



## **YEMEN**

### **Human Rights in Danger: Caught between Internal Conflict and External Forces**

**Report submitted to the Committee against Torture in the  
context of the review of the second periodic report for Yemen**

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## **About Alkarama for Human Rights**

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*Alkarama (Dignity) for Human Rights* (الكرامة لحقوق الإنسان) is a registered Swiss Foundation. It was founded in 2004 by a team of volunteer human rights lawyers and human rights defenders working on human rights in the Arab world. We have offices and representatives in Geneva (which is our head office), Lebanon (Beirut), Qatar (Doha), Cairo (Egypt) and Yemen (Sana'a). Alkarama participates in the United Nations human rights mechanisms including submission of communications and reports to the Special Procedures and Treaty Bodies as well as the newly established Universal Periodic Review (UPR).

The aim of Alkarama is to work in a constructive dialogue with all actors – including States, the Office of the High Commissioner for Human Rights, National Human Rights Institutions and all members of civil society – to respect and promote human rights in the Arab world. We base our work primarily on principles of international human rights and humanitarian law.

Due to the magnitude of work, Alkarama concentrates on the following four violations of human rights in particular: enforced disappearances, extrajudicial executions, torture and arbitrary detention. In 2007, Alkarama submitted 632 cases and urgent appeals to the Special Procedures of the United Nations including to the Special Rapporteur on Torture. In 2008 Alkarama submitted over 600 cases of human rights violations to various UN mechanisms: Special Procedures, Treaty Bodies and the High Commissioner for Human Rights. Additionally, Alkarama has prepared numerous reports on the human rights situation in 7 of the 10 Arab states reviewed under the UPR during its initial sessions and to the relevant UN human rights treaty bodies.

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.

In addition to its core activity of legal work within the UN human rights protection mechanisms, Alkarama engages in complementary work including organising seminars and campaign work to raise awareness of human rights issues in the Arab world. Cooperation between Alkarama and organizations with similar objectives is something not only desired, but a position that is actively sought.

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## 1. Introduction

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The Republic of Yemen was formed on 15 May 1990 upon the unification of the Democratic People's Republic of Yemen (South Yemen) and the Yemen Arab Republic (North Yemen). After a civil war that lasted from 5 May to 7 July, 1994, the Government in Sana'a consolidated its hold on power. Following the resolution of this conflict, Yemen's strategic interest increased due to its geographical position.

Yemen is a republic, with a legislature composed of two chambers: the parliament, which has 301 members elected every six years by direct suffrage, and the Shura, an advisory board of 111 members appointed by the President. The last elections were held in 2003; those scheduled for 2009 have been postponed for 2 years. The **General People's Congress** party of President Ali Abdallah Saleh has an absolute majority of seats in Parliament. The latter has no control over the part of Government that is appointed by the President. The prerogatives of the Executive have been expanded while those of Parliament, already limited, have been reduced in favor of the appointees of the Shura Council.

**The President** is elected for a term of seven years. Ali Abdullah Saleh has been the president of reunited Yemen since 1990. He was previously president of North Yemen from 1978 to 1990. He was re-elected in September 2006 with 77.2% of the votes. He is also Chief of Staff; he can dissolve parliament and declare a state of emergency.

**The Constitution of Yemen**, proclaimed 16 May 1991, was revised in 1994 and again in 2001. The State has ratified a large number of international conventions including the International Covenant on Civil and Political Rights (9 February 1987) and the Convention against Torture (5 November 1991). Its legislation on procedures for arrest and detention conforms to international standards. However, it has not signed up to the Optional Protocol to the UN Convention against Torture.

The **justice system** is not independent due to interference from the executive. Parliament is not allowed to debate matters of justice. The principle of tenure of judges is not respected - they depend on the Ministry of Justice. Institutionally, the legal system is complex because a system of customary courts that deals with non-criminal cases exists alongside the institutional courts; in reality it also deals with such matters in many cases, since those concerned often prefer not to appeal to the State for family disputes. A Code of Criminal Procedure was enacted in 1994 and the Criminal Code was amended in the same year.

The alarming **human rights situation** results from internal factors related to conflicts occurring in the north and south of the country, but also from the nature of power, poverty, social structures, etc. However, external factors related to the country's geostrategic position and the pressures caused by the international fight against terrorism have seriously contributed to the deteriorating political situation and consequently to that of human rights.

There are many political and civic organizations, including human rights associations, but their scope is limited and their members are routinely harassed and followed. Freedom of the press is recognized, but radio and television are state-controlled and many journalists are persecuted. In 2003, a Ministry of Human Rights was created.

After the attacks of 11 September 2001, Yemen was forced to join the global fight against terrorism advocated by the USA. This collaboration is strongly opposed by large sections of society and exacerbates an already precarious balance due to multiple internal conflicts. Many political movements challenge this cooperation, and some use violence, occasionally against Western targets.

Several **political conflicts** are currently taking place in the country; their consequences have serious repercussions on the human rights situation. **A Houthist rebellion** that began in the 2000s' in the North has been systematically crushed with bombings and mass arrests. The conflict has kept the

Central Government on edge – several peace agreements have been signed but they are never respected. In the **south of the country**, demonstrations are regularly held to denounce the economic inequality between the two parts of the country, and also to protest against the authoritarian Central Government. These are often repressed using bloody methods. Some political groups seek secession.

**Economically**, Yemen is facing serious problems: hydrocarbon resources, a major source of income, are running out, unemployment is high and poverty is increasing. In the 1990s, the IMF imposed a structural adjustment program requiring the privatization of public enterprises, cuts in civil staff, subsidies and tariff reductions, all measures that worsened the social situation. In 2002, the IMF and World Bank paid Yemen 300 million dollars of a total of \$ 2.3 billion pledged at a donors' conference.<sup>1</sup> In return, the Government has accelerated its reforms. In July 2005, the Government adopted economic measures that were strongly challenged by the population. These included a reduction of subsidies for petroleum products which resulted in the doubling of fuel prices and triggered riots.

The World Bank was promised \$ 4.7 billion by donors to support the development of the country, to be paid out between 2007 and 2010.<sup>2</sup>

In general, these measures are unpopular because they do not improve the economic situation of the majority of Yemenis and they are channelled into corruption. Social movements frequently arise to express discontent – however these are swiftly repressed.

Yemen's tribal structures are still very influential – state institutions are superimposed on these structures, but their aims are often divergent, if not directly opposed. The State must cope without the ability to really exert power, since the apparatus of the State itself is divided by tribal conflicts.

The human rights situation in Yemen must be seen in this context of a precarious balance between competing internal and external pressures. Despite the country's legislative advances, in practice the principles set forth in various laws are not sufficiently respected and abuses committed by agents of the State or local potentates are not prosecuted and punished. Arbitrary and incommunicado detention, torture, inhuman prison conditions, unfair trials, extrajudicial executions, forcible returns to countries that do not respect human rights, etc. are common.

All these factors determine and aggravate the extremely precarious situation in Yemen, which is currently beset by such difficult problems that some observers fear the country's collapse. "In fact, the obsession with security, imposed by the dominant Western discourse, is probably the main source of instability. The priority given to Western security at the expense of security for Yemenis will prove to be a long-term miscalculation."<sup>3</sup>

This report is based primarily on information obtained from our representatives in Yemen who are in regular and frequent contact with local actors including victims of human rights violations, their families, lawyers and human rights defenders, other human rights organisations and non-Governmental organisations. Cases of human rights violations referred to in this report are mainly cases collected by our representatives, many of which have already been submitted to the relevant UN Special Procedures.

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<sup>1</sup> European Commission, Yemen – *European Community Strategy Paper for the period 2007-2013*, p. 19. [http://ec.europa.eu/external\\_relations/yemen/csp/07\\_13\\_en.pdf](http://ec.europa.eu/external_relations/yemen/csp/07_13_en.pdf) (undated) (accessed 15 October 2009),

<sup>2</sup> US Department of State, Bureau of Near Eastern Affairs, *Background Note: Yemen*, December 2007 <http://www.state.gov/r/pa/ei/bgn/35836.htm> (accessed 12 October 2009).

<sup>3</sup> Laurent Bonnefoy, *Entre pressions extérieures et tensions internes, un équilibre instable au Yémen (Between external pressure and internal factors; an unstable situation in Yemen)*, October 2006. <http://www.monde-diplomatique.fr/2006/10/BONNEFOY/14054> (accessed 12 October 2009).

## 2. The fight against terrorism

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The attacks in the United States of 11 September 2001 had significant implications for Yemen. Due to its extreme economic and social fragility, but also for its refusal to align with the United States during the first conflict with Iraq, the country was forced to submit to conditions imposed by the USA in the international fight against terrorism. Many human rights defenders, especially in Yemen's interior, are convinced that the increase in human rights violations in recent years is a direct result of repressive measures taken by the Government under pressure from United States, who require concrete results.

During the first Gulf War (1990-1991), Yemen disapproved of the aggression against Iraq by the Coalition forces, but did not endorse the annexation of Kuwait. In retaliation, the United States withdrew its economic aid, and Saudi Arabia and the neighbouring countries, all U.S. allies, expelled more than a million Yemeni workers from their respective countries. This meant that Yemen was marginalized not only by the United States but also by the Gulf countries. Formal relations with the United States improved in the second half of the 1990s, following the attacks against U.S. embassies in Dar es Salaam and Nairobi in 1998.

Beginning in 1997, cooperation in the security sphere was established. The Americans trained hundreds of police, sold equipment, and a restructuring of the security services was carried out at their behest. FBI experts have closely followed investigations conducted by the Yemeni security services, including interrogations of members of the group accused of having kidnapped 16 Western tourists among whom four were killed in December 1998.<sup>4</sup>

In October 2000 the American warship USS Cole was attacked by an armed group off Aden as it sailed to the Gulf to monitor the embargo imposed on Iraq. Nearly 100 officers from various U.S. agencies, including the FBI, assisted the Yemenis in their investigations.<sup>5</sup> The U.S. subsequently stationed about 1,000 troops in Yemen. The country accepted the establishment of an FBI office in Sana'a, and its military is now trained by American instructors.<sup>6</sup>

This cooperation, however, aroused strong internal opposition and exacerbated already high tensions in the country. The Government responded with repression as well as attempts to co-opt the various social and political structures of the State. Meanwhile, a dialogue was established with the armed movements in order to make their members abandon the armed struggle in exchange for economic incentives. However, this policy of rapprochement towards elements hostile to the U.S. presence is resented by the United States; the latter has increased the pressure on the Government to intensify its repression, particularly since 2006.

