirmed that, "We've not declared war on any of these nations [Pakistan, Yemen, Somalia], but our weapons have killed innocent civilians in all of them. Highly reputable research shows that the number of high-level targets killed as a percentage of total casualties is estimated at about 2 percent."<sup>3</sup>

12. On 17 December 2009, the village of **Al-Majala**, located in Abyan province, was attacked, resulting in the death of 44 civilians. There were 14 women and 21 children amongst the victims. The Yemeni government claimed it targeted a terrorist training camp. It was discovered, later on, though, that Tomahawk cruise missiles, a type of cluster bomb fired by U.S. warships, were used during the attack. Several victims, including children, died long after the raid, after munitions scattered at the scene of the attack exploded.

13. On 2 September 2012, an air raid near **Rada'a** killed twelve civilians. The victims, farmers who were returning from a market in Rada'a, were hit by two missiles, which were fired from a U.S. drone. Again, the Yemeni government assumed responsibility for the attack and said that the target for the attack was al-Dahab Abdelrauf, an Al Qaeda military leader. However, the government was forced to admit that they had not conducted the attack and also acknowledged that the victims were civilians. The U.S. government eventually recognized their involvement in the attack in December 2012.<sup>4</sup>

14. To date, no independent investigation has been initiated in order to determine who was responsible for the two aforementioned attacks or dozens of others carried out since 2009. The National Organization for Defending Rights and Freedoms (HOOD) has twice requested that the Attorney General open official investigations into these attacks, but neither complaint have been followed up to date.

### **3 Arbitrary Detentions, Torture and Prison Conditions**

15. Arbitrary detention and prison conditions remain a major concern for our organization. We have identified at least 266 cases of arbitrary arrests by various government forces in the year 2012 alone.

16. Despite the acceptance of recommendation 59, which was formulated by the United Kingdom, to "[E]nsure that all detained persons have prompt access to a doctor and a lawyer, as well as contact with their families, at all stages of detention, and that detainees held by the Political Security Department be given prompt access to legal advice and information," these fundamental guarantees have still not been satisfied and the conditions of detention do not meet the internationally accepted minimum standards.

17. Ibb prison, in particular, witnessed various tragic events in 2012. Several protest movements denouncing discrimination, abuse, and corruption in the prison administration were violently repressed by prison staff. Detainees even stated that live ammunition was used against them in October 2012, following a protest. During December 2012, several inmates were mutilated during a protest against the treatment to which they were being subjected, and eight prisoners died in a fire.

18. Following these events, the Ministry of Human Rights sent delegations to prepare a report on detention conditions in prisons. One delegation visited Ibb prison from 5-9 December 2012, just a few days before a fire was started by Al-Ba'dani, a detainee. The Ministry representatives met with prisoners, the current and former directors of the prison, as well as representatives from the prosecution. A report was published on the findings of the mission and recommendations were made to relevant ministries. No investigation has been opened and no sanctions have yet been imposed against the prison officials responsible for the torture that led to these tragic events.

19. On 18 October 2011, six agents from Central Security were arrested and detained for five months by their own service on charges of supporting the revolution. Mahfoud Al-Hamiri, Naji Suleiman, Fadhel Al-Adib, Redhounae Suleiman, Hamed Al-Sharabi and Mutlaq Suleiman were

<sup>3</sup> Robert Tilford, *American drones have killed thousands, says Kucinich*, Examiner, 16 November 2012, <http://www.examiner.com/article/american-drones-have-killed-thousands-says-kucinich> (accessed on 16 June 2013).

<sup>4</sup> Sudarsan Raghavan, *When U.S. drones kill civilians, Yemen's government tries to conceal it*, Washington Post, 25 December 2012, [http://www.washingtonpost.com/world/middle\\_east/when-us-drones-kill-civilians-yemens-government-tries-to-conceal-it/2012/12/24/bd4d7ac2-486d-11e2-8af9-9b50cb4605a7\\_story.html](http://www.washingtonpost.com/world/middle_east/when-us-drones-kill-civilians-yemens-government-tries-to-conceal-it/2012/12/24/bd4d7ac2-486d-11e2-8af9-9b50cb4605a7_story.html)

subjected to severe torture. They testified to being beaten with iron bars and having been locked up for long periods of time in solitary confinement. When they were released on 6 March 2012 without having been brought before a judicial authority, they filed a complaint to the General Prosecutor requesting that those responsible for their torture be prosecuted.

20. During the process of filing the complaints, they were threatened, and investigators refused to record their statements. Their lawyers then forwarded a memorandum to the prosecutor, but no action was taken. These actions constitute a violation of article 13 of the Convention against Torture, to which Yemen is a State party.

21. On 6 June 2013, 47 people were still being held without charge for their participation in peaceful demonstrations during the 2011 revolution, despite the decision to release them issued by former President Hadi. Seventeen people also remain missing for the same reasons. On 24 May 2013, 22 prisoners from revolutionary youth movements, who were being held in the central prison in Sana'a began a hunger strike. The Minister of Human Rights herself, Houria Mashoor, joined their hunger strike on 1 June to support their demand that the decision for their release be implemented.

#### **4 Corruption and Lack of Independence of the Judicial System**

22. Despite Yemen's acceptance of recommendation 23, requiring the country to "[P]ursue its efforts to combat administrative and financial corruption" (Kuwait) and "pursue with resolve its efforts towards the eradication of corruption" (Turkey), many lawyers continue to denounce corruption in the judicial system, and numerous complaints or requests for investigations involving people in positions of responsibility are ignored.

