



Yemen

Submission to the List of Issues to be taken up in connection with the consideration of Yemen's fifth periodic report by the Human Rights Committee

Alkarama Foundation, 31 December 2010

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Alkarama recalls that it concentrates its work on four priority areas: arbitrary detention, enforced and involuntary disappearances, torture, and extrajudicial executions. We base our work primarily on the documented individual cases we submit to UN Special Procedures and Treaty Bodies, as well as our contacts with local actors including victims, their families, lawyers and human rights defenders.

1. Context

Yemen's fifth periodic report (CCPR/C/YEM/5) was submitted to the Human Rights Committee in December 2009 and will be examined during the Committee's 104th session which will be held in March 2012. In this framework, Alkarama wishes to submit some information and suggest some questions to deepen the discussion examining the implementation of the protection of human rights in the country. We would like to recall that our organization wrote to the Committee on 19 March 2009 following up on recommendations 13 and 14 from the Concluding Observations issued in the framework of the examination of the previous periodic report.¹ At this time we submitted up to date information which, we hope, can also be useful for the experts of the Committee.

The political situation in Yemen is quickly deteriorating – it has gone so far that there are fears that the country could disintegrate into separate entities. Some observers have been considering, for years now, the "Somalisation of Yemen" due to the conflict between the central government and the Houthist movement in the north; the political and social demands of the Southern part of Yemen, which are increasingly expressed in secessionist terms; and finally the presence in Yemen of groups affiliated to Al-Qaida. These conflicts are exacerbated by a heavy pressure from the United States including via their direct military intervention in the country. During the last confrontation between the Yemeni military and the Houthist movement in the north, the Saudi military bombarded some of the northern regions of Yemen.

Following a period of relative stability in the 90s which had allowed an improvement of the human rights situation and public freedoms in Yemen, the current explosive situation has led to serious transgressions with regards to the respect for human rights. Today, the progress achieved previously is again open to question, on a daily basis these achievements are falling apart and the authority of the State is increasingly undermined. The weakened central government leans heavily on its repressive apparatus made up of numerous security services which are all de facto under the direct control of the Head of State, Ali Abdallah Saleh, which has led to the appearance of new non-governmental forces which also commit violations to the right to life and the physical integrity of the person.

2. The war on terrorism and the principle of proportionality (art. 6, 7, 9)

The Yemeni government does not clearly answer the questions asked by the Committee in recommendation 13 of their Concluding Observations regarding the question of the proportionality of the government's reactions to the terrorist threats and activities. The State Party does however refer to measures taken to "to eradicate and combat terrorism" such as their "discussions series" with around 250 "prisoners who hold mistaken ideas [about Islam]", releasing "those who repent and renounce these ideas".²

The government also states that in the past 10 years, less than 1000 people were arrested and at the time the report was written, only 150 of them remained detained, though they are unable to confirm this with precise statistics. These figures seem considerably below the true figures. The State report does not further discuss the methods used to fight terrorism or the concerns expressed regarding the human rights violations recorded in the context of this struggle.

Thousands of people have been arrested as of the year 2000, following the attacks perpetrated during this period. Accused of belonging to Al Qaida, they are often held in secret detention in the Political Security detention centers, tortured, arbitrarily detained or sentenced following unfair and rushed trials.

The Human Rights Committee had requested information on the conclusions of the Parliamentary Commission established to investigate detainees accused of terrorism³, but the State Report does not

¹ Human Rights Committee, 84th Session, *Concluding Observations of the Human Rights Committee on the fourth periodic report of Yemen*, 9 August 2005 (CCPR/CO/84/YEM)

² *The fifth periodic report of Yemen submitted to the Human Rights Committee pursuant to article 40 of the International Covenant on Civil and Political Rights*, 8 January 2010 (CCPR/C/YEM/5), p.45, para. 146-149

³ *Report of the parliamentary commission inquiring into detainees accused of terrorism*, تقرير اللجنة الخاصة

refer to this. Alkarama reviewed the report of the Commission, dated September 2002, and included substantial extracts from it in the aforementioned follow up report to the Human Rights Committee's recommendations.

The report of the Parliamentary Commission stated, *inter alia*, that arrests and the searches of homes were carried out without any judicial warrants. Suspects were detained in solitary confinement for long periods and were tortured. The families of persons arrested were not informed of their whereabouts, on the contrary, their detention was often denied by the authorities. Families were not allowed to visit or only allowed very brief moments with their loved ones, constantly under the supervision of the security services. No detainee was presented before the prosecutor within 24 hours, as is stated in the law. Detainees were forced to sign false "confessions". The commission also noted that most of the detainees had no link to terrorism and that many of them were freed on bail by the Commission on Security, but that they remained detained as they could not pay the bail.

The Commission recommended to the Ministry of the Interior and the Political Security that they bring all the detainees before a judge and that the latter undertake inquiries but also follow up on complaints by detainees who have been arrested in breach of the law and the Constitution and identify and sanction those responsible for these abuses. The Commission criticizes the general prosecutor for not having fulfilled his designated role when the families informed him, at the end of August 2002, of this situation.

The Parliamentary Commission demanded that the Ministry of the Interior and the Political Security submit a report to parliament explaining the steps taken to implement these recommendations. Furthermore, they recommend the release without payment of the bail for those detainees recognized as innocent by the Commission on Security.