The United States' involvement is seen by many Yemenis of all factions as interference in domestic policy. When a U.S. drone killed **Abu Ali al-Harith** ابو علي الحارث and his five companions in a moving vehicle on 3 November 2002, the country's political parties vehemently condemned the extrajudicial execution. The Government, after presenting another version of events, had to acknowledge that it was an American operation which they claimed was justified in the context of security cooperation between the two countries. Yemen is paying the price for this, since in their statements and press releases, al-Qaeda groups used the execution of Al-Harith to justify attacks on oil installations in September 2006 in the region of Maarab and Hadramaut, as well as the assassination of the Director of Investigations in the Maarab province in April 2007.<sup>7</sup>

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<sup>4</sup> Mohammed Al-Ahmady, *Les relations yéméno-américaines après les attentats du 11 septembre 2001*, (*Relations between Yemen and the United States after the attacks of 11 September 2001*), <http://almoslim.net/node/85268> (text in Arabic, accessed 15 October 2009).

<sup>5</sup> Mohammed Al-Ahmady and Laurent Bonnefoy, *Chronologie politique du Yémen*, (*Yemen's Political Chronology*), 2001, <http://cy.revues.org/document113.html>.

<sup>6</sup> Laurent Bonnefoy, *Entre pressions extérieures et tensions internes, un équilibre instable au Yémen* (*Between external pressure and internal factors; an unstable situation in Yemen*), October 2006. <http://www.monde-diplomatique.fr/2006/10/BONNEFOY/14054> (accessed 12 October 2009).

<sup>7</sup> Mohammed Al-Ahmady, *Les relations yéméno-américaines après les attentats du 11 septembre 2001*, (*Relations between Yemen and the United States after the attacks of 11 September 2001*), 23 September 2003 <http://almoslim.net/node/85268> (text in Arabic, accessed 15 October 2009).

The extrajudicial killing in October 2006 of **Fawwaz Al-Rabii** فواز الربيعي, a Yemeni al-Qaeda leader, as he was giving himself up to the authorities, strengthened his supporters' rejection of the Yemeni Government. Their actions, which had thus far mainly affected Western and American interests, subsequently shifted to include tourist and economic targets.

On 11 August 2008, the Yemeni security forces conducted a raid on an armed group, during which they killed **Hamza al-Qait** حمزى القيط and four other men. A month later, 17 September 2008, a group called Islamic Jihad in Yemen attacked the U.S. embassy; 18 people were killed. The group claiming responsibility referred explicitly to the extrajudicial execution of al-Qait.

This makes some people say that U.S. pressure has led to an open confrontation between Yemeni security forces and armed groups close to al-Qaida. In the past, the Government's method of balancing repression and tolerance seemed to bear fruit: the dialogue programs and financial aid offered by the Government had weakened the militant elements. After the crackdown, armed groups intensified their actions and gained in strength by attracting new recruits.

In its report on terrorism, the U.S. Government notes that "despite U.S. pressure, the Yemeni Government continued to implement a surrender program with lenient requirements for terrorists it could not arrest, which often led to relatively lenient prison terms"<sup>8</sup>. The U.S. also criticized the fact that ex-Guantanamo detainees, once back in Yemen, were released after a short period of assessment and rehabilitation as part of a program that lacks strict control measures.

The United States requested the extradition of two men involved in the attack on their ship in 2000: **Jabr Al-Banna** جبر البنا and **Jamal Al-Badawi** جمال البدوي.<sup>9</sup> But the law does not provide for the extradition of nationals.<sup>10</sup> Bemoaning the lack of cooperation, U.S. officials believe that the fight against terrorism waged by the Yemeni Government is failing. For example, they mention that Al-Nasr Wahishi replaced Al-Harithi as the leader of al-Qaeda on 22 June 2008, after they had murdered Al-Harithi in 2002.

The U.S. Government also criticized the fact that in spite of UN recommendations, the Yemeni authorities have not taken steps to freeze the movements and assets of Sheikh Abdelmajid Al-Zindani, a religious figure known throughout the country who is the chairman of the Al-Iman University in Sana'a.<sup>11</sup> However, the United States has never been able to provide evidence that Al-Zindani has funded terrorism.

Many observers note that the level of violence increased after the Yemeni Government abandoned or sharply reduced its program of dialogue with people detained on suspicion of terrorist activities. The Yemeni Government's explanations in its periodic reports are vague in that they indicate that a series of discussions with "persons detained for being involved in terrorism"<sup>12</sup> began in 2002; however, they did not clarify whether this program was continued. On the ground, security has been the overriding priority for the last four years: extrajudicial killings have taken place and hundreds of suspects have been arrested in many provinces, sometimes using extreme violence. Individuals were tried in proceedings which did not meet accepted standards of fairness, others were arbitrarily detained without being brought before a court. Since this change of strategy, clashes between security forces and armed groups have increased and the general situation has deteriorated.

The position of the United States is contradictory with regard to the issue of human rights in the context of the fight against terrorism. On the one hand, they demand a more repressive stance from the regime, they express regret about the lack of concrete results, they criticize the lack of an anti-

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<sup>8</sup> United States Department of State Publication Office of the Coordinator for Counterterrorism, *Country Reports on Terrorism 2007*, released April 2008, <http://www.state.gov/documents/organization/105904.pdf>, p. 129 (accessed 19 October 2009).

<sup>9</sup> Ian Hamel, *Yémen, Pression des Etats-Unis pour enfermer Al-Badaoui*, (*The US applies pressure to lock up Al-Badaoui*) Rue 89, 18 November 2007, <http://www.rue89.com/2007/11/18/yemen-pression-des-etats-unis-pour-enfermer-al-badaoui>

<sup>10</sup> United States Department of State Publication Office of the Coordinator for Counterterrorism, *Country Reports on Terrorism 2007*, released April 2008, <http://www.state.gov/documents/organization/105904.pdf>, p. 130 (accessed 15 October 2009).

<sup>11</sup> United States Department of State Publication Office of the Coordinator for Counterterrorism, *Country Reports on Terrorism 2007*, released April 2008, <http://www.state.gov/documents/organization/105904.pdf>, p. 131 (accessed 15 October 2009).

<sup>12</sup> Second periodic report of Yemen submitted to the Committee Against Torture pursuant to Article 19 of the Convention Against Torture, 13 July 2007 (CAT/C/YEM/2).

terrorism law and the fact that the Government focuses its forces on internal security and in particular on the Houthist rebellion in the north instead of intensifying the fight against terrorism, for which Yemen is a fertile ground<sup>13</sup>. On the other hand, they regularly challenge the regime about human rights violations committed in its fight against armed groups.

### **3. The Houthist rebel movement and Government repression**

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The al-Haqq party, founded by former MP Hussein Al-Houthi, is a strong presence in the Zaidi community in the region of Sa'ada in the north-west of the country and has opposed the Central Government since 2000. On his return from the United States in June 2004, President Al-Saleh intensified the struggle against this movement, resulting in armed clashes between the two parties; Hussein Al-Houthi was killed in September of that year. After several months of calm, the conflict resumed.

This movement is an integral part of the Zaidi (Shiite) community, which has no secessionist aspirations. Its demands include State recognition of social and cultural rights, more development funding (it is one of the poorest regions of the country), as well as religious autonomy, something that is frowned upon by its large northern neighbor, Saudi Arabia. The latter backs President Saleh's efforts in his war against the "Houthists". But support also comes from the United States: "The U.S. embassy in Sana'a has quietly sent a team of experts to Sa'ada to assess the needs of the Yemeni army so that it can finally overcome the rebellion. With the same concerns in mind, the Council of Gulf Cooperation sent its Secretary General to Sana'a to assure President Saleh of its solidarity."<sup>14</sup>

Since 2004, several rounds of negotiations have taken place, but so far they have not led to a lasting resolution of the conflict. The army launched a new offensive in January 2007 and in the months of April to August 2008, using excessive measures: heavy shelling and airstrikes have killed thousands of people and displaced entire villages, and thousands of people have been arrested. However, national and international public opinion have not really been made aware of the magnitude of these events. There are no official figures for civilian casualties.<sup>15</sup>

It is only when the humanitarian situation became catastrophic that international opinion was forced to pay attention to this conflict. However, it has been primarily perceived thus far as a purely humanitarian issue. Given Yemen's cooperation in the fight against terrorism, the West and (in particular the USA) treat the problem as if it were a revolt to be dealt with by Central Government. For the same reasons, the Yemeni Government is trying to label this movement as "terrorist".

On 11 August 2009, a new military offensive called "Operation Scorched Earth" was launched in the region of Sa'ada. The Yemeni authorities had rejected a proposal by the Houthis, instead demanding that the six points outlined by the Security High Commission be respected, including a withdrawal from official buildings, the lifting of roadblocks and the return of weapons stolen from the armed forces. To justify this offensive, the Government accused Houthis of kidnapping nine foreigners in June 2009, including three women who were found murdered; the others have disappeared. The rebel movement has always rejected these accusations and demands that the Government respect the cease-fire signed in June 2007 and the February 2008 agreements. Both parties accuse each other of failing to respect the agreements.<sup>16</sup> The Government's commitment to free all prisoners and arbitrarily detained persons was not respected.

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<sup>13</sup> United States Department of State Publication Office of the Coordinator for Counterterrorism, *Country Reports on Terrorism 2007*, released April 2008, <http://www.state.gov/documents/organization/105904.pdf>, p. 139 (accessed 15 October 2009).

<sup>14</sup> Georges Malbrunot, *La guerre civile fait rage au nord du Yémen (Civil war rages in North Yemen)*, Le Figaro, 7 September 2009.

<sup>15</sup> Valérie Samson, *Le Yémen à l'épreuve de la guerre antiterroriste, (Yemen faces the War against Terror)* Le Figaro, 14 October 2007. See also: *Defusing the Sa'ada Time Bomb*, Crisis Group, Middle East Report N°86, 27 May 2009, [http://www.crisisgroup.org/library/documents/middle\\_east\\_north\\_africa/iraq\\_iran\\_gulf/86\\_yemen\\_defusing\\_the\\_Sa'ada\\_time\\_bomb.pdf](http://www.crisisgroup.org/library/documents/middle_east_north_africa/iraq_iran_gulf/86_yemen_defusing_the_Sa'ada_time_bomb.pdf) (accessed 16 October 2009).

<sup>16</sup> Karin Leukefeld, *Tausende Tote durch Krieg in Jemen (Thousands die in the war in Yemen)*, Junge Welt, 3 September 2009.



The United Nations estimates that 150,000 people have been displaced since 2004 (55,000 since July 2009)<sup>17</sup>. More than 5,000 houses have been destroyed and anti personal mines abound. The situation has worsened in recent weeks. Humanitarian agencies say the latest fighting took an even more catastrophic toll on the population of Sa'ada, many of whom fled to neighboring provinces. The UN has appealed for help and asked both sides to allow aid to enter the country.

There are no official numbers of fatalities: in May 2005, the Prime Minister acknowledged the death of 525 members of the armed forces during fighting that opposed the Houthists, but did not give figures for deaths among combatants and civilians.<sup>18</sup> The bombings regularly cause victims among the civilian population. For example, witnesses reported that an army raid on 16 September 2009 on a makeshift refugee camp in the province of Abu Sufyan caused the deaths of at least 87 civilians, mostly women and children.<sup>19</sup>

There are reports of summary executions committed by security forces during military offensives. In its 2008 annual report, the Yemeni Human Rights Observatory showed that over a period of four years of war, nearly 2,000 arrests were made. It also reports that at the end of 2008 approximately 350 people in the region of Beni Harwich were remained in custody without having had any charges brought against them and without having been tried.

