



**Submission to the Universal Periodic Review of Yemen
32nd session, January 2018**

Introduction

Since Yemen's last Universal Periodic Review (UPR), the situation in the country has dramatically worsened, severely impeding the government's ability to implement the recommendations Yemen accepted in 2014. In September 2014, the Houthi armed group took over the capital, Sanaa, and then much of the country. The following March, Saudi Arabia led a coalition of states in a military intervention. The conflict continues, exacerbating what the UN now describes as the world's largest and worst humanitarian crisis. The conflict has taken a terrible toll on Yemeni civilians, including frequent violations of the laws of war and human rights abuses by the warring parties, including the Yemeni government. The discussion below focuses on some of the groups most affected by the conflict and the steps the Yemeni government should take to minimize the harm suffered.

Need for Accountability and Redress

In 2014, Yemen accepted recommendations to ratify the Rome Statute, the founding treaty of the International Criminal Court, and core human rights treaties. The conflict has increased the urgency for Yemen to ratify the Rome Statute, but the government has yet to do so.

The Saudi-led coalition, which is operating in Yemen with the consent of the Yemeni government and whom Yemeni government forces fight alongside, has carried out scores of apparently unlawful attacks on markets, homes, schools, and hospitals, killing and wounding thousands of civilians. The coalition has restricted humanitarian aid and access to Yemen and used cluster munitions, which are widely banned weapons. Since March 2015, Human Rights Watch has documented 88 apparently unlawful attacks by the coalition, some of which may amount for war crimes, that killed over 1,000 civilians. The UN and other rights groups have documented dozens of other apparently unlawful attacks.

The Houthi armed group, which continues to control large parts of the country, including Sanaa, has laid antipersonnel landmines, indiscriminately shelled Yemeni cities with a particularly acute impact on Yemen's third largest city, Taizz, and blocked aid and access. Many of the warring parties, most notably the Houthis, have deployed child soldiers. The Houthis have carried out repeated violations of the laws of war, some of which may amount to war crimes.

Ratifying the Rome Statute would be an important step to ensuring accountability for war crimes by those fighting in Yemen. To date, none of the states parties to the conflict have carried out credible investigations into their forces' abuses, nor held individuals responsible for war crimes. Coalition promises to establish a redress mechanism have yet to be implemented.

During the 2014 UPR, states recommended that Yemen establish a commission of inquiry to investigate abuses carried out during the popular uprisings in 2011. In 2015, Yemen's President Abdu Rabbu

Mansour Hadi established a national commission to investigate violations of human rights, whose mandate includes the events of 2011. The commission, based in Aden, has released several reports since that time, but has been plagued by a range of challenges, including a lack of independence.

Recommendations:

- Allow civilians to flee areas of fighting to seek safety in another part of the country and do not interfere with their right to seek to leave Yemen to seek asylum abroad;
- Grant and facilitate the free passage of humanitarian assistance and grant persons engaged in the provision of such assistance rapid and unimpeded access to all populations at risk;
- Ratify the Rome Statute and implement the statute in national legislation, including by incorporating provisions to cooperate promptly and fully with the International Criminal Court and to investigate and prosecute war crimes, crimes against humanity, and genocide before its national courts in accordance with international law;
- Ratify the Convention on Cluster Munitions and implement the statute in national legislation;
- Urge the Saudi-led coalition, which is operating in Yemen with the government's consent, to impartially and transparently investigate credible reports of alleged violations of the laws of war, make public their findings and fairly prosecute those implicated in war crimes;
- Urge the coalition to provide compensation for wrongful civilian deaths, injuries and harm, and to develop effective systems for civilians to file claims for condolence or *ex gratia* payments and to evaluate the claims;
- Through the national commission or otherwise, conduct investigations using a full range of tools, including interviews with witnesses, surveillance and targeting videos, and forensic analyses. Public findings should include accountability measures taken against individual personnel, redress provided to victims or their families, and an explanation of the process used to determine to whom redress would be offered. Yemen should ensure investigative bodies and their personnel, including the national commission, are able to operate independently.

Forced Disappearances and Other Mistreatment in Custody

During the second cycle UPR, Yemen accepted recommendations to ratify the International Convention for the Protection of All Persons from Enforced Disappearance, take steps to combat forced disappearances and arbitrary detentions, and ensure greater effectiveness and transparency in the judicial system.