Finally, the Periodic Report of Yemen indicated modifications to the Counter Terrorism Act regarding the fight against terrorism (para 149).

Questions:

1. *Has a dialogue been established with the various peaceful and armed opposition movements in the country?*
2. *What steps were taken to implement the recommendations by the Parliamentary Commission which investigated the detainees accused of terrorism?*
3. *What is included in the Counter Terrorism Act, mentioned in para. 149 of the periodic report, and what modifications are being made to it?*

3. American interventions in Yemen (article 6)

The observations and recommendations issued by the abovementioned Parliamentary Commission date back to 2002, but remain very relevant today as the methods used in the war on terrorism have even been intensified since then. Collaboration with the US authorities in this framework has led to direct interventions by the US military in Yemen, causing numerous deaths and casualties. In particular, the bombing of the village of Al-Maajala (in the southern province of Abyan) on 17 December 2009, which led to the death of between 60 and 120 people - depending on the sources – mainly civilians, was particularly badly seen by the Yemeni population. Another Parliamentary Commission was in fact established.⁴ Though it failed to mention the US involvement in this operation

المكلفة بتقصي الحقائق حول حادث المدمرة كول اكتوبر 2000 و احداث 11 سبتمبر 2001
of Yemen, 23 September 2002. Available (in Arabic) at:

http://ar.alkarama.org/index.php?option=com_docman&task=doc_download&gid=133&Itemid=142

4 Special Parliamentary Commission for the investigation of the events of the Abyan province, Yemeni Parliament, تقرير اللجنة المكلفة بتقصي الحقائق حول الأحداث الأمنية بمحافظة أبين ولحج (Report of the Commission for the investigation of the events of the Abyan province), 2010, p. 16. The Commission visited the area in January 2010. Available on:

http://ar.alkarama.org/index.php?option=com_docman&task=doc_download&gid=131&Itemid=142

See also, Alkarama, *Follow up submission in view of the provisional Concluding Observations of the*

the commission's report did note that the main person targeted, Mohamed Saleh Al-Kazimi, was not hidden and could have been neutralized using other means than this air raid. The commission states that, according to its information, the raid caused 51 civilian deaths and the death of 14 other individuals identified by the authorities as members of Al-Qaida. They recommend that an inquiry be initiated to establish those responsible for the raid and ensure their prosecution; to ensure the families affected by this raid receive compensation and a public apology by the government. Only this last recommendation was carried out when a member of the government addressed parliament.

The Yemeni government has, in the past, systematically endorsed sole responsibility for the aerial raids, but it has since been formally established that it was the US military who carried out these bombing raids. The London newspapers "The Times" reported on 9 December 2010 that US armed forces, over the past year, had killed 200 Yemeni civilians as well as 40 people suspected of belonging to Al Qaida in Yemen during raids using "cruise missiles".⁵

A cable revealed on the Wikileaks website from the US embassy in Sanaa dating from early January 2010 describes the fact that, despite the official position of the Yemeni government, which is that the weapons used in the raids are American but that the operations are run by the Yemeni military, it is in fact the US army who are carrying out these raids. Indeed, the US army is apparently carrying out actions autonomously, without any Yemeni presence. President Saleh is quoted as having said:

"We'll continue saying the bombs are ours, not yours," Saleh said, prompting Deputy Prime Minister Alimi to joke that he had just "lied" by telling Parliament that the bombs in Arhab, Abyan, and Shebwa were American-made but deployed by the ROYG (Republic Of Yemen Government).⁶

Questions:

1. *What direct US military interventions have taken place on Yemeni territory? What are the numbers of civilian victims due to these interventions?*
2. *Why does the government endorse sole responsibility of these bombing operations? Is there any legal basis or military cooperation accord which authorizes direct action by foreign forces in the country?*
3. *Did the government initiate any inquiries to determine the exact circumstances of these operations, the number of victims and those responsible for these actions? Do they intend to prosecute those responsible and compensate the victims?*

4. The war in North Yemen and the intervention of Saudi Arabia (article 6)

The central government is confronted with a rebellion in the North of the country which has re-ignited several times since 2004, each time causing massive interventions by the military. The sixth and most recent such intervention, "operation scorched earth", was launched on 11 August 2009. This confrontation lasted until February 2010, when a cease-fire was reached between the warring parties. On this occasion, military support for the Yemeni intervention was not only from the USA but also from Saudi Arabia who bombed alleged rebel bases, without sparing the neighbouring villages and provoking an exodus of tens of thousands of civilians who took shelter in ad-hoc camps set up in the bordering provinces. The Saudi army also intervened with ground troops, tanks and heavy artillery.

Committee Against Torture for Yemen's 2nd periodic review, 9 april 2010.