Some have been arrested as hostages to force their parents to give themselves up. The central Government has tried to take control of Zaidi mosques and institutions by sending preachers from the Ministry of Religious Affairs in the Sa'ada region; it has also exerted pressure on religious Zaidites. Members of the Mediation Committee working to resolve the conflict have been arrested, like **Sheikh Salih Aal Wajman** الشيخ صالح عل الوجيهان who was released in late August 2008 after two years of arbitrary detention. 131 more hostages of war have been released, while 60 are still held in custody.<sup>20</sup> Because a veil of secrecy has been imposed by the Government, the number of prisoners is not known, particularly that of civilians taken hostage to force the fighters to surrender.

Journalists are forbidden from covering this conflict and face reprisals if they attempt to do so. Newspapers have been suspended and journalists and human rights defenders such as **Abd al Karim al Khaiwani** عبد الكريم الخيواني have been threatened with death or imprisonment. Arrested on 27 August 2007, he was sentenced to six years in prison on 9 June 2008 on the basis of false accusations of terrorist activities. He was eventually pardoned by the President on the following September 25.<sup>21</sup> (See also the case of Mr Mohamed Al-Magaleh below).

#### **4. The conflict in South Yemen**

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The reunification of Yemen in 1990 did not go smoothly: the two sides clashed in 1994 in a civil war, which finally established the supremacy of the North over the South. President Abdullah Saleh, who had been the leader of the North since 1978, became the President of unified Yemen. However, the differences have not been resolved, and the southern population regularly agitated for reforms. These very large protests focus especially on issues of expropriation, and the dismissal of officials and soldiers. Peaceful rallies were held in 2006 and 2007 to demand both the restitution of private and public property and the reinstatement of those dismissed during the civil war.

To recall, large areas of farmland which were public properties under the old regime, and upon which the farming collectives had been based, were expropriated, resulting in an exodus of rural populations

<sup>17</sup> IRIN, *Yemen: Are the peace accords about to fail?*, 22 April 2008, <http://www.irinnews.org/Fr/ReportFrench.aspx?ReportId=77870> (accessed 12 October 2009).

<sup>18</sup> Laurent Bonnefoy, *Entre pressions extérieures et tensions internes, un équilibre instable au Yémen (Between external pressure and internal factors; an unstable situation in Yemen)*, October 2006. <http://www.monde-diplomatique.fr/2006/10/BONNEFOY/14054> (accessed 12 October 2009).

<sup>19</sup> See also: Office of the United Nations High Commissioner for Refugees, *HCR choqué par le décès de civils au Yémen, (Human Rights Committee shocked by civilian deaths in Yemen)*, 17 September 2009, <http://www.unhcr.fr/cgi-bin/texis/vtx/news/opendoc.htm?tbl=NEWS&id=4ab25cbc2> (accessed 15 October 2009).

<sup>20</sup> Cairo Centre, *State of Human Rights in the Arab Region in 2008: From Exporting Terrorism to Exporting Repression, December*, December 2008.

<sup>21</sup> Rue 89, *Yémen: le journaliste d'investigation al-Khaiwani libéré, (Investigative journalist al-Khaiwani freed)* <http://www.rue89.com/2008/09/26/yemen-le-journaliste-dinvestigation-al-khaiwani-libere> (accessed 15 October 2009).

and poverty among peasants. According to official sources, no less than 7799 feddans<sup>22</sup> were confiscated in the province of Lahij between 2004 and 2006<sup>23</sup>. The Yemeni Observatory for Human Rights said in its report that 70 farming communities representing an area of 63 672 feddans and covering 16 449 people lost their land in the provinces of Aden and Lahij. Established industrial units were also confiscated, as were the properties of political parties, in particular the Socialist Party, trade unions, civil organizations, and that of certain officers and party officials. According to the Socialist Party, 102 of their workplaces were affected, as well as 40 residential units and 13 businesses. Many properties belonging to individuals were also affected by these provisions.

At the end of civil war, the Central Government took severe measures against supporters and sympathizers of the secessionist cause. Tens of thousands of officials and soldiers were dismissed and excluded from the benefits of their status. The Observatory said that 23,000 people were affected; the majority were from the military (15,000). Many were forced into early retirement, among them high-ranking officers who worked for the reunification. The President of the Republic issued a decree in 2008 allowing their reintegration into the armed forces and the granting of compensation. According to the association of retirees, only 6% of retired military staff have benefited from this measure.

Having failed to achieve their goals, the ex-military staff started to form associations in 1997, and regularly organized peaceful demonstrations. The Government has made use of disproportionate force to quell this movement from the beginning, ordering the armed forces to fire on protesters with live ammunition. Two protesters were killed and several others wounded. When, in the year 2000, political parties, professional organizations and unions began to express solidarity with the ex-military, the authorities declared themselves willing to solve the problem. However, nothing concrete has been undertaken and the protests have grown and multiplied. This developed into a wider movement among certain segments of the Southern Yemen population who feel discriminated against. Beginning in 2007, certain rallies were strongly repressed. According to the Yemeni Observatory for Human Rights, during the years 2005-2007, 623 rallies were held, 85 were brutally repressed by the armed forces using live ammunition and tear bombs that killed 7 people and injured 75 others.<sup>24</sup>

From March 2008 a wave of arrests was orchestrated against leaders and activists by the security services. Many were arrested in Aden and Lahij. During 2008, 860 demonstrators who participated in rallies were arrested. They were held, often incommunicado, without being subject to legal charges. Their conditions of detention were particularly inhumane and they were subjected to abuse. Finally a number of them were tried before the Special Court and sentenced. The Government finally passed an amnesty for the prisoners due to the volume of protests, after which they were released.

The demonstrations that degenerated into clashes with the armed forces remain in south of the country. On 13 January 2009, for example, they killed at least 4 people in a rally organized by soldiers of the former southern army.<sup>25</sup>

## **5. The proliferation of security services**

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There are many security services in Yemen, all of which are involved in the fight against terrorism. Most are under the direct authority of President Ali Abdallah Saleh.

- The **Criminal Police**, under the authority of the Ministry of the Interior. This department is responsible for investigations into special criminal cases. Certain officers use torture to extract confessions from detainees.

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<sup>22</sup> A feddan corresponds to 4,200m<sup>2</sup>.

<sup>23</sup> Yemen Human Rights Observatory, *Report on the right to peaceful assembly*, November 2008, pp. 4-5.

<sup>24</sup> Yemen Human Rights Observatory, *Report on the right to peaceful assembly*, November 2008, pp. 10-11.

<sup>25</sup> Francois -Xavier Tregan, *Emeutes au Yemen dimanche...vous en avez entendu parler? (Riots in Yemen on Sunday...have you heard?)*, Les Observateurs, 16 January 2008

[http://observers.france24.com/fr/content/emeutes\\_au\\_yemen\\_dimanche%E2%80%A6\\_vous\\_en\\_avez\\_entendu\\_parler](http://observers.france24.com/fr/content/emeutes_au_yemen_dimanche%E2%80%A6_vous_en_avez_entendu_parler) (accessed 12 October 2009).

- The **Directorate General for the fight against terrorism** (الإدارة العامة لمكافحة الإرهاب) is also subordinate to the Ministry of the Interior. This department was established recently to deal with crimes against state security and civil peace.

- The **Fight against Terrorism section**, which is similar to the above structures, is part of Central Security (الأمن المركزي). This force depends on the Interior Ministry, but in reality it falls under the authority of President Saleh, who handed it to his nephew, General Yahya Mohamed Abdullah Saleh, granting him broad powers. These forces have barracks in all the country's provinces. They are responsible for the supervision of state organs. This section receives support from the US. 114 light armoured Hummers were sent in January 2007, representing only a small part of supplies provided by the Americans.<sup>26</sup> This section employs women to participate in siege operations and house searches in the cities.

- The intelligence service, called the **Political Security Services** (الأمن السياسي) was created after the unification of Yemen on the basis of Presidential Decree No. 121 of 1992. It depends on the Presidency and is responsible for security. However, the United States considers that it has been infiltrated by the Islamists. This charge arose after a promise made to Islamist groups to release their members in return for their support of President Saleh during the 1994 civil war. It has been argued that this was the basis for the creation of a new information unit, to be financed by the United States. This new unit is the National Security Apparatus (جهاز الأمن القومي).

- The **National Security Apparatus** (جهاز الأمن القومي) depends on the Presidency. Created in August 2002 by Presidential Decree No. 261 following pressure from the U.S., it is headed by the Director General of the Office of the Presidency, one of President Saleh's nephews, Ammar Muhammad Abdullah Saleh. This service and the political police are the two groups responsible for the fight against al-Qaeda and other armed groups. They coordinate and organize operations to control, repress and fight against terrorism on the ground.

- The **army** itself, which conducts violent military operations during which serious human rights violations are committed. For example, the army is now in the province of Sa'ada, where it is fighting an armed rebellion by waging war against the population. It is also used to violently suppress social protests.

All these apparatuses are beyond the control of parliament and the law. Some of them have secret detention facilities where suspects are often held incommunicado for long periods without judicial review (see below).

## **6. Draconian legislation and non-compliance with domestic laws**

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Yemen has made significant progress on the legislative front. It has ratified most international treaties on human rights and amended its legislation to bring it into line with international standards. However, the Committee against Torture regretted the lack of a comprehensive definition of torture as outlined in the International Convention in its concluding observations on 5 February 2004.<sup>27</sup>

The difficulties lie in the application of these texts. The Yemeni authorities themselves recognize that national legislation and the principles of international law are occasionally violated, but claim that they are forced to do so to "'fight against terrorism' and avoid the risk of a U.S. military operation against Yemen after the events of September 11."<sup>28</sup>

Basic rights of expression, assembly and peaceful association are not respected, even though they are guaranteed in the Constitution.

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<sup>26</sup>Nabanews, *United States supporting counter-terrorism units with Hummer vehicles*, 31 January 2007, <http://www.nabanews.net/2009/7394.html> (text in Arabic, accessed 16 October 2009).

<sup>27</sup> Committee Against Torture, 31<sup>st</sup> session, Concluding *Observations of the Committee Against Torture on the initial report of Yemen*, 5 February 2004 (CAT/C/CR/31/4), para. 6(a).

<sup>28</sup> Amnesty International, *Yemen, The Rule of Law Sidelined in the Name of Security*, 24 September 2003 (AI : MDE 31/006/2003), p.3.

