



# Yemen

## Follow-up to the Human Rights Committee's recommendations

**Alkarama for Human Rights, 19 March 2009**

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## 1. Introduction

**During the consideration of Yemen's fourth periodic report (CCPR/C/ YEM/2004/4) at its 2282nd, 2283th and 2284th meetings on 11 and 12 July 2005 the Human Rights Committee requested in its concluding observations (CCPR/ CO/84/YEM) that within one year the Yemeni Government provide information about four of its recommendations.**

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

Our organisation wishes, with this contribution, to provide the Committee with details on two of the four recommendations (13 and 14) for which follow-up was requested from the State party. It should be noted that the State party did not provide the information requested within the time limit.

ALKARAMA notes that, contrary to what the periodic report for 2005 recommended for the past period, the latest observations of the Committee on Human Rights have not been widely spread. The website mentioned in the named report has been suspended and, according to information collected by our office in Sana'a, neither the press nor the local NGOs have been informed of the periodic review and the publication of comments made by the Human Rights Committee.

Yemen has agreed in principle to a visit of the Special Rapporteur on extrajudicial executions, but no actual invitation was sent to him. In 2005 and 2007, the Special Rapporteur on Torture also asked to travel to Yemen, but until now such a visit has not been considered by the authorities.

## 2. Comments on Recommendation 13 regarding the need for proportionality in counter-terrorism measures

**a) The State Party should ensure that the utmost consideration is given to the principle of proportionality in all its responses to terrorist threats and activities. It should specifically respect the right to life (§ 3), not tolerate the practice of torture (§ 7), arbitrary arrest and detention (§9) and expeditious and unfair trials (§ 14).**

Yemeni authorities recognize that the domestic legislation as well as international law principles are infringed but that they are forced to do so in order to 'fight terrorism' and avert the risks of military action against Yemen by the US in the wake of the 11 September events.<sup>1</sup>

The attack of the American warship the USS Cole in October 2000 and the 11 September 2001 events in the United States of America have had a significant impact in the country. Included on the list of "rogue states" after the 11 September 2001, Yemen, because of its extreme economic and social vulnerability, was forced to accept the conditions imposed by the USA in the framework of the international fight against terrorism. The country agreed to an office of the FBI being set up in Sana'a and its soldiers are now trained by American instructors.

However, this external pressure is combined with a tension within the country to which authorities often respond with repressive measures, justifying it by invoking the fight against terrorism.

In 2002, the Human Rights Committee had already expressed its concern regarding non-compliance of laws by the security forces and specifically "political Security, proceeding to arrest and detain

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<sup>1</sup> Amnesty International, YEMEN, 'The Rule of Law Sidelined in the Name of Security', September 2003, AI Index: MDE 31/006/2003, Page 3

anyone suspected of links with terrorism, in violation of the guarantees set out in the Covenant (art. 9).<sup>2</sup> The Committee also noted that foreigners suspected of being terrorists were expelled without being allowed to challenge through a legal procedure measures taken against them. The Yemeni government stated in its last periodic report to justify these strict measures that: 'The nation has understood the imperious necessity of aligning itself in support of the Government's determination to confront this dangerous phenomenon, and as a result all citizens are committed to putting the higher national interest ahead of any other consideration and are backing the effort to address the issue of terrorism.'<sup>3</sup>

During the period from 2004 to 2009, the situation did not significantly change.

Since 2000, the Haqq party, founded by the former Member of Parliament Hussein Al-Huthi and deeply rooted in the Zaidi community in the region of Sa'dah in the north of the country, opposed the executive authorities. Upon his return from the USA in June 2004, President Al-Saleh has strengthened the fight against this movement; Hussein Al-Houthi was killed in September of that year. Despite several peace agreements, confrontations between security forces and rebel forces continue. In order to legitimize its military operations, the government labels this movement as being "terrorist". Military offensives took place in January 2007 and from April to August 2008, mobilising immoderate resources, for example heavy artillery shelling and air strikes killed thousands of people and caused the transfer of whole villages. Thousands of people were arrested, however, national and international public opinion were not really informed of the magnitude of these events.

The journalists who dare to cover this hidden war are pursued, like **Abd Al Karim al Khaiwaini**, arrested on 27 August 2007 and sentenced to six years in prison for terrorist activities on 9 June 2008. He was then amnestied by the President on 25 September 2008.