5 Chris Peterson, U.S. Hits Yemen With Secret Cruise Missile Strikes, Times Says, Bloomberg, 9 december 2010, <http://www.bloomberg.com/news/2010-12-09/u-s-hits-yemen-with-secret-cruise-missile-strikes-times-says.html>, see also : " غارات لها في اليمن العام الجاري 4 مدني في 200التاييمز" البريطانية: القوات الأميركية قتلت " 9 December 2010, <http://www.alghadyem.net/index.php?action=showNews&id=1898>(accessed on 10 December 2010)

6 Embassy of America in Sanaa, Viewing cable 10SANAA4, GENERAL PETRAEUS' MEETING WITH SALEH ON SECURITY, 4 January 2010, para 5. <http://213.251.145.96/cable/2010/01/10SANAA4.html> (accessed on 10 December 2010)

According to a cable from the US embassy in Riyadh published on the Wikileaks website, the US ambassador met with the deputy minister of defence and aviation, Prince Khaled bin Sultan, and asked for information regarding the bombing of a clinic. Prince Khaled bin Sultan recognised that civilians had been killed but explained that the Yemenis had indicated that this was as an operational base used by the Houthis. "Prince Khalid explained the Saudi approach to its fight with the Houthis, emphasizing that the Saudis had to hit the Houthis very hard in order to "bring them to their knees" and compel them to come to terms with the Yemeni government." However, the Yemenis apparently knowingly indicated false targets to the Saudis, such as the Headquarters of General Ali Mohsen Al Ahmar, the military commander of the northern region, considered a political opponent to the President by the central government in Sanaa. This incident apparently pushed the Saudis to be more cautious with the indications received from the Yemenis.⁷

Once again, the civilian population has had to bear the brunt of the casualties: in deaths, injuries and destroyed housing. Once again, tens of thousands of Yemenis became refugees, swelling the ranks of those who had already lost everything during previous wars.

In July 2010, 342 000 people were registered as internal refugees and nearly 800 000 were direct victims of this conflict and live in difficult conditions in unofficial camps.⁸ Their access to assistance and the return to their villages is often blocked by the armed conflict between the rebel movements and the tribes loyal to the central government which regularly lead to deaths. The government troops push the refugees to return to their homes, often against their own will.⁹

The Houthi movement, for its part, seems to control numerous regions of the north and enforce their own law in these regions: road blocks are set up, arrests and reprisals are carried out against people suspected of being loyal to the government. None of the parties respect the February 2010 agreement, but the government in particular seems to have lost control of a large part of the region.¹⁰

Questions:

1. *Is there any agreement between Yemen and Saudi Arabia which allows for military intervention in Northern Yemen?*
2. *Has the government initiated inquiries to determine the exact circumstances of the operations which led to the bombing of civilian installations? Were the civilian victims of these bombings or their families compensated?*
3. *What steps have been taken to halt the violations committed by the military and their auxiliary forces?*

5. The deterioration of the situation in Southern Yemen (articles 6, 7, 9)

The Committee on Human Rights, in its previous Concluding Observations, expressed concern with regards to the excessive use of force by agents of the state during interventions by the army to repress peaceful demonstrations. Alkarama, in its follow up information regarding the Committee's recommendation 14, described several examples of situations in which the security forces had used excessive force which had led to the death of demonstrators. A large number of these demonstrations took place in the south of the country, currently in the throws of renewed tensions and disturbances.

7 Embassy of America in Riyadh, Viewing cable 10RIYADH159, Saudi Arabia: Renewed assurances on satellite Imagery, 7 February 2010, para 3-4, <http://213.251.145.96/cable/2010/02/10RIYADH159.html>

8 Mohamed Al Ahmadi, Al Ghad (الغد), "نزور مخيمات النازحين وترصد أوضاعهم الإنسانية قبيل رمضان", 22 August 2010, <http://www.alghadyem.net/index.php?action=showDetails&id=4379>

9 IRIN, Yémen: La reprise des violences empêche les personnes déplacées de rentrer, 24 novembre 2010, <http://www.irinnews.org/fr/ReportFrench.aspx?ReportID=91181>

10 Mohamed Al Ahmadi, Al Ghad (الغد), "نزور مخيمات النازحين وترصد أوضاعهم الإنسانية قبيل رمضان", 22 August 2010, <http://www.alghadyem.net/index.php?action=showDetails&id=4379>

The reunification of the two Yemens in 1990 did not happen without friction. Indeed, the two parties confronted each other during the 1994 civil war which finally confirmed the supremacy of the North over the south. President Ali Abdallah Saleh, who had been the leader of the North since 1978, is, since 1994, the president of unified Yemen. The conflict has not however been truly resolved: the population of the south regularly expresses its concerns through public demonstrations. The movement started in 2006 and 2007 with large peaceful demonstrations organized to request both the return of confiscated private and public real estate and the reintegration of the officials and the military personnel fired after the civil war.

The Yemeni Observatory for human rights, in its 2009 Annual Report, stated that during demonstrations in 2009 there were 49 deaths, 271 people injured and 2273 people arrested. The Observatory considers that the Yemeni authorities used excessive force during these demonstrations. They note however, that since the middle of 2009, the demonstrations are becoming a movement of civil disobedience.¹¹

So far the central government has only responded to the concerns of the population of the south with armed force, which has led those supporting the south to create other movements to support their interests, sometimes armed, and the call for secession from the north continues to grow stronger. The main peaceful movement which has emerged is known as Al-Hirak Al-Janubi – the Movement of the South – and is made up of a multitude of groups and individuals who are also in competition amongst themselves.¹²

During the last few months, confrontations have taken place between armed groups and government troops, which led to deaths on both sides. The government reacted with large scale operations such as the operation in Loder in the province of Abyan in August 2010 when the army's bombing led to at least 5 deaths and the exodus of some 80 000 inhabitants.¹³ In justifying these operations, the government regularly denounces collusion between the southern militants and members of Al Qaida.