In 2002, the Human Rights Committee expressed concern about possible non-compliance by security forces and in particular the "security services that arrest and detain anyone suspected of links with terrorism, in violation of the guarantees of the Covenant (art. 9)."<sup>29</sup> Yemen, despite its existing laws and membership of numerous regional and international conventions concerning the fight against terrorism, plans to introduce further legislation on the topic. An anti-terrorism bill was introduced by the Government in Parliament but has thus far not been adopted. Several other emergency laws are being prepared including a law for the "the protection of national unity, internal stability and social peace." There was strong opposition to this bill when a newspaper disclosed its content.

Further texts are being prepared on money laundering and terrorist financing. But Yemen already has three separate texts dealing with terrorist crimes: the 1994 Criminal Code, the Law on Civil Aviation (قانون الطيران المدني) and the law passed in the wake of the abductions of 1998 (قانون مكافحة جرائم الاختطاف والتقطيع). This proliferation of laws and decrees is an expression of the wish by Yemeni authorities to be seen to be contributing to the war on terror, a tendency exacerbated by Western pressure. These efforts mask the real problems of a social and economic policy and seek only to combat its symptoms. The result is a raft of draconian legislation that seeks to limit the freedoms of expression and assembly

## 6.2 A special tribunal

A special criminal court to try terrorism cases was established by decree in 1999. Many Yemeni lawyers believe that this court is unconstitutional, since its existence was not discussed or approved by the Parliament. They criticize the fact that the Attorney-General has the power to refer all cases before this Court. They believe that international standards for fair trial are not met by this special court, which places it outside the legal system.

They also highlight several issues: judgments are hurried and the procedures happen too quickly, which means that lawyers are unable to defend their clients effectively. Therefore, the right to defense is not always respected. Lawyers complain of not having access to their clients' files, and of not being allowed to visit clients in provisional detention. The right to legal assistance for defendants is not respected, and "confessions" obtained under torture and recorded as statements are routinely used by the trial court as evidence. Furthermore, the court never investigates allegations of torture, ill-treatment or prolonged incommunicado detention. Defendants' families have been prevented from attending the hearings, even though they are public.

Mr Naji Mohammed Alawi, Chairman of the NGO Organization for the Defence of Human Rights (HOOD). HOOD believes "it is a state-driven security court where judges cannot exercise the freedom of decision. Defendants' rights are non-existent – for example, their file cannot be seen. Any attempt to defend the client is in vain, since ultimately this is a court which will defend the interests by which it was created. It is not a fair court, but rather a court for state security, which means that it will tend to rule in the interests of security. All this is in line with the current obsession with security, as defined by **national security, political security or counter-terrorism**. It is a kind of justice that exists outside the system, and as such it cannot fail to be inequitable. We have taken a stand against this court; we refuse to represent anyone before it."<sup>30</sup>

Several Yemeni NGOs denounce the existence of State Security courts (محاكم أمن الدولة), which they see as exceptional courts with no legal or constitutional legitimacy. However, no legal action has been taken to eliminate them.<sup>31</sup> Many people arrested in the south of the country for their involvement in anti-discrimination protests have appeared before this special court.

<sup>29</sup> Human Rights Committee, 84<sup>th</sup> session, *Concluding Observations of the Human Rights Committee on the third periodic report of Yemen*, 26 July 2002 (CCPR/CO/75/YEM), para.18.

<sup>30</sup> Mohammed Naji Alao, *The Yemenis historic habit of retreating to the mountains when they disagree with the central government endangers the survival of the nation*, "Al Ghad" newspaper, 12 July 2009, <http://www.alghadyem.net/index.php?action=showDetails&id=3120> (text in Arabic, accessed 16 October 2009).

<sup>31</sup> Yemen Human Rights Observatory, *Report on the right to peaceful assembly*, November 2008, p. 24.

### 6.3 Violation of defendants' rights

In most cases, those arrested are not presented with a judicial warrant. In the absence of legal procedures, no lawyer can be presented. Defendants are often unaware of the legal reasons why they are arrested and detained; nor do they know how long they are to be detained.

Many people suspected of being supporters of the Houthis movement, al-Qaeda or thought to be taking part in demonstrations in the south failed to receive a fair trial. Some individuals reported having been tried and convicted on the basis of "confessions" extracted under torture during incommunicado detention. Scores of people are detained without legal process, including some foreigners.

At court, violations of defendants' rights are regularly reported. People can be tried and sentenced, sometimes in absentia, by trial courts that hand down decisions dictated to the judges by the authorities.

On 19 May 2009, Alkarama sent a communication to the Working Group on Arbitrary Detention concerning two male victims of such abuse. On 30 August 2003, the Court of First Instance of the city of Atiq in Shabwa province, sentenced **Mr Amer Al-Baadani** السيد عمر البعداني in absentia to three years imprisonment. In the same trial, his 14-year-old son **Mohammed** محمد, who was abducted in 2001, was sentenced to two years in prison. Amer Al-Baadani appealed this decision; it was annulled on 13 November 2006 by the Court of Appeal of Shabwa which found that the trial's outcome had been manufactured. The Court of Appeal ordered the case be referred to the Court of First Instance in order to decide on the merits of the case. It also ordered the release on bail of Amer until his trial. Despite this ruling, the father and son still remain in prison. For unknown reasons, the trial court refused to set a trial date, and the matter has been indefinitely postponed.<sup>32</sup>

In its periodic report the Yemeni Government acknowledges shortcomings in the protection of human rights, all the while claiming that it is making efforts to improve the situation by mandating a parliamentary committee to monitor the issue of persons detained in the context of terrorism.<sup>33</sup> There is a Standing Committee on Civil Liberties and Human Rights at a parliamentary level. Several committees have been established to investigate various issues. These include the abduction of persons by a tribal chief, the inmates involved in the attack against the USS Cole and the attacks of September 11, 2001, the situation in central prisons and the detention centers in different provinces, etc. The problem, however, is that the reports of these commissions are not made public, and their recommendations are not followed by concrete Government measures to remedy any reported deficiencies or violations.

For example, a committee was mandated to investigate incidents that occurred 13 October 2008 in a village near Habil Jabr in the province of Lahij during a popular festival. The army intervened and killed 4 people and injured 15 others using live ammunition and tear gas. A string of arrests then followed. After several protests, 18 soldiers and members of the police station were brought before the Prosecutor-General of the Lahij governorate after refusing to answer a court summons.

However, no action was taken as a result and it does not appear that those responsible for extrajudicial executions have been punished. The Yemeni authorities have regularly used this kind of subterfuge; they announce the initiation of investigations into the actions of agents of the State, but nothing comes of these proceedings. Human rights violations are rarely punished, thus enshrining the impunity of state officials.

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<sup>32</sup> Alkarama communiqué, *Yemen: Arbitrary detention of Mohammed and Amer Al-Baadani*, 22 May 2009 [http://en.alkarama.org/index.php?option=com\\_content&view=article&id=240:yemen-arbitrary-detention-of-mohammed-and-amer-al-baadani&catid=40:communiqu&Itemid=216](http://en.alkarama.org/index.php?option=com_content&view=article&id=240:yemen-arbitrary-detention-of-mohammed-and-amer-al-baadani&catid=40:communiqu&Itemid=216) (accessed 16 October 2009).

<sup>33</sup> The second periodic report of Yemen submitted to the Committee Against Torture pursuant to Article 19 of the Convention Against Torture, 13 July 2007 (CAT/C/YEM/2), p.86.



In theory, it is possible to invoke the international treaties ratified by Yemen in court but in practice, few lawyers do. Whether through ignorance or uncertainty, lawyers assume that since Yemeni laws themselves are not respected, the chance that international law will apply is non-existent.

#### 6.4 Children treated as adults

Many children have been arrested using extreme violence. They have also been detained arbitrarily or secretly in the same conditions as adults, and been victims of abuse.

During the mass arrests in the north (Sa'ada conflict) and south of the country, juveniles were regularly affected. Alkarama forwarded the names of three teenagers arrested and detained in early 2002 without legal procedure to the Working Group on Arbitrary Detention. They were Wailea Ghaleb Mohammed Hassan Al-Alwi, Abderrahim Ghaleb Al-Muqbil Muqbil Ahnumi, Nacer Yahya Yahya Hussain Mujmal, aged 15, Ismail Mohammed Yahia Tami, aged 17, and Abdelkarim Mohammed Hussain Tami, aged 18. At the time of sending the communication, September 2007, they were held in the same prison as adults, under the same conditions. All were suspected of being supporters or sympathizers of Al-Huthi.<sup>34</sup>

We have already mentioned the case of **Mohammad Al-Baadani** محمد البعداني. In 2001, at age 14, he was abducted by a tribal chief because of his father's failure to pay back debts. Held for 3 years at the tribal chief's home in the province of Al-Shabwa, he was then transferred to the State prison of Al-Shabwa with the complicity of local officials, where he is still detained with adults. No trial date has been set. This situation is clearly a serious violation not only of the country's Constitution, but also of Article 246 of the Penal Code and the principles of international law.<sup>35</sup>

#### 6.5 Violations of the right to life: use of excessive force and summary executions

Alkarama also emphasizes the use of excessive force by agents of the state during army interventions to suppress demonstrations organized in protest against the deteriorating economic and social situation. 50 people were killed during the suppression of the July 2005 uprising. The demonstrators were protesting against rising fuel prices imposed by the Government on the orders of the IMF.

In May 2007, veterans of the former army of south Yemen held protests to decry their social situation after some 60,000 of them were demobilized. They demanded an increase in their pensions or the granting of work. The army intervened, killing several people and launching a wave of arrests. In August 2007, thousands of people were out in the streets to protest against the rising prices of commodities and gasoline. Again the army intervened.

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

To our knowledge, the Yemeni authorities have not conducted investigations to establish responsibility for or prosecute those responsible for these events. If officials are charged, as was the case following the intervention of armed forces in Habil Jabar, in the province of Lahij on 13 October 2008 (see above), the public is not informed of the outcome of the process.

There are allegations of summary executions during clashes between the armed forces and the Houthist movement in the north. In addition, several people suspected of terrorist activities have been victims of extrajudicial execution (see above).

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<sup>34</sup> Alkarama communiqué, *Yemen : 37 persons arrested and arbitrarily detained*, 20 September 2007 , [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) (accessed 12 October 2009).

<sup>35</sup> Arab Network for Human Rights Information, *Al Baadani 15 years: kidnapped and held hostage in a Government jail for nine years; he is still there*, 20 January 2009 <http://www.anhri.net/yemen/seyaj/2009/pr0120.shtml> (text in Arabic, accessed 16 October 2009).

## **6.6 The Department for Human Rights**

The Yemeni Government considers the creation of the Ministry of Human Rights in 2003 to be a major step forward for the protection and defense of human rights. In its periodic report, it states that the organizational structure and mandate of this department are "consistent with a number of principles concerning the status and function of national institutions for the protection and promotion of human rights (Paris Principles)."

It should be noted that this institution does not conform with the Paris Principles, because it was created by a decree, not by law, and it is part of the Executive. For the Government, however, the purpose is two-fold: it gives it an opportunity to move into the field of human rights NGOs, an area over which it has had little control, and it improves the country's image amongst the international community.