Alkarama regularly submits information to various special procedures regarding similar cases. Thus, on 20 September 2007 our organisation submitted the cases of **37 persons** including minors, arrested and detained without legal procedure by the intelligence services (Al Amn Assiyassi) at Nassiriya's detention center in Hajjah (North-west of the country) to the Working Group on Arbitrary Detention. Some of them have been held for over a year. All were suspected of being partisans or proponents of Al-Huthi but their families state they were only arrested because they belong to the Zaidi community or to one of the tribes of which some members have supported Al-Huthi's movement. The victims' families consider these persecutions as collective punishment from the government.

All these people were arrested without judicial warrant, some of them after responding themselves to summoning by the security services, others were arrested by the Political Security Services, or by the military at home, by tribal chiefs of the region with whom some families were in conflict or had personal disputes.

Most were successively held incommunicado in several places and questioned by the Political Security services, or sometimes for several weeks without any possibility of contact with the outside world, or family visits, or the possibility of obtaining the assistance of a lawyer.

These persons report having spent the first days of their incommunicado detention in harsh conditions, often blindfolded and handcuffed. Some of them state to have been beaten and forced to sign documents they had not read.<sup>4</sup>

On 19 November 2008, Alkarama sent a communication to the Working Group on Arbitrary Detention regarding the cases of **14 Yemeni students expelled from Syria** detained since this date without

<sup>2</sup> Human Rights Committee, Concluding observations, Yemen, 26 July 2002, CCPR/CO/75/YEM., Para. 18, URL: [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/CCPR.CO.75.YEM.En?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/CCPR.CO.75.YEM.En?Opendocument)

<sup>3</sup> Fourth periodic report, Yemen, 23 February 2004, CCPR/C/YEM/2004/4, Page 60, Para. 224, URL: <http://daccessdds.un.org/doc/UNDOC/GEN/G05/404/97/PDF/G0540497.pdf?OpenElement>

<sup>4</sup> [http://fr.alkarama.org/index.php?option=com\\_content&view=article&id=183](http://fr.alkarama.org/index.php?option=com_content&view=article&id=183)

legal procedure. These persons were all arrested in Syria where some of them had been living for several years and where they were studying at university.

Arrested by the Syrian Intelligence services during February and March 2008, these students were detained incommunicado for several weeks before all being expelled by force on 15 March 2008. All were arrested by the intelligence services upon their arrival in Sana'a.

They were taken to the Al-Mukalla detention centre where they were held incommunicado for an undetermined duration before being allowed to contact their families who were finally allowed to visit them. Nevertheless, at the date of Alkarama's communication, no legal procedure had been initiated against them and they had not been authorized to contact a lawyer for assistance. Therefore, they were not able to protest the legality of their detention and did not know the legal grounds for why they were being detained.

Yemen has been party to the Convention Against Torture since 05 October 1991. However, Yemen has carried out expulsions of non-nationals to countries where there were objective reasons to fear they would be subjected to torture and/or to other inhuman or degrading treatments.

Thus, in February 2004, at least 23 Egyptian nationals, including Mr Seid Abdulaziz Imam Al Cherif, Mr Mohamed Abdelaziz Al Jamal, Mr Athmane Al Semmane, Mr Tarek Naïm Abdelajawed, Mr Hilmi Chaabane and Mr Fawzi Mohammed Atta, were sentenced to death *in absentia* in their country, were handed over by Yemen to the Egyptian intelligence services.

On 17 July 2007, nine people, eight military personnel and one civilian: Mr Farj Athmane Mohamed, Mr Mohamed Abdou Lahada, Mr Gebrait Dwit Hailé Makele, Mr Jamal Mahmoud Al Amine, Mr Serradj Ahmed Daoud, Mr Yassine Athmane Amar, Mr Abdullah Ibrahim Mahmoud, Mr Barkhat Yohanes Abraha and Mr Mohamed Ahmed Abdullah, all Eritrean nationals, having fled their country with a military boat and disembarked at the port of midi in northern Yemen where they surrendered to the authorities. However, they were placed in a detention centre to wait for their expulsion. Although Yemen ratified the 1951 Convention Relating to the Status of Refugees, these nine persons were not able to apply for asylum or to legally contest their expulsion. Finally, they were expelled to their country in September 2007 and since this date, our organisation has not heard from them.<sup>5</sup>

**b) A Parliamentary Commission was established to monitor the situation of persons detained and charged with terrorism. The Human Rights Committee would like to receive information regarding its findings and recommendations.**

Hundreds of people have been arrested in the wake of attacks committed in Yemen starting from 2000. Accused of belonging to Al Qaeda's network, many of them were arrested and arbitrarily detained for several years. Some have been judged, mostly in unfair and expeditious trials. The Yemeni government has recently freed at least 112 people who had been held incommunicado for several months or even for more than a year without ever having been charged or legally prosecuted. Some cases have been submitted by our organisation to the Working Group on Arbitrary Detention.