A coalition of parties was established under the name Al-liqa' Al-Mushtarak (the common gathering). It refuses to be assimilated to Al Qaida and has stated that the fight against Al Qaida is used as a pretext to obtain exterior support and to provoke an armed confrontation with the movement with the aim of quashing it militarily.

A number of politicians related to the movement have been arrested, such as Mr Ahmed Bamualim who is a well known member of the opposition in Yemen within the Movement of the South. Summoned on 15 April 2009 by the director of the military intelligence services, he was held for a month in secret detention in an underground cell. He was then transferred to the military prison of Sanaa, where he remained from June 2009 to the 19 July 2009, when he was again transferred to Sanaa central prison. On 23 March 2010, he was condemned to 10 years in prison by the State Security Court, a special court, under the accusation of harming national unity.¹⁴

Numerous arrests took place during gatherings and demonstrations organised in the south of the country. Fahd Faysal Abdullah Salam AL-BALY, Mohamed Sahl Ibrahim ABDALLAH, Saber Mohamed Hamid Qaid AL-MAQTARI, Sultan Abdelbari Abu Baker AL-AFIFI, Khaldoun Abdelhakim Abdullah ALI, Wajdi Ahmed Nasser Hussein AZZAN, Kasem Saleh Alkhadr Mohamed MAHROUK, Fahd Ahmed Ali Sawda SAYEL and Farouk Abdulhakim Ali Mohamed THABET were all arrested between July 2007 and

11 Yemeni Observatory for Human Rights (YOHR), *Annual reports on Human Rights and Democracy in Yemen in 2009*, January 2010, p.11, available at http://www.yohr.org/docs/1/doc1-24-06-2010_12-38-32.pdf

12 Khaled Al-Harrouji, خالد الهروجي, أزمة الجنوب اليمني: الوقائع خطيرة ودموية... ونتائج التقسيم كارثية, Dar Al-Hayat, 6 July 2010, <http://www.daralhayat.com/portalarticlendam/159872>

13 Radio France Internationale, *L'armée reprend le contrôle dans le sud du Yémen*, 24 August 2010, <http://www.rfi.fr/afrique/20100824-armee-reprend-le-contrôle-ville-loder-le-sud-yemen>

14 Alkarama, *Yemen: Ahmed Bamualim illegally imprisoned for nearly one year*, 05 March 2010, http://en.alkarama.org/index.php?option=com_content&view=article&id=439:yemen-ahmed-bamuallim-illegally-imprisoned-for-nearly-one-year&catid=40:communiqu&Itemid=216

and Alkarama, *Yemen: Ahmed Bamualim sentenced to 10 years imprisonment*, 23 March 2010, http://en.alkarama.org/index.php?option=com_content&view=article&id=453:yemen-ahmed-bamuallim-sentenced-to-10-years-imprisonment&catid=40:communiqu&Itemid=216

March 2009 by the Political Security Services, and were detained in secret for months in the Services' centers, including at the "Fatah" center in Aden and the one located in Sanaa. All of these men have in common the fact that they have been transferred to Al Mansoura central prison in Aden where they were still detained without any judicial procedures against them and without ever having been presented before a judge when Alkarama submitted their case to the Working Group on Arbitrary Detention in April 2010.

They were all arrested without any judicial warrant, either at their homes, at their workplace, or after having been summoned by the security services. After several months of detention, even several years for some of them, they had still not been informed of the legal basis for their continued deprivation of liberty, the duration of their detention or the fate which awaits them.¹⁵

The armed forces violently enter the homes of individuals wanted by the authorities, they terrify the families and search the house without any judicial search warrant. Suspects are brutally arrested and taken to unknown locations where they are often detained for periods ranging from a few days to several months without ever been brought before a judge. The authorities justify these actions by invoking the war on terrorism.

Recently, on 24 November 2010, police forces attacked the home of Dr Hussein Al-'Aqel situated in the town of Sabar in the province of Lahij in the south of the country. Five other people were arrested at the same time, and all were transferred to the police detention center in Al Hutta, without any arrest warrant been presented.¹⁶

According to the local press, armed groups are been formed in the South, notably in the province of Ad Dali. These groups are arming themselves on the internal Yemeni arms market or in the stocks of the Military. They carry out actions against the military, but also against civilians. These latest developments are a real cause for concern as there is reason to fear serious human rights violations, particularly seeing the central governments incapability to peacefully settle this issue.¹⁷

Questions:

1. *What are the measures taken by the authorities to avoid extrajudicial executions during peaceful gatherings? Do they initiate investigations into those deaths and injuries resulting from repression of demonstrations?*
2. *What steps are taken by the government to respond to the concerns expressed by the movements in the south of the country?*

6. Torture and arbitrary detention (art 7 et 9)

The Political Security services (الأمن السياسي), Criminal police, General Directorate for counter-terrorism (الإدارة العامة لمكافحة الإرهاب), the counter-terrorism section (شعبة مكافحة الإرهاب) of the Central Security forces (الأمن المركزي) are all implicated in counter terrorism operations and run detention centers in which suspects are detained in secret and often tortured. We recall the case of the 5 Cameroonians suspects who were detained for more than 15 years at the Political Security detention center in Sanaa. Four of them were finally released at the end of November 2010 without ever having been tried, the fifth died in detention at the beginning of the year. They were detained in secret in extremely difficult conditions and were tortured, in particular when, after 10 years of detention, they were able to pass a message from their cell to the Yemeni NGO Hood. Alkarama informed the UN Working Group on Arbitrary Detention and the Committee against Torture, who mentioned their cases in its recommendations of 25 May 2010.¹⁸