It is true that the Department receives individual complaints and challenges the Attorney-General, the Ministry of Interior and the political security services. It organises regular prison visits, offers seminars and training in the field of human rights for judiciary and police staff, and it is involved in regional international conferences, etc.

One of the department's managers, Ghassan Al-Makhlafi, said that the Ministry has decided to implement a national strategy for human rights (2009-2013), as outlined in the President's electoral platform. The implementation of this strategy has apparently already begun.

However, Alkarama has noted the following: when the Department received complaints from victims, all it did was send letters to the relevant state departments. As for Ministry's reports on the Prisons Department, they are not made public. The Department also regularly makes a number of recommendations, none of which result in concrete action.

## **7. Arbitrary arrest and incommunicado detention**

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### **7.2 Arbitrary arrests**

The Yemeni Constitution prohibits detention without a warrant issued by a judge or prosecutor (art. 47b). The person arrested must be informed immediately of the reasons for their arrest, and can contact anyone. They are entitled to legal assistance (Article 73 of the Code of Criminal Procedure, CCP). Those arrested must be brought before a judge or prosecutor within twenty-four hours after their arrest (76 of the Code) and may challenge the lawfulness of their detention. The Penal Code states that any officer found to have arbitrarily arrested someone can be sentenced to a maximum of five years' imprisonment (art. 246).

The legal process cannot exceed six months, and if a person is in custody, it must be accelerated (art. 129 CPP).

In recent years the security services have carried out numerous campaigns to arrest persons wanted for their alleged connection to al-Qaida or their involvement in "terrorist" activities. Similarly, as mentioned above, many arrests were made during rallies and demonstrations in the south. In the region of Sa'ada, hundreds of civilians who were not involved in the conflict between military forces and the Houthis movement were arrested either as a means of retaliation, to compel combatants to surrender or to take revenge. Serious violations of the law and the of rights of detainees took place during these often violent operations,

In many cases, the armed forces violently enter the homes of suspects, terrify the family and search the premises without any form of warrant. Those concerned are brutally taken away, often to unknown destinations, where they can be detained incommunicado for periods ranging from several days to several months without being brought before a judge.

Following the attack on seven Spanish tourists and their two Yemeni guides on 2 July 2007 at Ma'rab, the Government launched a major offensive during which a suspect was extrajudicially executed. On 4 July 2007, at 10pm, a large number of soldiers including a counter-terrorism unit went to the home of Mr **Ahmed Besyuni Dwidar**, an Egyptian accused of perpetrating the attack. They surrounded his house and brutally arrested him. He was then summarily executed. The authorities never established or reported any significant evidence of his involvement in the Ma'rab bombing.

Furthermore, the attack on the tourists triggered a massive wave of retaliations. Security forces violently arrested dozens of suspects in different cities, including:

- **Nassar Muhammad Muhammad Al Marsad** نصار محمد محمد المرصد, imam and preacher at the Al-Fallah Mosque in Sana'a, was violently arrested at his home on 20 July 2007 late at night by eight armed and masked men in civilian clothes. They surrounded his house and terrorized his wife and children. He was taken to an unknown destination, and his family was kept without news of him for several weeks. To this day, he has not been brought before a tribunal.

- **Makram Al-Tahar Askur** مكرم طاهر العسكري, a car mechanic residing in Sana'a, was arrested by security service agents without a warrant on 25 July 2007. He was never brought to justice, and was released after two years without trial, along with 112 other detainees who were in security service prisons in various provinces.

- **Faiz Muhammad Naji Al-Baadani** فايز محمد ناجي البعداني, an advertising planner residing in Sana'a, was arrested at his workplace on 25 July 2007. He was released with the group of 112 people held in different provinces after two years of detention without legal process.

### 7.3 Arbitrary and incommunicado detention without trial

The Government denies the existence of incommunicado detention centres. However, there is evidence that some services, including the security police, have places of detention where arrested or kidnapped persons are held incommunicado for long periods without contact with the outside world or their families. Security services are forced to acknowledge cases of detention only after families repeatedly pressure the authorities or NGOs to get information. After the location of the victim is established, obtaining permission to visit is depends completely on the managers of the relevant services. (See detention centers below)

It is not known how many people are detained in these conditions without legal procedure. The Yemeni authorities do not provide statistics about this. Thousands of people have been arrested because of suspected links with al-Qaeda and held for up to several years in centers controlled by various intelligence services in several provinces.<sup>36</sup> Most of them are released without being brought to justice. Upon their release, they are threatened with retaliations if they contacted journalists or human rights defenders. Some remain under tight surveillance.

**Mr Al-Hattar** السيد الهتار is Imam of the Al-Haramayn mosque. Members of the intelligence services arrested him at dawn on 14 December 2007 at the mosque where he had lead the morning prayer. He was handcuffed and taken to an unknown destination. No judicial warrant was presented and he was not notified of the reasons for his arrest. Mr Al-Hattar was detained in police custody for three months without any contact with the outside world. When his family was allowed to contact him by phone, they learned that he had not been presented before a magistrate. On 24 November 2008, after receiving a submission about this case from Alkarama, the Working Group on Arbitrary Detention issued Opinion Number 40/2008 in which it found that **Mr Abdeljalil Abdeladhim Ali Al-Hattar** السيد عبد العظيم علي عبد الجليل الهتار was a victim of arbitrary detention in violation of Articles 9 (freedom from arbitrary arrest) and 10 (right to a fair trial) of the Universal Declaration of Human

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<sup>36</sup> Alkarama has a list of these persons' names.



Rights and articles 9 (right to liberty) and 14 (right to fair trial) of the International Covenant on Civil and Political Rights.<sup>37</sup>

**Mr Adel Al-Shahrani** السيد عادل الشهراني, who was the subject of a communication from our organization to the same special procedure, was arrested and detained on 15 August 2007 by the intelligence services in Sana'a. It was only on 1 October 2007 that his family was allowed to visit him in the intelligence headquarters of Sana'a, where he was being detained.<sup>38</sup> They have not been allowed to visit him since. Mr Al-Shahrani was released on 27 May 2008 without any legal procedure.

**Mr Abdelkader Al Saqar Shouiter** السيد عبد القادر صقر شويطر was arrested on 7 April 2007 at his workplace by agents of the intelligence services and taken to an unknown destination. He was released after 52 days of incommunicado detention without access to counsel or the opportunity to challenge the lawfulness of his detention. After receiving a submission from Alkarama, the Working Group on Arbitrary Detention found in its Opinion 9/2008 of 8 May 2008 that he had been arbitrarily deprived of his liberty.<sup>39</sup>

On 7 April 2009, Alkarama submitted the case of three brothers, **Amir, Mouad and Mohammed Al Abbaba** أمير و معاد و محمد العباب, to the Working Group on Arbitrary Detention. They were arrested on 19 July 2007 by political security agents, who failed to present a warrant or give them the reason for their arrest. It took the authorities two months to acknowledge that they were being held, and they were never presented to a judicial authority after their arrest. They are held hostage to this day because of their elder brother, Adel Al Abbaba, a professor of Arabic who is wanted by the security services for his alleged links with al-Qaeda. Their father was also arrested then released after several days of interrogation.<sup>40</sup>

We have previously mentioned mass arrests at demonstrations and rallies in the south to protest against discrimination. According to the Yemeni Observatory for Human Rights, in 2008 there were 860 arrests at these rallies (including 402 in Aden and 230 in Lahij). 18 of those arrested have been transferred to the political security prison in Sana'a – their detention has been acknowledged. 20 others are reportedly detained incommunicado. No charges were brought against them and they were subsequently released without trial after several months of detention.

In the same way, military offensives in the region of Sa'ada in the north involve mass arrests of people suspected of supporting or sympathizing with the houthist movement. On 20 September 2007, Alkarama submitted the cases of 37 persons who had been detained to the Working Group on Arbitrary Detention. These included minors, some of whom had been arrested and detained since 2006 without legal process by intelligence agencies (Al Amn Assiyassi). They are detained at a center in Nasiriyah in Hajjah (north-west).<sup>41</sup> Their families hold regular gatherings in Sana'a to protest against these arbitrary detentions. The statement from their latest meeting of 20 September 2009 contained a list of about 70 people detained since 2007 and 2008 by the political security services.<sup>42</sup>

Many opponents, including human rights defenders and journalists, have been arrested and arbitrarily detained. Alkarama submitted the case of **Mr Louay Al-Muayyad** السيد لؤي المؤيد to the Working Group on Arbitrary Detention. He is a journalist and a member of the Organization for Human Rights

<sup>37</sup> Alkarama communiqué, *Yemen: Condemnation for the arbitrary detention of Mr Abdeladhim Al-Hattar*, 3 April 2009, [http://en.alkarama.org/index.php?option=com\\_content&view=article&id=211:yemen-condemnation-for-the-arbitrary-detention-of-mr-al-hattar-abd-al-adhim-&catid=40:communiqu&Itemid=216](http://en.alkarama.org/index.php?option=com_content&view=article&id=211:yemen-condemnation-for-the-arbitrary-detention-of-mr-al-hattar-abd-al-adhim-&catid=40:communiqu&Itemid=216) (accessed 12 October 2009).

<sup>38</sup> Alkarama communiqué, *Yemen: Secret detention of Mr Yahia Al-Shahrani*, 23 May 2008, [http://fr.alkarama.org/index.php?option=com\\_content&view=article&id=441](http://fr.alkarama.org/index.php?option=com_content&view=article&id=441) (accessed 12 October 2009).

<sup>39</sup> Alkarama communiqué, *Yemen: The UN Working Group finds the detention of Mr Al Choiter to be arbitrary*, 3 July 2008, [http://en.alkarama.org/index.php?option=com\\_content&view=article&id=118:yemen-the-working-group-of-the-united-nations-finds-that-the-detention-of-mr-al-choiter-was-arbitrary&catid=40:communiqu&Itemid=216](http://en.alkarama.org/index.php?option=com_content&view=article&id=118:yemen-the-working-group-of-the-united-nations-finds-that-the-detention-of-mr-al-choiter-was-arbitrary&catid=40:communiqu&Itemid=216) (accessed 12 October 2009).

<sup>40</sup> Alkarama communiqué, *Yemen: Arrest and arbitrary detention of 3 Al Abbab brothers*, 24 April 2009, [http://en.alkarama.org/index.php?option=com\\_content&view=article&id=223:yemen-arrest-and-detention-of-the-three-brothers-al-abbaba&catid=40:communiqu&Itemid=216](http://en.alkarama.org/index.php?option=com_content&view=article&id=223:yemen-arrest-and-detention-of-the-three-brothers-al-abbaba&catid=40:communiqu&Itemid=216) (accessed 12 October 2009).

<sup>41</sup> Alkarama communiqué, *Yemen: 37 persons arrested and arbitrarily detained*, 20 September 2007, [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) (accessed 12 October 2009).

