



Statement

UPR Pre-session on Yemen

Geneva, 13 December 2018

Delivered by: Gulf Centre for Human Rights (GCHR)

1. Presentation of the Organisation

This statement is delivered on behalf of the Gulf Centre for Human Rights (GCHR), an independent, non-profit CSO founded in 2011 that provides support and protection to human rights defenders in the Gulf and neighbouring countries.

2. National Consultation

Due to the war, there was no national consultation for Yemen's UPR in which CSOs were consulted.

3. Plan of the Statement

This statement addresses attacks on human rights defenders (HRDs) and journalists, the importance of holding perpetrators accountable, and protecting the right to freedoms of expression, assembly and association. In a joint submission (<https://www.gc4hr.org/report/view/80>), CIVICUS, GCHR and Front Line Defenders examined the government of Yemen's compliance with its international human rights obligations to create and maintain a safe and enabling environment for civil society. During the 2nd UPR cycle of the UPR of Yemen in 2014, the government received a total of 316 recommendations, yet none have been fully implemented.

4. Statement

i. Protection of HRDs and civil society activists

Under Yemen's previous UPR, the government received and accepted 15 recommendations on the protection of human rights defenders (HRDs) and civil society representatives, and the establishment of structures and processes that will enable them to carry out their activities without fear, intimidation, or obstruction. The government committed to take appropriate measures to ensure that the lives of human rights defenders are protected, and to ensure full observance of the UN Declaration on human rights defenders (recommended by Norway). None of the recommendations have been implemented with any tangible actions.

Human rights defenders are regularly abducted, kidnapped and detained in undisclosed locations, and some have been tortured. They are often subjected to smear campaigns, threats and judicial persecution, and the perpetrators typically enjoy impunity. Several CSOs have been raided by armed factions, had staff detained and family members threatened, leading to reduced activities or closure.

For example, on 21 August 2017, human rights lawyer Huda Al-Sarari was threatened with death and was the subject of a defamation campaign after she spoke out against torture in secret detention centres in Yemen. The leaders of leading Yemeni CSO Mwatana Organization for Human Rights were detained at the government-controlled Seiyun city airport on 18 June 2018. Mwatana's field research assistant spent over a month in arbitrary detention after having been arrested on 14 August 2018 by two armed Houthis in Hodeidah. Mwatana is the only CSO covering human rights violations across the country and its work is widely relied upon by international CSOs and the UN.

Therefore, we recommend that the authorities in Yemen:

- Release all HRDs and representatives of civil society who are currently detained, and stop the practice of abducting and detaining HRDs in undisclosed locations without access to their families and or lawyers.
- End the harassment, attacks and intimidation of HRDs, civil society activists and CSOs; publicly condemn those incidents; and conduct impartial, thorough and effective investigations into all actions that affect the work of HRDs and civil society members and bring the perpetrators of offences to justice.

- Systematically apply legal provisions that promote and protect human rights and establish mechanisms that protect HRDs and civil society members by adopting a specific law on the protection of HRDs, in accordance with Human Rights Council resolution 27/31.
- Extend an invitation to the UN Special Rapporteur on the situation of human rights defenders.

ii. Freedom of expression, independence of the media, access to information and attacks on journalists

During its 2nd UPR, Yemen received and accepted 15 recommendations freedom of expression, independence of the media and prevention of attacks on journalists. The government pledged to bolster investigations of violence against journalists (France, Colombia, Lithuania) and to amend the Press and Publications Act by repealing provisions that curtail journalists' rights and prescribe excessive penalties. However, none of the recommendations have been implemented. The Press and Publications Act has not been amended. It imposes unwarranted fines and penalties on journalists and media houses and provides the authorities with powers to interfere in their work. During the 2nd cycle, Yemen received a repeat recommendation from the 1st cycle: 115.111 Ensure fulfilment of recommendations accepted by Yemen during its previous UPR to cease threats against journalists, to take steps to guarantee and promote freedom of expression and to amend and enforce the Press and Publication Act (Canada).

The violence in Yemen has created a political and security vacuum that has enabled different armed factions to threaten the media, to try to get them to release reports that support their cause or to be silent. All parties to the conflict, including Yemeni Army's elite security forces and the Houthi-controlled National Security Bureau (NSB), have detained journalists, thus limiting the role of the media to provide information to the public. The Houthis are reportedly holding over a dozen journalists since 2015.

Media have been shut down and prevented from carrying out their work. In March 2018, armed gunmen broke into the offices of the Al Shomou Foundation in Aden and abducted seven people. The Foundation, which houses the "Akhbar-Al-Youm" and "Al-Shomoui" newspapers was previously set fire and staff ordered to stop working. On 10 February 2018, soldiers forcefully closed down the Al Jazeera bureau in Taiz, and Al Jazeera journalists were kidnapped while reporting on conflict in Taiz.