15 Alkarama, *Yemen: Arbitrary detention of nine people, three of them for over two years*, 14 april 2010, http://en.alkarama.org/index.php?option=com_content&view=article&id=496:yemen-arbitrary-detention-of-nine-people-three-of-them-for-over-two-years-&catid=40:communiqu&Itemid=216

16 YOHR, *مداهمة منزل حسين العافل*, 25 November 2010, <http://www.yohr.org/details.asp?id=387&catid=7>

17 Khaled Al-Harrouji, *أزمة الجنوب اليمني: الوقائع خطيرة ودموية... ونتائج التقسيم كارثية*, Dar Al-Hayat, 6 July 2010, <http://www.daralhayat.com/portalarbailendah/159872>

18 Comité contre la torture, *Observations finales, Examen des rapports présentés par les États parties en*

Arbitrary detention is a recurring problem in Yemen. A large number of people have been detained for years without ever been tried. Mr Walid Abdellatif Noman Al-Kainai, 29 at the time of the violation, was studying at the University of Sanaa but living in the province of Ibb and was arrested following a visit he made to Iraq. Huge pressure had been put on his family and his entourage by the Political Security Services for him to give himself up, as he was apparently wanted. Local agents of the Services entered his family home at the beginning of March 2005 and searched the entire house without any warrant. At the end of the search, they detained his father and three brothers and took them to the local headquarters of the Political Security Services, holding them as hostages.

Mr Walid Al-Kainai was, in the end, arrested on 15 March 2005 in the neighbouring province of Taizz, to the east of the city of Ibb. His father was released the next day and the others following this. First detained at the Political Security Services headquarters in Taizz, Mr Al-Kainai was transferred two weeks later to Sanaa where he remained until the end of 2006. After this, he was taken to the central prison of Aden and then, at the end of 2008, to the Services detention center in Ibb where he was in May 2010 when Alkarama submitted his case to the Working Group on Arbitrary Detention.¹⁹ During the first 2 months of his detention, his family had no news of his whereabouts or his fate.

Individuals suspected of terrorist activities or supporting terrorism are generally detained in the buildings of the Political Security Services in very difficult detention conditions and without knowing when or if they will be tried. Indeed, 50 detainees in exactly this situation, detained in the Political Security prison of Al Mukalla, in the southern province of Hadramout, began a hunger strike on 10 March 2010 in protest at their continued detention by the Yemeni security services without any charges or trial. Some of these detainees had already been detained for more than 3 years without ever been presented before a judge.²⁰

The other security services also have their own detention centers in which people are secretly detained. Mr Ammar Hamid Moqbil Mahyoub Attayiar, a 23 year-old technician at the international airport of Sanaa was arrested on 11 January 2010 in the province of Taizz by members of the security forces in civilian clothes and taken to their headquarters where he was detained until 16 January 2010. He was then transferred to the detention center of the Criminal Investigation Services (Al-Baht Al-Jinaii) of Taizz where he remained detained without any contact with the outside world. On 27 January 2010, he was taken to the police station of Bir Bacha, where he remained for 6 days before being transferred to Taizz central prison on 3 February 2010.

During his 11 days of detention at the hands of the Criminal Investigation Services in Taizz in January 2010 he was seriously tortured by 3 officers who were interrogating him with the aim of forcing confessions about crimes he allegedly was involved in. He was, *inter alia*, exposed to a series of electric shocks which left him with a number of second degree burns on his hands, back and feet. He was also seriously tortured at the Bir Bacha police station where he was detained blindfolded and violently beaten for 6 days. The victim was examined by a doctor following persistent pressure from his lawyer and family, who were allowed to visit him at Taizz central prison. The medical report established stated that there were various burns and a number of bruises all over his body. A complaint was filed with the General Prosecutor in Sanaa.

Mr Ammar Attayiar was to be released on provisional release order on 4 April 2010, but he was never released by the authorities in charge of his detention. In the framework of the complaint filed against his torturers, the latter were summoned by the judge in May 2010 and a request was filed by Mr

application de l'article 19 de la Convention, CAT/C/YEM/CO/2/Rev.1 du 25 mai 2010, para 12.

19 Alkarama, *Yemen: Walid Al-Kainai illegally detained since 2005*, 13 May 2010, http://en.alkarama.org/index.php?option=com_content&view=article&id=502:yemen-walid-al-kainai-illegally-detained-since-2005-&catid=40:communiqu&Itemid=216

20 Alkarama, *Yemen: Scores of arbitrarily detained prisoners go on hunger strike inside Mukalla Political Security Prison*, 16 March 2010, http://en.alkarama.org/index.php?option=com_content&view=article&id=449:yemen-scores-of-arbitrarily-detained-prisoners-go-on-hunger-strike-inside-mukalla-political-security-prison&catid=40:communiqu&Itemid=216

Attayiar's lawyer for the minutes of the trial using the forced confessions to be annulled.²¹ The judge did not summon the witnesses requested, but heard the officers concerned. M. Attayiar recognised one of the officers by his voice (during the torture sessions, he was blindfolded), he was nicknamed Mohamed Ali and is the director of the section on crimes of aggression and homicide of the Criminal Police. To this day, the complaint has not been followed through.