<sup>42</sup> Arab Network for Human Rights Information, *The twenty-seventh Sit, in front of the Al saleh mosque to demand the release of the prisoners on the pretext of Sa'ada's events*, 20 January 2009 <http://www.anhri.net/yemen/yoddrf/2009/pr0920.shtml> (text in Arabic, accessed 16 October 2009).

and Democratic Freedoms, and he is the Executive Director of the portal 'Yemen libre'/Free Yemen. On June 30 2008, members of the political security services (Al Amn Assiyassi) in civilian clothes accompanied by uniformed soldiers arrested him at home. He was taken to an unknown destination and held incommunicado. He was released on September 12, 2008 after 74 days of incommunicado detention. He was not subjected to legal proceedings during his detention and was released without ever being brought before a court.<sup>43</sup>

People who dare to express their opinions continue to be arbitrarily arrested and detained. On 25 September 2009, Alkarama alerted the UN Special Rapporteur on Torture and sought the intervention of other UN organs in the case of **Mr Mohamed Al Magaleh** السيد محمد المقال, journalist and human rights lawyer. On 17 September 2009, Mr Al Magaleh was kidnapped by members of the security services in Sana'a and has since disappeared. He had expressed strong criticism of Government policy, particularly on the issue of human rights violations during the Government crackdown on protests in the south and in Sa'ada.<sup>44</sup>

Arbitrary detention also affects people who have served their sentences but continue to be imprisoned due to unpaid debts. It is impossible to say how long they will be detained beyond the period of their sentence.

#### 7.4 Persons forcibly returned to Yemen

People who had been arrested by coalition forces and detained in secret prisons such as the Guantanamo Bay detention facility run by the Americans or their allies have been repatriated to Yemen, where, at the request of the United States, they are maintained in detention for long periods without being judged. These include **Walid Muhammad Shahir Muhammad al-Qadasi** وليد محمد شهير محمد القداسي, who was transferred from Guantanamo Bay to Yemen in April 2004. He was released without charge in March 2006. **Muhammad Abdullah Salah al-Assad** محمد عبد الله صالح الأسد was arrested in Tanzania in December 2003 and detained incommunicado in different locations. **Muhammad Faraj Ahmed Bashmilah** محمد فرج أحمد باشميلة and **Salah Nasser Salim Ali** صلاح ناصر سليم علي were arrested in August and October 2003 in Indonesia, where they lived, and were moved to various intelligence centres. All three were returned to Yemen in May 2005. They were eventually tried in February 2006 and convicted of forgery, then released the following month.<sup>45</sup>

On 19 November 2008, Alkarama submitted the case of 14 Yemeni students from the region of Hadramou to the Working Group on Arbitrary Detention. They were arrested between February and March 2008 in Syria, then detained and tortured before being deported to Yemen on 15 March 2008. They were also mistreated in Yemen, where they are still detained without having been subjected to any legal procedure. They are Ahmed Abou Bakr Mohammad Alawi Al-Biti, aged 23; Rashad Omar Said Marii, aged 19; Salem Ali Salem Al-Attas, aged 23; Iwadh Ghaleb Ahmed Baqaiti, aged 22; Mohammad Salah Ahmed Iwadh Al-Maghi, aged 25; Yasser Salah Bahwih, aged 24; Jasem Iwadh Mubarak Barifaa, aged 23, Salem Saad Salem Al-Khanchabi, aged 25; Abderahman Mohammad Mahrous Barachid, aged 26; Mohammad Abdullatif Said Mansour Bou'iran, aged 23; Mohammad Hassan Abdullah al-Shami, aged 23; Hassan Abdul-Rahim Omar Bin Ghawth Bawazir, aged 28; Abdellah Said Billariyah, aged 23; Hassan Al-Muqtari, aged 25.<sup>46</sup>

<sup>43</sup> Alkarama communiqué, *Yemen: Liberation of Mr Louay Al-Mouayyad, journalist and human rights activist*, 19 September 2008, [http://en.alkarama.org/index.php?option=com\\_content&view=article&id=140:yemen-release-of-mr-louay-al-mouayyad-journalist-and-human-rights-activist&catid=40:communiqu&Itemid=216](http://en.alkarama.org/index.php?option=com_content&view=article&id=140:yemen-release-of-mr-louay-al-mouayyad-journalist-and-human-rights-activist&catid=40:communiqu&Itemid=216) (accessed 12 October 2009).

<sup>44</sup> Alkarama communiqué, *Yemen: Mr Al Magaleh, journalist victim of enforced disappearance*, 25 September 2009, [http://en.alkarama.org/index.php?option=com\\_content&view=article&id=305:yemen-journalist-mohamad-al-magaleh-enforced-disappearance&catid=40:communiqu&Itemid=216](http://en.alkarama.org/index.php?option=com_content&view=article&id=305:yemen-journalist-mohamad-al-magaleh-enforced-disappearance&catid=40:communiqu&Itemid=216) (accessed 12 October 2009).

<sup>45</sup> "In September 2005, Yemeni officials told Amnesty International that the US Embassy in Sana'a had given explicit instructions not to release the three prisoners. They were also told to wait for files, to be sent by the United States, before judging the three men. However, a senior al-Amn al Siyassi (Political Security in Yemen) told Amnesty International that the three detainees would be released if the Government of the United States so requested". <http://asiapacific.amnesty.org/pages/yem-071105-action-fra> (accessed 15 October 2009).

<sup>46</sup> Alkarama communiqué, *Yemen: Detention without legal procedure since 15 March 2008 of 14 students expelled from Syria*, 22 November 2008, [http://fr.alkarama.org/index.php?option=com\\_content&view=article&id=370](http://fr.alkarama.org/index.php?option=com_content&view=article&id=370) (accessed 12 October 2009).

## 7.5 Enforced Disappearances

In recent years, cases of enforced disappearances have generally been resolved and retrospectively viewed as cases of prolonged incommunicado detention. The families of incommunicado detainees are sometimes able to make the authorities acknowledge that individuals are being held. Those who know the right people can sometimes contact their relatives.

In other cases, the authorities refuse to acknowledge the secret detentions. These are definitely cases of enforced disappearances.

On 23 February 2009, **Kassem Ali Kassem Al Ghoul and his two sons, Mohammed and Ibrahim**, were arrested at 3:45 am at home by agents of the political police. Mohamed was wounded by gunshot. Despite repeated inquiries, the authorities continue to deny the arrest and disappearance of the three. Kassem Ali Kassem Al Ghoul (50), soldier, is a member of the General People's Congress Party. Armed and masked political security agents (al-Amn al-Siyassi) in civilian clothes accompanied by soldiers violently broke into their home, firing bursts from automatic weapons at the house before entering. The officers did not identify themselves, they did not give any explanation and failed to present a warrant to Mr Kassem Al Ghoul. They handcuffed him as soon as he opened the door. They then violently searched the house, without a warrant. All the family's documents, some books and personal documents as well as the family computer were taken. Officers attempted to enter the room occupied by the victim's daughter. When Mrs. Al-Ghoul tried to stop them, fearing for her daughter's safety, the officers brutally beat her. When Mohamed intervened to protect his mother and sister, officials opened fire with automatic weapons, hitting him several times. They then dragged him and his brother Ibrahim out of the house. All the family's attempts to find out where they are have proved fruitless, and the Attorney-General himself confirmed that even after asking the manager for political security about the case, he had received no response. To this day the family does not know what has happened to the three men.<sup>47</sup>

We have also discussed the case of **Mr Mohamed Al Magaleh** السيد محمد المقالح, journalist and human rights defender, who was kidnapped on 17 September 2009 by members of the security services in Sana'a. He has since disappeared.

## 7.6 Arbitrary detention of foreign nationals

Many foreign nationals are detained arbitrarily in Yemeni prisons. Here again, we have no statistics. They are often in a precarious position, since they receive no support from their families and have no one interceding on their behalf, especially if their Embassy does not become involved.

On 1 April 2009, Alkarama sent an urgent appeal to the Working Group on Arbitrary Detention and the UN Special Rapporteur on Torture to highlight the case of five Cameroonian nationals who have been detained incommunicado and without legal process at the political security centre (Al Amn Assiyassi) in Sana'a since March 1995. Four of them have been identified with certainty: **Ludo Mouafo, Pierre Pengou, Baudelaire Mechoup and Zechariah Ouafu**. On 13 August 2004, more than 9 years after their arrest, these four people managed to get a message out through a prisoner who was released. This document was sent to HOOD. This document is truly a call for help, in which the secretly held detainees describe their inhuman conditions and the daily humiliation they face in a narrow cell underneath the Sana'a Political Security centre. In 2005, the Interior Minister said that these five persons "belonged to an international network involved in sabotage, drug trafficking, money laundering and counterfeiting." He promised they would be brought to justice, yet to date they have not been presented before a magistrate. In March 2009, a prisoner who was released in March 2009 from the Sana'a Political Security Centre testified that the situation of the Cameroonian detainees has significantly worsened in recent months, to the point that their lives are probably in danger.<sup>48</sup>

<sup>47</sup> Alkarama communiqué, *Yemen: Enforced Disappearance of Mr Kassem Al Ghoul and his two sons since 23 February 2009*, 10 April 2009, [http://en.alkarama.org/index.php?option=com\\_content&view=article&id=220:yemen-forced-disappearance-of-kassem-al-ghoul-and-his-two-sons-since-23-february-2009-&catid=40:communiqu&Itemid=216](http://en.alkarama.org/index.php?option=com_content&view=article&id=220:yemen-forced-disappearance-of-kassem-al-ghoul-and-his-two-sons-since-23-february-2009-&catid=40:communiqu&Itemid=216) (accessed 12 October 2009).

<sup>48</sup> Alkarama communiqué, *Yemen: Secret Detention for more than 14 years of five Cameroonians*, 2 April 2009, [http://en.alkarama.org/index.php?option=com\\_content&view=article&id=212:yemen-secret-detention-for-more-than-14-years-of-five-cameroonians-&catid=40:communiqu&Itemid=216](http://en.alkarama.org/index.php?option=com_content&view=article&id=212:yemen-secret-detention-for-more-than-14-years-of-five-cameroonians-&catid=40:communiqu&Itemid=216) (accessed 12 October 2009).

## 7.7 Detention in "private"

Abductions and arrests by tribal chiefs in Yemen are an ongoing problem. Officially, 220 people have been taken hostage over the last 15 years, but the actual number is much higher. With the exception of a few kidnappings of foreigners during which 7 hostages were killed, all the other victims, Yemeni and foreign, have been rescued. Many hostages, however, including children, are sequestered for months or years, with the knowledge of the authorities. The kidnappers sometimes even arrange to have hostages transferred to official prisons. The reaction of the authorities depends on the identity of the victim. If it is an influential person, a police operation can be triggered while negotiations take place. If foreigners are taken hostage, the army sometimes gets involved because of the pressure from the media and external influences. Generally, the kidnappers are not arrested or punished, irrespective of whether they are politically motivated.