There has been no justice for the killing of journalists. On 16 September 2018, a coalition airstrike targeted Radio Hodeidah, killing at least four people. A journalist and seven civilians were killed during military actions in Taiz province in January 2018, and parties to the conflict accused each other of being responsible. An investigation was initiated. Another journalist died in January 2018, after being shot in the head during a confrontation between the army and the Houthis. Two older cases remain unsolved. On 20 December 2016, journalist Mohammed Al-Abbsi died in hospital, reportedly due to a heart attack; however, an autopsy confirmed that he was killed by exposure to toxic gas. On 18 March 2015, Abdul Kareem Al-Khaiwani was shot and killed by two unidentified armed men in Sana'a. Nobody has been held to account, and Yemen needs to carry out impartial and independent investigations into the alleged murders of journalists, and provide their families with access to justice.

Accountability is one of the key issues in Yemen where perpetrators of human rights violations remain unpunished. With an increasing number of victims of human rights abuses in Yemen and the worsening humanitarian crisis, it is essential that the international community increase efforts to deter ongoing violations and abuses of international law by all parties to the conflict, and end the culture of impunity. The role of the Group of Eminent Experts (GEE) on Yemen, created by the UN Human Rights Council (HRC), is essential to help counter impunity and its mandate must be strengthened.

Therefore we recommend that the authorities in Yemen:

- Ensure the freedom of expression and media freedom by bringing all national legislation into line with international standards, including by repealing all restrictive provisions of the Press and Publications Act that impose unwarranted fines and penalties on journalists and media houses and that provide the authorities with powers to interfere in the work of journalists.
- Stop the use of violence against journalists and representatives of the media, including by carrying out independent investigations into all cases of alleged murders of journalists since 2014 and ensure that perpetrators are brought to justice.
- Completely review or close down the Specialised Criminal Court and the Specialised Press and Publications Court.

- Immediately and unconditionally release all journalists currently detained by the government or armed factions.
- Carry out investigations into raids carried out on the premises of media agencies and ensure that all those that have been closed down are re-opened.
- Extend a standing invitation to all UN Special Procedure mandate holders especially the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on extrajudicial, summary or arbitrary executions; and the Working Group on Arbitrary Detention.

iii. Freedoms of Association and Assembly

Yemen received four recommendations on the right to the freedom of peaceful assembly, of which the government accepted three and noted one. The government committed to publishing clear instructions on the use of force during protests in compliance with international human rights standards and ensuring that the training of law enforcement personnel incorporates best human rights practices. But lethal force continued to be used on protestors following Yemen's UPR in 2014. Yemen also received five recommendations on the right to the freedom of association and creating an enabling environment for CSOs, of which it supported all five but has yet to implement any, including recommendation 115.115 Ensure full protection and realization of the right to freedom of expression as well as the right to peacefully assemble and association in accordance with international human rights standards (Czech Republic), or a recommendation from Latvia to extend invitations to UN Special Procedures.

The Law on Associations and Foundations (Law 1 of 2001) contains several restrictive provisions that inhibit the ability of CSOs to carry out their activities and receive funding without interference. For example, new associations need to have at least 21 persons as part of their structure at the time applications are made to register and associations should have at least 41 persons present for their first meeting. The law empowers representatives of the Ministry of Labour and Social Affairs to question associations about their funding and activities.

Public assemblies in Yemen are regulated by Law 29 of 2003 on the organisation of marches and assemblies. Article 16 of the Law forbids demonstrations that target the unity of Yemen's territories or the Republican system. It requires organisers of protests to provide the Ministry of Interior with advance notice at least 72 hours before protests are held.

In March 2015, Houthi forces used live bullets and teargas to disperse thousands of protesters who were demonstrating against the presence of the Houthis in the Southern Province. Six protesters were killed and many more wounded as similar protests were held in Taiz and Torba. In January 2015, Houthi forces violently dispersed peaceful protests in Sana'a. In September 2014, six protesters were killed and more than 70 injured in Sanaa by Special Security Forces (SSF) who used live ammunition.

Therefore we recommend that the authorities in Yemen:

- Adopt best practices on the freedom of peaceful assembly, as put forward by the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association in his 2012 annual report, which calls for procedures in which there is simple notification of assemblies being held, rather than explicit permission being needed to assemble.
- Amend restrictive provisions in Law 29 of 2003 in the organisation of marches and assemblies, and the Law on Associations and Foundations (Law 1 of 2001).
- Publicly condemn the use of excessive and brutal force by security forces in the dispersal of protests, launch a formal investigation into such instances and bring the perpetrators of abuses to justice, particularly those responsible for extrajudicial killings and excessive force.
- Review and update existing human rights training for police and security forces, with the assistance of independent CSOs, to foster the more consistent application of international human rights standards, including the UN Basic Principles on the Use of Force and Firearms.
- Carry out independent investigations into all raids carried out on the premises of CSOs and threats against their staff and members of their families.
- Refrain from acts leading to the closure of CSOs or the suspension of their peaceful activities, and instead promote a meaningful political dialogue that allows and embraces diverging views, including those of HRDs, CSOs, journalists, activists and others.