Arbitrary and secret detention are very common and the Human Rights Committee has regularly expressed its preoccupation with regard to this. In its periodic report the Yemeni government indicated that 370 complaints had been filed with the Ministry of Human Rights for "illegal detention" in 2005 and 2006, the authorities had responded to more than half of these cases.²² Torture complaints are also noted. However, the report fails to explain precisely what investigations were launched and what sanctions were undertaken (see page 44, para 141-143). Arbitrary detention also concerns people incapable of paying their bail and members of the families of suspects who are taken hostage to force them to give themselves up to the authorities.

On the morning of 23 February 2009, the family home of the Al Mahfli family was raided by a group of hooded agents from the security services in civilian clothes, armed with automatic weapons. During the assault, shots were fired and Ahmad Al Mahfli, 17 years old, was arrested even though it was his brother, who was not at home at the time, who was wanted. During the first two months, Ahmad Al Mahfli was detained incommunicado and a member of the security forces informed the family that he would remain detained until his brother gave himself up to the authorities.²³ He was detained in these conditions, without any legal basis, for 9 months, until his release on 11 November 2009.²⁴

Secret detention is not only practiced by the security services, but also by private individuals, often tribal chiefs who take advantage of their positive standing with the authorities and undertake such illegal practices for their own personal interests. Thus, Sheikh Mohammed Ahmed Mansour, head of an important tribe in the province of Ibb, was the subject of a parliamentary inquiry following complaints filed by 8 citizens of the province of Ibb who accused him of holding a large number of people in his private prison. Following the inquiry which was carried out in February to March 2007, a report was published which clearly established the Sheikh's responsibility in the abduction and detention of people; raising of such a high "private" taxes that entire families had to leave the area to take refuge in Sanaa; the harassing of women; stealing of animals and agricultural land from families who were then forced to buy them back; etc.

Forced to cooperate with the Commission, Mr Mansour accepted to meet with it, but did everything, including using force, to ensure that it could not visit the village of the people who originally filed the complaint, thus not allowing the commission to gather information about the existence of the secret prison. The local governor claims not to know anything about any "private" prison in the region of Al Akma 'Uzlat al-Habla. Questioned about the Sheikh's private militia, he did however recognize that it was illegal, as were the roadblocks they regularly established in the region. The commission called for the return of all the people who had taken refuge in Sanaa, with the guaranty that they would have the protection of the state. It also recommended the destitution of the two local representatives of the central government; that there be criminal investigations against those responsible; that the complaints filed by the inhabitants of the area be taken into account and the launch of development projects in the region. To this day, Mr Mansour continues to act in all impunity. This total lack of

21 Alkarama, *Yemen: Ammar Attayiar's tortured in Ta'izz, held despite release orders*, 17 June 2010, http://en.alkarama.org/index.php?option=com_content&view=article&id=532:yemen-amm-attayiars-tortured-in-taizz-held-despite-release-orders&catid=40:communiqu&Itemid=216

22 *The fifth periodic report of Yemen submitted to the Human Rights Committee pursuant to article 40 of the International Covenant on Civil and Political Rights*, 8 January 2010 (CCPR/C/YEM/5), p.17, para. 52.

23 Alkarama, *Yemen: Ahmad al-Mahfli, minor, held hostage by Political Security*, 23 October 2009, http://en.alkarama.org/index.php?option=com_content&view=article&id=334:yemen-ahmad-al-mahfli-minor-held-hostage-by-political-security&catid=40:communiqu&Itemid=216

24 Alkarama, *Yemen: Al-Mahfli, minor, released after nine months of arbitrary detention*, 19 November 2009, http://en.alkarama.org/index.php?option=com_content&view=article&id=361:yemen-al-mahfli-minor-released-after-nine-months-of-arbitrary-detention&catid=40:communiqu&Itemid=216

action on behalf of the local government, as well as hesitations at the national level for any involvement in this issue says a lot about the influence of Cheick Mohammed Ahmed Mansour, who, it seems clear, has protection from high places.²⁵ Once again, the State's failings allows for serious violations of human rights.

Questions :

1. *What measures have been taken or are planned by the authorities to combat the practices of torture, of secret detention and of detention without charge or trial?*
2. *To what extent are complaints by victims of torture or secret detention taken into account by the justice system and do they lead to the sentencing of those responsible?*
3. *Do statistics exist about the legal procedures undertaken and the sanctions/ sentences issued regarding agents who committed such violations?*
4. *What measures have been taken or are planned by the authorities to bring to an end the illegal practices by tribal chiefs in general and in particular to implement the recommendations of the Parliamentary Commissions who inquired into the allegations with regards to Sheikh Mohammed Ahmed Mansour?*

7. Conditions of detention (article 10)

The conditions of detention in Yemen continue to be extremely disturbing and push families of detainees and local human rights NGOs to alert the central government. The detainees also often undertake hunger strikes to express, as a last resort, their protest at their situation.