**The Parliamentary Commission in charge of the monitoring of the persons detained for terrorism**, mentioned in the Concluding Observations of the UN body, issued its report in September 2002. The Commission met with various parties including the Minister of Interior and Minister for foreign affairs, the Attorney General, the head of the political police's central service, persons in charge of detention centres, and families of prisoners and detainees.

According to its report, the delegation in charge of the investigation met with 40 families of detainees. These families claim that their relatives were arrested without judicial warrants, without

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<sup>5</sup> [http://fr.alkarama.org/index.php?option=com\\_content&view=article&id=90](http://fr.alkarama.org/index.php?option=com_content&view=article&id=90)

being informed of the charges against them and without access to a lawyer or to a doctor. Some of them would appear to have been held in solitary confinement and tortured.

The Commission reported that the Minister of Interior recognized the cases of detention but justified them on grounds of defence and national security. However, he dismissed the allegations of torture. The government denied holding political prisoners which contradicts our information and information collected by other human rights NGOs.

The number of men arrested in the context of the attack against the warship USS Cole in Aden port in October 2000, which caused 17 deaths, is estimated at 15. As for those arrested in the wake of the 11 September 2001 attacks, the Minister of Interior stated that the number of people suspected of belonging to Al Qaeda and suspected of planning attacks is estimated at 89. Forty eight of these detainees were held for a period ranging between 20 and 45 days in the detention centre, belonging to the capital's section dealing with counter-terrorism. These former detainees told the commission's members that no charges were brought against them, and that they could not see their families but that they were not tortured.

The Parliamentary Commission also visited detainees at the intelligence services' prison but did not give any number of prisoners. It noted that they were being detained for a period ranging from 2 months to 2 years. No arrest warrant had been issued against them and, they were arrested either by these same services or by the Ministry of the Interior's services. They had suffered violence during the arrest, their home was ransacked and valuables taken and not returned. Some of them had not been charged with anything and others were suspected of jihad, of having visited Afghanistan or being involved in the case of the USS Cole; however, nobody was presented before the General Prosecutor. All had been detained in solitary confinement for a period of one (01) to seven (07) months and some were psychologically and physically tortured: electric sticks, wrists and ankles bound, insults and threats specifically against their families to force them to confess.

The Director of political police recognised that the suspects were held at its premises in different districts of the country. He affirmed that families could visit them at any time because incommunicado detention would not exist in Yemen. Families were informed of their detention and if they can not visit them in the early days of the detention, it was not to obstruct the investigation. The suspects are detained in solitary confinement the first three days and then, put in collective cells of 8 to 10 people. He said that the U.S. authorities were involved in the investigation in the case of the attack against the USS Cole, but indirectly.

At the time of drafting the parliamentary report, many judicial investigations were still underway. The Parliamentary Commission reported that the authorities advocated that some suspects be approached in the context of a dialogue in order to convince them that their political choices were mistakes. Government officials who met the delegation acknowledged, however, that these people were kept in police custody beyond the time limit set by law.

The authorities denied having handed over Yemeni citizens to foreign governments; likewise, they said that no foreign party had participated in criminal investigations.

**In its conclusions**, the parliamentary commission specifically noted the existence of a cooperation agreement between the Yemeni and U.S. authorities in the case of the USS Cole.

The Commission noted, inter alia, that arrests and homes searches had been conducted without judicial warrants. People had been held in solitary confinement for long periods and tortured. Families were not informed of the place of detention; on the contrary, the detention was often denied by the authorities. Families were prevented from visiting the detainees or they had been allowed to do so, but only for short moments and in the presence of members of the security services. No prisoner had been presented before the General Prosecutor within 24 hours, as required by the law. The prisoners were compelled by force to make dictated "confessions". The Commission also noted that most of the detainees had no connection with terrorism and that many of them had been subjected to a decision

taken by the Commission on Security to be released on bail. However, they had been kept in detention because of their inability to pay bail.