Yemen's warring parties, including the Houthis, the United Arab Emirates, UAE proxies and Yemeni government forces, have arbitrarily detained, tortured, abducted and forcibly disappeared scores of people. Given the proliferation of armed groups and unofficial detention facilities, many families do not know where or why their relatives are being held. Even when a detainee's whereabouts are learned, families have little access. Mistreatment is rampant and conditions poor. There is little due process, though lawyers and activists may seek to intervene. The fate of many remains unknown. Those responsible for abuses retain senior positions, and steps to hold perpetrators accountable have been limited.

While the Yemeni government cannot directly improve conditions for detainees held by the Houthi armed group, the government can take steps to improve treatment of individuals detained in areas under their control, including to a limited extent, those held by the UAE and UAE proxy forces. Better

treatment would also put indirect pressure on the Houthis to likewise improve the treatment of detainees.

Recommendations:

- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance, and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- Immediately halt the practice of arbitrary arrest and detention, enforced disappearance, and torture and other ill-treatment -- and immediately release all persons arbitrarily held, including for the exercise of their basic rights;
- Ensure that detention center staff act in accordance with the UN Standard Minimum Rules for the Treatment of Prisoners (“Mandela Rules”), particularly with respect to humane treatment and the use of force against detainees;
- Publish official lists of all individuals currently in detention centers and those who have died in detention, and provide immediate and unhindered access to independent humanitarian agencies to all detention facilities, official and unofficial, without prior notification;
- Conduct prompt, thorough, and impartial investigations into allegations of arbitrary detention, torture, enforced disappearances, and deaths in custody, bring the perpetrators to justice, and suspend members of the security forces against whom there are credible allegations of human rights abuses, pending investigations;
- Urge the UAE, which is operating in Yemen with the government’s consent, to implement the above recommendations.

Journalists and Rights Activists

During its previous UPR, Yemen accepted a number of recommendations regarding upholding the rights of journalists and human rights defenders, including ensuring “prompt and effective investigation of intimidation and threats against journalists.”

Throughout the conflict, human rights defenders and journalists have been harassed, threatened, beaten, arbitrarily detained, abducted and forcibly disappeared, and killed in both government and Houthi-controlled territory. Some journalists and activists have fled the country. The Houthis have arbitrarily detained at least 10 journalists since early 2015.

Despite these risks, journalists and rights defenders have continued their important work, often the first to report on the impact the conflict has had on Yemeni civilians. The Yemeni government should take immediate steps to ensure their protection and see that all forces affiliated or allied with the Yemeni government, including Saudi-led coalition members, do the same.

Recommendation:

- Uphold the rights of human rights defenders and journalists, release any held arbitrarily, and cease hindrance of human rights work, including by threatening detention or restrictions on travel.

Women

In 2014, Yemen accepted numerous recommendations to improve the treatment of women in the country, ranging from lifting reservations to Convention on the Elimination of All Forms of

Discrimination against Women (CEDAW) to establishing a minimum age of marriage and taking steps to better ensure women and girls are not subjected to domestic violence.

The conflict has had a significant negative impact on women and girls. Violence against women has increased 63 percent since the conflict escalated, according to UNFPA. Forced marriage rates, including child marriage, have increased. While Yemen was making progress in this direction in 2014, efforts stalled when the conflict began: Yemen still has no minimum age of marriage. Women in Yemen face severe discrimination in law and practice. They cannot marry without the permission of their male guardian and do not have equal rights to divorce, inheritance or child custody. Lack of legal protection leaves them exposed to domestic and sexual violence. Women have been consistently underrepresented during the various peace talks during the conflict.

Recommendations:

- Pursue efforts to ensure the representation of women at all levels of the political process and their participation in public life without discrimination, including in any peace and transitional processes;
- Take measures to protect women and girls from domestic violence, female genital mutilation, and other forms of violence, and to ensure that such acts are fully investigated and those responsible are held accountable;
- Take effective measures to end the practice of forced and child marriage, including by setting a minimum marriage age of 18 years for both genders.

Refugees, Asylum Seekers, Migrants, and Internally Displaced People

Yemen has traditionally been a destination, source, and transit country for refugees, asylum seekers, and migrants. While many migrate for economic reasons, a significant number have fled because of serious human rights violations in their home countries. In 2014, Yemen accepted recommendations to take further steps to protect the rights of migrants, refugees, and the internally displaced.