Between January and March 2007, the Parliamentary Commission on Public Freedoms and Human Rights visited central prisons, provisional detention centers and places for custodial detention in the provinces of Ibb, Dhamar and Al Bayda. It published its report on 16 June 2008.²⁶

The commission noted an overcrowding in the detention centers, the presence of dozens of young children imprisoned with their mothers and adolescents between 15 and 18 detained with adults.

Regarding the material conditions, it highlights the insufficiency of the food and the reduction of the budget for 2006 in comparison with the previous years, when the prices of basic goods had actually risen; the quantity of water given to detainees was insufficient; the lack of medicine and medical facilities in certain prisons; the absence of training or work for detainees; the lack of security personnel; etc.

The organisation *Hood* published on 9 December 2010 a press release condemning the violent intervention by security services in the central prison of Taizz which caused the death of two detainees. One week before, the detainees had organized a protest movement, and 15 of them, accused of being the leaders of the movement, were abducted and transferred to an unknown location. To this day the fate of four of them remains unknown. The *Hood* fears that they face high risks of torture.²⁷

25 Report of the Commission on the establishing of the facts regarding the complaints of the inhabitants of Al Sifa and Riash/ Al Jaashin, Department of Al Sifal / Province of Ibb, no date, (Only in Arabic), on:

http://ar.alkarama.org/index.php?option=com_docman&task=doc_download&gid=132&Itemid=142

26 Commission on Public freedoms and Human Rights, Report of the Commission on Public Freedoms and Human Rights on the results of the visits to the central and temporary prisons and places of custodial detention in the provinces of Ibb and Al Baida, 16 June 2008 (Only in Arabic) :

http://ar.alkarama.org/index.php?option=com_docman&task=doc_download&gid=134&Itemid=142

27 Hood, بيان بشأن مقتل سجينين في نعر واخفاء خمسة عشر آخرين, 9 December 2010, http://hoodonline.org/news_details.php?sid=2740

Due to the bad conditions of hygiene, an epidemic was propagated in the central prison of the province of Al Hadida without any intervention from the authorities. On 12 December 2010, Hood published a press release announcing the death of 8 detainees to this day.²⁸

The situation of women in detention is also worrying, due in part to the lack of female personnel. Female detainees have reported been raped by officers in the prisons for women.²⁹ Many children are arrested in very violent circumstances and arbitrarily or secretly detained with adults, victims to mistreatment and the same bad conditions of detention as the adults.

Questions

1. *What measures are being taken or are planned by the authorities to improve the conditions of detention for prisoners? Are all detainees in penitentiary establishments registered? Are these registers controlled by any judicial authority?*
2. *What are the specific measures taken regarding the detention of women and minors?*

8. Unfair Trials (article 10)

In most cases, individuals arrested are not shown any judicial arrest warrant, and, with no legal procedure against them, are unable to request the assistance of a lawyer. The suspects often do not know the legal basis for their arrest and detention, nor the duration of these measures.

Many of those suspected of being members of the Houthi movement, of Al Qaida or of having participated in protests in the south of the country, have not been given a fair trial. Individuals have reported being tried and sentenced based on evidence or "confessions" extracted under torture during their period in secret detention. A large number of people are detained without any legal procedures, among who are also a number of foreigners.

As for the courts, violations of the rights of the accused have been reported. Many people have been tried and sentenced, sometimes in absentia, by the courts of first instance who issue sentences dictated to the judges by the authorities.

A Special Criminal Court mandated to consider cases of terrorism was established by decree in 1999. Many Yemeni lawyers consider this court to be anti-constitutional, as its establishment was neither discussed nor approved by parliament. They criticize the fact the General Prosecutor has the power to transfer any person before this court and they claim that this special court does not fulfill international norms for a fair trial.

They point to many specific problems with the court: the sentences are rushed and the accelerated procedures do not allow the defense lawyers to prepare and ensure the effective defense of their client. The lawyers also complain that they do not have access to their clients or even to their files during their periods of custody: the right to legal assistance is thus not respected. Furthermore, "confessions" extracted under torture and entered into the minutes of hearings are used by the court as evidence and the court never investigates allegations of torture and mistreatment or of prolonged secret detention. The families of the accused have been forbidden to attend the hearings, even though these are meant to be public.

On 26 January 2009, the Special Court of Sanaa sentenced Mohamed Qasim Ali Al-Ghouli and Amine Al Naggar respectively to 10 and 7 years in prison. Local Human Rights defenders considered this trial to be unfair and criticized the court for its lack of independence and its inability to respect the guarantees to a fair trial. The two individuals were accused of "belonging to the Al-Qaida terrorist

28 Hood, *بيان بشأن الإهمال الرسمي لوباء المكرفس في الحديدة*, 12 December 2010, http://hoodonline.org/news_details.php?sid=2742

29 Hood, National Organisation for the Defence of Rights and Freedoms, press release of 1 July 2008, quoted by Cairo Institute for Human Rights Studies: Cairo Institute for Human Rights Studies, *State of Human Rights in the Arab Region in 2008: From Exporting Terrorism to Exporting Repression (Rapport annuel sur les droits de l'homme dans le monde arabe, 2008: Passant de l'exportation du terrorisme à l'exportation de la répression)* December 2008, p. 83.