Following a complaint lodged by eight dignitaries from the Ibb province, a Commission was appointed by Parliament with a mandate to investigate allegations against Sheikh Mohammed Ahmed Mansour, a prominent figure who is the leader of a major tribe in the region. Following the investigation in February-March 2007, the Commission presented a report establishing his direct responsibility for the kidnapping of a large number of people, who were then held in his private prison. He was accused of the following: imposing such high "private" taxes that whole families had to leave and take refuge in Sana'a; demanding payment of Zakat (religious tax) which people had already paid to the State; harassment of women; theft of livestock; theft of agricultural land that families were then forced to buy back; intervention at a government level to halt the payment of salaries to the region's officials, etc. The plaintiffs alerted the authorities, and also held rallies about the issue. They finally took their story to the media, all to no avail.

The governor of Ibb province initially refused to meet members of the committee. It was only after the President of the Republic told him to use all legal and police measures necessary to advance the case that he deigned to meet its members. But the governor insisted that the commission not enter the village where the complaints originate – this meant that it was not able to establish the existence of the secret prison. The local governor said that he had never been informed of any grievances by the complainants; this despite the fact that they had sent letters on various occasions and also informed the province's judicial authorities. He also denied any knowledge of a "private" prison in the region of Al-Akma 'al-Uzlat Habla. Asked about the Sheik's private militia, he acknowledged that it was illegal, and that it had erected roadblocks in the region.

The Commission imposed the return of the refugees from Sana'a, with a guarantee that they would be protected by official powers. However, when they tried to enter their villages, they found several roadblocks erected by Sheikh Mohammed Ahmed Mansour's militiamen, who were accompanied by the director of the province and other officials. All their valuables had been stolen. Sheikh Mansour refused to speak to members of the Commission alerted by the victims. It eventually took an intervention from the governor for their properties to be returned and for them to be allowed to return home. The Commission recommended the removal of two central representatives, the destruction of the private prisons, criminal prosecution of those responsible, the acknowledgment of complaints from residents and the implementation of development projects in the region.

The complete denial of all knowledge by the local authorities and the reluctance of national officials to become involved in this case speak volumes about the influence of Sheikh Mohammed Ahmed Mansour, who obviously enjoys protection in high places.<sup>49</sup> It is the weakness of the State that allows such serious human rights violations to occur.

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<sup>49</sup>Report of the Fact-Finding Committee on the complaints by the inhabitants of Al Sifa and Riash / Al Jaashin, Di Al Sifal Department / Ibb Governorate (undated, but post-March 2007) (in Arabic only) ( تقرير لجنة تقصي الحقائق في موضوع شكوى أهالي عزلتي ( إب الصفة ورعاش / الجعاشين مديرية دي السفال / محافظة

## 8. Detention centers

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### 8.2 A proliferation of places of detention

There is a prison in each provincial capital. Only persons convicted by the courts can be held in these prisons, which are administered by the Ministry of Interior. But in reality, people are detained in these prisons on the orders of tribal leaders or officials, without the mandate of a judicial authority.

Police sections also have detention facilities. Under domestic law, police custody should not exceed 24 hours.

There is also a plethora of other detention facilities managed by other government officials. Those in charge of these facilities regularly arrest and detain people under various pretexts without a judicial warrant before they are either released, sent before the prosecutor or transferred to an official detention facility.

Local media have reported the existence of a private prison under the administration of the Yemeni economics administration municipalities *سجون البلديات والضرائب والواجبات* .

It is the political security services who hold the greatest number of people incommunicado in their centres across all the provinces. Suspects can languish in these centres for periods ranging from days to several months, sometimes even years.

The national security apparatus also has incommunicado detention centres, but it seems that the length of detention at this level is never very long. After interrogation by the service's officers, suspects are transferred to the relevant security service facility.

Foreigners awaiting deportation are held at the Visa Service (*سجن الجوازات التابع لمصلحة الهجرة* ) (والجوازات والجنسية), under the auspices the Ministry of the Interior; when they are suspected of terrorist activities, they are transferred to the political security centre where they await deportation.

The Prosecutor-General, parliamentary committees or the Ministry of Human Rights may make unannounced visits to prisons placed under the authority of the Ministry of the Interior. However, visits to places of detention overseen by political security or national security are subject to prior authorization.

### 8.3 Conditions during detention

Detention conditions in prisons and places of detention are appalling in every respect: poor hygiene, poor sanitation, overcrowding, lack of care, insufficient food, lack of trained personnel, etc. All these factors make for difficult conditions that border on inhuman and degrading treatment, especially if they are being held incommunicado.

The authorities often refuse to grant permission to visit these places of detention. In 2008, the Yemeni Observatory for Human Rights obtained no visiting permits, except for Hajjah prison. The International Red Cross has been trying to visit centres controlled by the political or national security services since 2007, with no success.

Between January and March 2007, the Parliamentary Committee on Civil Liberties and Human Rights conducted a series of visits in central prisons, detention centers and temporary places of detention in the provinces of Ibb, Dhamar and Al-Bayda. It released its report 16 June 2008.<sup>50</sup>

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<sup>50</sup>Committee of Public Freedoms and Human Rights, *Report of the Committee of Public Freedoms and Human Rights on the results of its visit to the temporary and central prisons and places of provisional detention of the governorates of Ibb and Al Baida*, 16 June 2008.

In particular, the Committee noted overcrowding, the presence of a dozen young children in prison with their mothers, and adolescents aged between 15 and 18 detained with adults.

As for physical conditions, it noted that there was insufficient food, and that prison budgets had been reduced for 2006 compared with previous years, in spite of price increases. The amount of water available to inmates is insufficient; there is a lack of medicine and care, and training for inmates is inadequate, as is the number of staff and security guards.

On the legal front, the Commission notes that prisoners are held beyond the term of their sentence; some are imprisoned for years without trial. A lack of judges in the Al-Bayda region means that cases have accumulated and then been delayed.

In the Prosecutor-General's detention centres, the Commission found high inmate numbers, a lack of hygiene and excessive delays in proceedings. It has also received numerous complaints of abuse during interrogations.

The Commission recommended that the security services and the police respect the Constitution and the laws governing the procedures for arrests and judicial proceedings. It asked that suspects be presented to justice within the time prescribed by law. It also called for prosecutors to comply with the terms set by the law for the handling of cases, and asked that they conduct prison visits. It also demanded that they release those who have served their sentence and that they keep the police, the security services and the judicial police in check so that further abuses can be prevented.

The Commission wishes to see more collaboration between the Ministries of the Interior, Justice, Human Rights, Social Affairs, Labor and Health, the Attorney-General and the head of prisons on the basis of its report. It proposed that a commission be mandated to follow up on the recommendations.

## **9. Torture**

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Domestic law prohibits the use of force or torture to obtain confessions during investigations. "Legislation severely punishes anyone who commits, participates in or orders the commission of an act of torture. It also states that the practice of physical or mental torture at the time of arrest or during detention is completely indefensible".<sup>51</sup> In its Concluding Observations of 5 February 2004, the Committee against Torture deplored the use of torture by security agents, the lack of investigation into these allegations and the failure to prosecute those responsible.<sup>52</sup> Yemeni authorities do not deny that cases of torture exist but argue that these cases are isolated and punished.

But the reality contradicts the assertions of the Yemeni Government. When people are arrested and detained by political security services, they are often subjected to torture and ill-treatment. Solitary confinement is inhuman and degrading. Torture is widely practiced to extract confessions from suspects, which are then recorded in statements to be used against them in court cases.

The authorities claim the victims can file complaints, and that those responsible are punished. Indeed, victims can theoretically bring such cases to the Attorney-General or the relevant court. The Attorney-General may initiate an investigation, but it is rare for those responsible to be punished, especially if they belong to the security services or are influential. The impunity of the perpetrators is a recurring problem.

Victims report that they are beaten while blindfolded, tightly handcuffed for long periods, deprived of food and water as well as threatened with death, etc. The most common forms of torture are punches and kicks, and blows with batons and rifle butts. There are cases of torture by burning with cigarettes; some are hung by the wrists for long periods, and prolonged sleep deprivation as well as isolation are

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<sup>51</sup> Initial Report of Yemen submitted to the Committee Against Torture pursuant to article 19 of the Convention due in 1992, 1 October 2002 (CAT/C/16/Add.10).

<sup>52</sup> Committee Against Torture, 31<sup>st</sup> session, *Concluding Observations of the Committee Against Torture on the initial report of Yemen*, 5 February 2004 (CAT/C/CR/31/4), para. 6(a).



also rife. It should be noted that prison conditions are so deplorable that they constitute a form of abuse in themselves: overcrowded prisons, lack of hygiene and especially lack of medical care.

Women prisoners have reported being raped by officers in womens' prisons.<sup>53</sup> There are reports of unlit underground cells in the political security service prisons. Political prisoners are locked up with death row inmates, others are in isolation. Family visits are often prohibited.

Patients are routinely denied medical treatment, leading to the deaths of many prisoners: according to the Yemeni Observatory for Human Rights, both **Salem Saleh Abu Ash-Shabab** سالم صالح أبو السباب, detained by the Abyan political security services and **Amer As-Suri** عمر السوري, held at Zanjibar Central Prison after being arrested during demonstrations in 2008, died as a result of lack of medical care.<sup>54</sup>

Two other prisoners suspected of belonging to the Houthist movement died in custody or as a result of abuse while they were held. On 20 October 2008, the Al Hududi family stated that their son **Abdelkarim Al-Hududi** عبد الكريم الهدوي died on 12 October, barely 48 hours after his release by security services, due to lack of treatment for an illness contracted in prison. He was arrested in early 2007 and held incommunicado. His family found out that he was being held in Sa'ada prison (سجن الصلاحية بصعدة المعروف بسجن قزحة) only 2 months before his release, which it seems was ordered because of his critical health.<sup>55</sup>

As for **Hashem Hajar** هاشم حجر, his death was announced on 30 September 2007, five months after his arrest. The Special Criminal Court had not authorized his release from prison in Sana'a, despite medical reports highlighting his critical condition. The Coalition of Civil Society (Umam) publicised the fact that the victim's family filed a complaint for murder against the Prosecutor and the Director of the prison in Sana'a.<sup>56</sup>

**Shayef Al-Haimi** شايف الهيمي was arrested in January 2007. During the first months of his detention in a national security service center, he was severely tortured. Upon his release, his right hand, his left shoulder and his legs were paralyzed. At a press conference on 23 April 2007, he reported that the authorities had offered him money to keep quiet. He showed the evidence of his torture. A few days later he was arrested again and brought before the Special Criminal Court. He was released in October 2007 for health reasons.