Throughout the conflict, the Yemeni government and the Houthis have detained migrants in poor conditions, refused access to protection and asylum procedures, deported migrants en masse in dangerous conditions, and exposed them to abuse.

The Houthi armed group, which controls the capital and much of northern Yemen, has arbitrarily detained migrants in poor conditions. A former detainee said the conditions in one Houthi-controlled facility were “inhumane,” including overcrowding, lack of access to medical care, and physical abuse: “Some of the guards were very cruel and merciless. They used to beat us indiscriminately.”

In facilities run by the Yemeni government, migrants have also been mistreated, including guards at these facilities torturing and raping migrants, including women, girls, and boys. The authorities also denied asylum seekers an opportunity to seek refugee protection and deported migrants en masse to dangerous conditions at sea.

The government shut down one such facility in mid-2018 and allowed a number of asylum seekers to seek protection, but humanitarian agencies have continued to raise concerns regarding the treatment of migrants across Yemen, in both government and Houthi-controlled territory.

More than 10 percent of Yemen's population are internally displaced due to conflict.

Recommendations:

Transfer migrant detainees to centers that meet international standards, and work with donor governments and international agencies to bring migrant detention centers in line with international standards under the Mandela Rules;

- Stop detaining children and their families for immigration violations, and work with UN and other impartial humanitarian agencies to identify children in detention and facilitate their safe release. In the interim, the authorities should ensure that detained children are kept separate from unrelated adults, and have appropriate food and medical care, and can communicate with their families;
- Ensure that detained migrants who may be facing deportation have the opportunity to make asylum claims or otherwise challenge their forced removal. Detaining asylum seekers should be a last resort;
- As a state party to the 1951 Refugee Convention and its 1967 Protocol, ensure the rights of asylum seekers and refugees are protected, in particular by scrupulously respecting the principle of nonrefoulement;
- Incorporate its obligations under the 1951 Refugee Convention into national legislation and establish a national asylum system;
- Ensure asylum seekers the right against forcible return to any place where their life, liberty or security would be at risk.

Abuses against Children

In 2014, Yemen accepted a number of recommendations related to protecting the rights of children, including increasing efforts to end the recruitment and use of child soldiers.

The recruitment and use of child soldiers has skyrocketed during the current conflict. Houthi forces, pro-government forces, and other armed groups have used child soldiers. By August 2017, the UN had documented 1,702 cases of child recruitment since March 2015, 67 percent of which were attributable to formerly aligned Houthi-Saleh forces. About 100 of the verified cases included recruiting children younger than 15, the recruitment or use of whom is a war crime.

Human Rights Watch has documented the Houthis recruiting, training, and deploying children in the current conflict. One young man said that the fear of forced recruitment drove him and two of his close friends to flee Sanaa in 2017. The Houthis had recruited his younger brother, 15 or 16, who then patrolled neighborhoods, worked at checkpoints, and received training: "He takes our father's weapon when he goes...He goes with seven of his friends around the same age." A head of family displaced by fighting on Yemen's west coast said that children as young as 13 "were ruling us, they have the guns," while his family remained in Houthi-controlled Mafraq. His family was first displaced to Houthi-controlled Ibb, but they fled to Aden in early 2018 after a local leader warned them the Houthis might forcibly recruit their children.

The warring parties have also arbitrarily detained and mistreated children, including migrant children, and unlawfully held them with adults.

In October 2017, Yemen endorsed the Safe Schools Declaration, a pledge to support the protection and continuation of education during armed conflict. However, UNICEF reported in March 2018 that 7

percent of schools in Yemen were used as shelters for displaced persons or for military purposes, in addition to 66 percent destroyed or damaged by fighting.

Recommendations:

- Ensure that children are detained only as a last resort and for the shortest appropriate time, and not detained with adults;
- Ensure no children take part in fighting and clarify to affiliated forces that recruiting children is unlawful even if they are not serving a military function;
- Appropriately investigate and punish officers who allow children in their units or are responsible for the war crime of recruiting or using children under 15;
- Provide former child soldiers all appropriate assistance for their physical and psychological recovery and social reintegration;
- Refrain from using schools for military purposes by Yemeni government and allied forces.