23. The National Organization for Defending Rights and Freedoms (HOOD) has twice asked the Attorney General to open investigations into the two attacks mentioned in paragraphs 12 and 13 of this report (Al Majal and Rada'a), which have still not been followed up to date. Many observers argue that this lack of action is the result of political pressure.

24. The case of Ms Raja'a Al-Hakami is another example of the dysfunction and corruption of the judicial system in Yemen. Raja Al-Hakami was sentenced to two years in prison by a district court in Ibb for killing an armed man in self-defence. He had broken into her home and tried to rape her. On an appeal by the family of the attacker, who are close to the authorities of the province, she was eventually sentenced to death. While Yemen has pledged to "ensure that the standards on the right to a fair trial are guaranteed in all circumstances (recommendation 72, Austria)," Ms. Al-Hakami is still being held at present, pending a Supreme Court decision on her appeal.

25. The Superior Council of the Magistracy (SCM) has the prerogative to appoint and dismiss judges. Its chairman is appointed by presidential decree. The Council is composed of the Minister of Justice, the Attorney General, the President of the Supreme Court, the President of Judicial Inspection, the Secretary General of the Council and three judges ultimately selected by the President of the Republic. The executive's control over this council jeopardizes its independence as well as the principle of the tenure of judges.

#### **5 Harassment of Journalists and Attacks on Freedom of Expression**

26. The Republic of Yemen committed to recommendation 74, to "[R]emove restrictions on the ability of journalists to report and criticize government policy freely and without of fear of repression, intimidation, imprisonment or threat" during its initial review.

27. However, the organisation "Women Journalists without Chains", created in 2005 by the 2011 Nobel Prize winner, Tawakkol Karman, highlighted numerous cases of violations against journalists in 2012 in their annual report<sup>5</sup>:

- 60 cases of attacks on journalists while performing their jobs
- 34 cases of journalists who had been threatened
- 9 cases of defamation
- 7 detentions

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<sup>5</sup> Women Journalists Without Chains, *2012 Annual Report*, p.4. <http://www.womenpress.org/articles.php?id=315> (accessed 13 May 2013).

- Five assassination attempts
- 4 unfair dismissals
- 2 cases of enforced disappearances

28. Alkarama is particularly concerned about the arbitrary detention of Abdulelah Haider Shaye, a journalist who was sentenced to five years in prison after an unfair trial held before the Special Criminal Court in Sana'a. He was convicted for alleged ties to Al Qaeda. In reality, he was doing his work as a journalist investigating the attack on Al-Majala in 2009 (referred to in paragraph 12 above). He questioned the official version of what had happened during the attack and attracted the attention of the public when he questioned the number of civilians killed in the U.S. raid. While the Yemeni army had at first assumed responsibility for the attack, Abdulelah Shaye established, on the basis of compelling evidence, that cruise missiles or "Tomahawks" – had been used by the U.S. military in order to carry out the attack, information which was subsequently confirmed in a Wikileaks diplomatic cable.<sup>6</sup>

29. Abdulelah Shaye's imprisonment is the direct result of the fact that he was doing his work as a journalist, reporting on the serious violations committed by the U.S. and Yemeni governments in their extrajudicial executions policy. Following public pressure, President Saleh said that he was ready to pardon Abdulelah Shaye. However, President Obama later expressed his reservations over this release during a telephone call which took place on 2 February 2011<sup>7</sup>, and Shaye was subsequently not released.

30. Alkarama has also received information regarding the 21 February 2013 murder of 30-year-old journalist Wajdi Al Abdo Muhamad Al-Subaihi, also known as Wajdi Al Shaby, in Aden. Three men who had broken into his home murdered al-Subaihi along with his friend Daoud Al-Samaty in front of his wife and three children. The Ministry of Defence tried to justify the execution by declaring that Al-Subaihi had been an Al Qaeda spokesperson. However, a few hours after the announcement, the ministry released a corrigendum indicating that Al-Subaihi had not been working for Al Qaeda, and they did not know the identity of those responsible for the assassination. No investigation was ever opened following the assassination of this journalist by the military.

31. Wadah Yahya Muhammad Al Qadhi, aged 30, was severely beaten by security officers when he went to the crash site of a military plane in the vicinity of Sana'a on 13 May 2013. When Mr Al Qadhi went to the scene to collect the testimonies of witnesses to the crash, he was violently attacked by members of the security services. They struck Mr Al Qadhi, his colleagues, and those whom the journalist had questioned at the scene of the accident. The security forces then proceeded to fire live bullets in order to disperse the people present at the scene, as well as breaking Mr Al Qadhi's camera.

## 6 Recommendations

32. Alkarama recommends:

1. The amnesty law guaranteeing impunity for those responsible for violations of the right to life and other serious violations committed during the 2011 revolution adopted on 21 January 2012 should be repealed.
2. Yemeni forces should immediately cease extrajudicial executions, or the granting of authorization to commit such executions on Yemeni territory to foreign forces.
3. Impartial and transparent investigations into extrajudicial killings, as well as criminal proceedings against any person responsible for violations of the right to life should be initiated.
4. Implementation of all provisions of the Convention against Torture, without exception, including the opening of investigations and punishment of those responsible for torture and ill-treatment
5. Adequate compensation to all victims, or next of kin where necessary, for serious violations of human rights should be granted.

<sup>6</sup> Wikileaks, <http://wikileaks.org/cable/2009/12/09SANAA2251.html> (accessed 13 May 2013).

<sup>7</sup> White House, Press Service, <http://www.whitehouse.gov/the-press-office/2011/02/03/readout-presidents-call-president-saleh-yemen> (accessed 22 May 2013).