The Commission recommended in particular that the Ministry of Interior and the political police present all political prisoners before the prosecutor and the latter should carry out investigations but also to respond to complaints from detainees for having been arrested in conditions that contravened the law and the constitution, and to identify and punish those responsible for these abuses. The Commission criticized the General Prosecutor for not having played his part when families informed him in late in August 2002, of the letter addressed to the political police.

It asked the Ministry of Interior and the political police to submit a report to Parliament regarding the follow-up of these recommendations. It recommended the release of innocent prisoners detained in the anti-terrorist section without bail's payment.

Over the recent years, several parliamentary commissions have been mandated to investigate the abuse recorded in the security services section. Unfortunately, the recommendations emitted by these bodies have rarely led to concrete measures.

### **3. Comments on Recommendation 14 regarding the role of security forces during the 21 March 2003 public demonstration**

**The Human Rights Committee asked if the circumstances in which the security forces used force on 21 March 2003 and in which 4 people including an 11-year-old boy were killed have been elucidated. Has there been an investigation, proceedings against perpetrators and compensations for the families?**

This drama has often been mentioned in the reports on the situation of human rights in Yemen. To our knowledge, the government did not demand an investigation on this matter. And we do not have information on eventual prosecution of perpetrators and compensations to families.

It is however interesting to note that in similar cases, the Yemeni authorities regularly conducted surveys in order to respond to the public indignation. These investigations led in some cases to the prosecution of members of the security services and to their sentencing. But generally the public is neither informed of the investigations' results nor of the trials' results.

Alkarama emphasizes the excessive use of force by State agents during the army's intervention to put down peaceful demonstrations organized in protest of the deterioration of the economic and social situation. The gatherings of 21 and 22 July 2005 were repressed at the cost of almost 50 lives. Hundreds of people were arrested and imprisoned. The demonstrators were protesting against rising fuel prices that the government had decided upon, as instructed by the IMF.

In May 2007, veterans of the former army of south Yemen organised a demonstration because of their deteriorating social situation since some 60,000 of them have been demobilized. They demanded an increase in their pensions or the granting of a job. The army intervened, killing several people and launching a wave of arrests. In August 2007, thousands of people came out into the streets to protest against the rising prices of commodities and fuels. The army again intervened by using excessive force.

In September 2007, 3 people died and dozens more were injured during clashes between demonstrators and the police during a protest movement against rising prices in Al-Mukalla, the capital of the province of Hadramout. These protests against the increasing prices of bread spread to other parts of the country, and each time, the security forces intervened, using live ammunition.

To our knowledge, the Yemeni authorities have neither undertaken investigations in order to establish responsibility nor conducted legal proceedings against those responsible for these breaches in any of these cases.

On 13 October 2008, in Habil, located next to Jabar Al-Habilain in the province of Lahij, four people were killed and 15 others wounded during a festival organized by popular organisations opposed to the regime. The parliament mandated a committee to investigate these incidents. Seventeen members of the army and security forces were presented to the General Prosecutor of Lahij province after they refused to appear in the context of the investigation. However, we were unable to obtain information concerning the consequences of this type of trial because of the lack of judicial transparency. The authorities sometimes use this type of trial to pacify public opinion.

The Yemeni Observatory for Human Rights noted in its report on the right of peaceful assembly in November 2008, that among the 623 meetings recorded during the year, 75 of them were repressed by force with firearms and tear gas, which killed 7 people and injured 85 others.

### **Conclusion**

Alkarama hopes that the information provided in this submission will be useful in the follow-up to Recommendations 13 and 14 of the Committee's concluding observations. We remain available should the Special Rapporteur on Follow-Up or the Committee request or require any further information relating to matters raised in this submission, or for any other matter. We recall that the Universal Periodic Review of Yemen by the Committee Against Torture is scheduled in November 2009. In this context, our organisation is working on a report in which it will review the mentioned issues.

Our organisation will continue to monitor compliance by the Yemeni government concerning its obligations under the ICCPR Convention, and specifically implementation of the Committee's concluding observations, as they relate to our areas of work. We will endeavour to continue submitting written information to the Committee in order to contribute to the implementation of human rights and the development of human rights measures in Yemen.