network, participation in an armed group and creation of a criminal association to commit criminal acts against foreign tourists and government interests in Yemen and put in danger the safety and security of the society". They categorically deny these charges. Mohamed Al Ghouli did not have any legal assistance at any point in his trial, neither during his three first hearings nor during the investigation. This is in contradiction with Yemen's legislation, reinforcing concerns for the ability of this court to guarantee the basic norms to a fair trial.³⁰

Alkarama submitted to the Working Group on Arbitrary Detention the cases of 14 Yemeni students who were arrested by Syrian intelligence services during February and March 2008, detained in secret for several weeks and tortured then expelled to Yemen on 15 March 2008. They were then arrested upon arrival in Yemen, and placed in detention in Al Moukalla detention center in Hadramout, controlled by the Political Security services. They were detained here for an undetermined period of time before being allowed contact with their families, who were finally allowed to visit them.³¹ They were then tried in a rushed trial before the Special Criminal Court on 2 November 2010, following 2 and a half years of detention. The hearing only lasted a few hours, and all were given the same sentence of 4 years of prison for "belonging to Al-Qaida and participating in an armed group with the objective of committing criminal acts".³²

Questions:

1. *What steps have been taken or are planned by the authorities to remedy the issue of arrests without judicial arrest warrants ?*
2. *What steps have been taken or are planned by the authorities to guaranty the right to a defense and to a fair trial for all those brought before the Special Criminal Court?*
3. *Do the courts accept to take into account the records of investigations when the accused alleges that the confessions were extracted under torture? Do the courts take action on such allegations?*

9. Attacks on Freedom of Expression (art.19)

In the Arab World, Yemen was until recently an exception thanks to its relative freedom of expression. Though many of the newspapers still express the various political views in the country, it seems that the authorities are beginning to take more restrictive measures. A new law about the press will soon be adopted and in May 2009, a court specialized in the press and publications was established. Seen as an instrument for repressing independent journalists and any peaceful opposition, it was strongly criticized.

In recent months, many journalists have indeed been arrested and sentenced. For example, Abdul Ilah Haydar Shaea, specialist of questions of terrorism, was arrested on 16 August 2010 at his home and taken to a detention center controlled by the National Security services where he was secretly detained and tortured. On 12 September 2010 he was transferred to a centre run by the Political Security services, and accused of having planned terrorist actions and supported Al-Qaida in the Media. In fact, he is being tried for having been one of the first journalists who revealed the role of the US army in the bombing of the village of Al-Maajala (in the southern province of Abyan) on 17 December 2009 which caused the death of dozens of victims (see above).³³

30 Alkarama, *Yemen: Al-Ghouli and Al-Naggar sentenced after unfair trial at Sanaa's Specialised State Security Court*, 27 Janvier 2010,

http://en.alkarama.org/index.php?option=com_content&view=article&id=420:yemen-al-ghouli-and-al-najjar-sentenced-after-unfair-trial-at-sanaas-specialised-state-security-court&catid=40:communiqu&Itemid=216

31 Alkarama, *Yémen : Détention sans procédure légale depuis le 15 mars 2008 de 14 étudiants expulsés de Syrie*, 22 Novembre 2008, http://fr.alkarama.org/index.php?option=com_content&view=article&id=370

32 September News *القاعدة من تنظيم القاعدة* 16 متهما من تنظيم القاعدة, الحيس 4 سنوات ل16 متهما من تنظيم القاعدة, 2 novembre 2010, http://www.26sep.net/news_details.php?lng=arabic&sid=68706

33 Alkarama, *اليمن: محاكمة الصحفي شائع لدوره في فضح "جرائم" القصف الأميركي*, 26 octobre 2010, http://ar.alkarama.org/index.php?option=com_content&view=article&id=3972

On 24 October 2010, Mohammed Al-Said and Hamdy Al-Bakary, respectively a cameraman and correspondent for Al Jazeera in Yemen who were covering the trials of alleged terrorists, were aggressed and arrested by security forces.

Mr Kamal Yahya Sharaf, a cartoonist known for his work to fight abuses and corruption in Yemen was arrested on 16 August 2010 by a group of agents wearing military uniforms, hoods and heavily armed, who broke into his home. As soon as they recognized him, he was violently arrested, handcuffed and hooded before been thrown on his stomach into one of the three cars in which the troops had arrived. At the same time, another group of agents searched the entire house, violently restraining and moving the members of his family. The authorities denied his detention at first, only to recognize it a week later when he was found to be detained in the building of the political security services. He was only freed after 37 days of detention without any legal procedures against him.³⁴

Questions :

1. *Is the governments draft law on the press in conformity with article 19 of the ICCPR ? Have Yemen's obligations with regards to the respect for freedom of expression been taken into account in the drafting of this law?*

10. Conclusion

Despite the problems Yemen faced following reunification, the country seemed to have taken a promising path towards the promotion, protection and development of civil and political rights. Unfortunately the past few years have seen a worrying regression in the field of human rights and a serious questioning of the achievements of the past decade. We hope that the work of the Human Rights Committee will allow the state party to take stock of the problems they face and the absolute necessity to respect their internal laws as well as their international legal obligations.

³⁴ Alkarama, *Yemen : le caricaturiste Kamal Yahya Sharaf détenu au secret*, 27 Août 2010, http://fr.alkarama.org/index.php?option=com_content&view=article&id=813