**Abdullah Al-Rimi** عبد الله الريمي, who was arrested on 3 April 2008, is being held without legal process by intelligence agencies. He was the victim of a misunderstanding, which was acknowledged by the authorities – and the family expected his immediate release. Despite all efforts, and interventions by the Chairman and the Vice-Speaker of Parliament, he has not been released. The family was finally allowed to visit him a few months later, in the presence of members of State security services. They are particularly worried because he showed obvious signs of torture.<sup>57</sup>

**Those arrested in the region of Sa'ada** in January 2007, who had been the subject of a communication from our organisation on 20 September 2007 to the Working Group on Arbitrary Detention, (see above) were held incommunicado in several successive locations. They were questioned by political security services, sometimes for several weeks, without any contact with the outside world and no family visits. They had no access to a lawyer. Most of them reported having

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<sup>53</sup> Hood, the National Organization for Defending Rights and Freedoms. July 1, 2008, cited in Cairo Centre, *State of Human Rights in the Arab Region in 2008: From Exporting Terrorism to Exporting Repression*, December 2008, p.83.

<sup>54</sup> Yemen Human Rights Observatory, *Report on the right to peaceful assembly*, November 2008, p. 14.

<sup>55</sup> Abdel Kareem al-Haduwi, *Another victim of Saleh's jails: Death of a prisoner and Houthi follower in Sa'ada hours after arriving at hospital*, Al-Ishtaraki Net, (20/10/2008) [http://www.aleshteraki.net/news\\_details.php?lng=arabic&sid=4685](http://www.aleshteraki.net/news_details.php?lng=arabic&sid=4685) <<http://www.anhri.net/en/discussion/2004/nchr.shtml>>, (accessed 15 October 2009).

<sup>56</sup> Arabic Network for Human Rights Information, *Press release from the //Civil Society //Coalition (Umum) on the death of detainee Hashim Hajar*, the Coalition of Civil (Umum), (5/10/2007) <http://www.anhri.net/yemen/makal/2007/pr1005-2.shtml> (accessed on 15 October 2009).

<sup>57</sup> Alkarama communiqué, *Arbitrary arrest and detention without due process of law by Mr Abdullah Al-Rimi*, 8 August 2008, [http://en.alkarama.org/index.php?option=com\\_content&view=article&id=129:yemen-arbitrary-arrest-and-detention-without-due-process-of-law-by-mr-abdullah-al-rimi&catid=40:communiqu&Itemid=216](http://en.alkarama.org/index.php?option=com_content&view=article&id=129:yemen-arbitrary-arrest-and-detention-without-due-process-of-law-by-mr-abdullah-al-rimi&catid=40:communiqu&Itemid=216) (accessed 15 October 2009).

spent the first days of incommunicado detention in harrowing conditions, blindfolded and handcuffed. Some say they were beaten and forced to sign documents they had not read.

The authorities do not acknowledge allegations of torture, and so no investigation takes place. Perpetrators are rarely prosecuted or convicted.

## **9.2 Forcible return to countries where torture is systematically practiced**

The Human Rights Committee also noted that foreigners suspected of terrorism were deported without an opportunity to legally challenge the measures taken against them. The Yemeni Government responded to these allegations in its last periodic report to the Human Rights Committee and sought to justify its draconian measures: "The country understands that the government has to present a united front in the fight against this dangerous phenomenon and, therefore, everyone agreed to place the national interest above any other consideration to support the effort against terrorism."<sup>58</sup>

Foreigners suspected of terrorist activities are deported even if they are acquitted.

Despite being party to the Convention against Torture since 5 October 1991, Yemen has deported non-nationals to countries where there is an objective reason to fear that they will be subjected to torture or inhuman and degrading treatment.

In February 2004, Yemen handed over at least 23 Egyptian nationals who had been sentenced to death in absentia in their country to Egyptian intelligence. They included Seid Imam Abdulaziz Al Cherif, Mohamed Abdelaziz Al Jamal, Athman Al Semman, Tarek Naim Abdelajawed, Hilmi Shaaban and Fawzi Mohammed Atta. They were arrested on their arrival in Egypt and held in secret, which meant our organisation was unable to obtain any information about them.

On 17 July 2007, nine people: eight soldiers and a civilian, Farj Athmane Mohamed, Mohamed Abdou Lahada, Gebrait Dwit Hailé Makele, Jamal Mahmoud Al Amine, Serradj Ahmed Daoud, Yassine Athmane Amar, Abdullah Ibrahim Mahmoud, Barkhat Yohanes Abraha and Mohamed Ahmed Abdullah, all of Eritrean nationality, fled their country aboard a military vessel and landed at the port of Midi in the north of Yemen, where they surrendered themselves to the authorities. They were nevertheless placed in a detention center pending deportation. There was no opportunity to apply for asylum or legally challenge their expulsion. They were finally deported back to their country in September and our organization has remained without news of them since.<sup>59</sup>

Two brothers, Ahmed Ahmed Abdelwahab Abdelghani and Mohammed Abdelwahab Abdelghani Khiti, of Syrian nationality, had traveled to Yemen in late 2001 to begin their studies at the University of Science and Technology. On 16 September 2003, they were arrested by political security with seven other men suspected of terrorist activities. After 17 months of harrowing detention in Sana'a prison, they were presented before the Special Criminal Court with the trial lasting until February 2006. Ahmed was sentenced to two years and 5 months, which he had already served, so he was freed and forced to leave the country. His brother received 3 years and 4 months. Ahmed Khiti was wanted in Syria and had no travel documentation - Yemeni officials had confiscated it. As for Mohammed, he was arbitrarily detained in the Political Security Department's prison after serving his sentence.

## **9.3 Detainees from Guantanamo, Baghram and other prisons**

The Yemeni Government has stated its intention to look after former inmates of the U.S. base at Guantanamo. There is even talk of providing a support centre. But many observers and human rights

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<sup>58</sup> The fourth periodic report of Yemen submitted to the Human Rights Committee pursuant to article 40 of the International Covenant on Civil and Political Rights, 21 July 2004 (CCPR/C/YEM/2004/4).

<sup>59</sup> Alkarama communiqué, *Yemen: Arrest and detention of 9 Eritrean asylum-seekers*, 8 August 2008, [http://en.alkarama.org/index.php?option=com\\_content&view=article&id=47:yemen-arrest-and-detention-of-nine-eritrean-asylum-seekers&catid=40:communiqu&Itemid=216](http://en.alkarama.org/index.php?option=com_content&view=article&id=47:yemen-arrest-and-detention-of-nine-eritrean-asylum-seekers&catid=40:communiqu&Itemid=216) (accessed 15 October 2009).



defenders have expressed doubts about the authorities' actual intentions and fear that these prisoners will be subjected to abuse and receive long prison sentences once back in their country.

In July 2009, around a hundred Yemenis were still imprisoned in Guantanamo. Apparently, a further two are in the U.S. detention center at Bagram in Afghanistan and two others are in an American prison.

In the opinion of U.S. authorities, these prisoners have been 'freeable' for months, provided that Yemen ensures their control and rehabilitation. They accuse the Yemeni authorities of quickly releasing the ex-prisoners, which they clearly still regard as "enemy combatants," even though no charges were ever brought against them.

In practice, however, the Yemeni Government treats former detainees of Guantanamo and other secret U.S. prisons as criminals: when they return, they are held by political security for long periods. This was the case for **Walid Muhammad Shahir Muhammad al-Qadasi** وليد محمد شهير محمد الغادسي, who was transferred from Guantánamo Bay to Yemen in April 2004. He was finally released in 2006, after two years of arbitrary detention without legal process.

So far 20 prisoners have been repatriated: 14 were transferred from Guantanamo and 4 from other secret U.S. prisons. The bodies of two prisoners, who according to US authorities committed suicide, have also been returned to their families. In the case of Mr Ahmed Abdullah Ali, who died on 10 June 2006, at the same time as two other Saudi inmates, the family of the victim asked Alkarama to help organize an independent autopsy, since they refused to believe that Mr Ali had committed suicide.

Our organization appointed a medical team headed by Prof. Patrice Mangin, director of the Lausanne Institute of Forensic Medicine to conduct the autopsy, which was conducted on 21 June 2006 at the military hospital in Sana'a. The Swiss medical team's autopsy contained a number of observations that raised questions about the real causes of death.

The U.S. authorities failed to cooperate with the Swiss medical team – they did not provide information needed to shed light on the causes of death. As a consequence, Alkarama sent this case to the Special Rapporteur on Extrajudicial Executions.<sup>60</sup>

The lack of official reactions from the Yemeni Government in situations where its citizens are victims of violations of their fundamental rights should be noted.

## **10. Conclusions and recommendations:**

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The alarming human rights situation in Yemen is a result of several internal factors: local conflicts in the north and south of the country, the economic situation and the nature of power. External influences include pressure from the United States to participate in the war against global terrorism.

While Yemen has made significant progress on the legislative front, no concrete steps to improve the human rights situation have been taken since the previous periodic report. On the contrary, the situation seems to have taken a dangerous turn for the worst.

The lack of an independent judiciary, the absence of civilian control over structures set up to fight against terrorism and the lack of punishment for perpetrators are key factors in the perpetuation of torture in Yemen.

To put an end to this practice, the Committee should strongly urge the State to:

1. Take adequate measures to ensure true independence of the judiciary.

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<sup>60</sup> Alkarama communiqué, *US: Ahmed Ali Abdullah's death in detention at the Guantanamo Bay Camps*, 29 May 2007, [http://en.alkarama.org/index.php?option=com\\_content&view=article&id=20:us-ahmed-ali-abdullahs-death-in-detention-at-the-guantanamo-bay-camps&catid=16:communiqu&Itemid=162](http://en.alkarama.org/index.php?option=com_content&view=article&id=20:us-ahmed-ali-abdullahs-death-in-detention-at-the-guantanamo-bay-camps&catid=16:communiqu&Itemid=162) (accessed 15 October 2009).

2. Bring all places of detention, including the institutions of security policy and national security, under civilian control and allow the International Committee of the Red Cross and an independent national body to visit without restriction.
3. Formally prohibit all centers or places of detention that do not fall under state authority.
4. Ensure that all detainees are held in humane conditions.
5. Establish a rigorous application of the provisions of the law and procedures relating to arrest and custody.
6. Establish and enforce strict procedures for the registration of detained persons and the immediate notification of their families of their place of detention. These procedures should also outline the possibility of the family's visit, as well as the nomination of a doctor for their medical examination at the end of the legal period.
7. Institute the automatic appointment of a physician, chosen by the victim or his family, in cases of alleged torture or ill-treatment.
8. Conduct investigations into all allegations of torture and make the results public, with details of crimes committed, the authors' names, dates, places and circumstances of the incident and the penalties imposed on perpetrators and those responsible.
9. Guarantee the right of torture victims to file complaints without fear of reprisal or persecution of any kind, even if the results do not prove their allegations, and to seek and obtain redress if those allegations are confirmed.
10. Amend the relevant legislation to ensure that no statement obtained by torture is used in court proceedings, except against the person accused of torture.
11. Consider ratifying the Optional Protocol to the Convention against Torture of 18 December 2002.

Alkarama hopes that the information provided in this submission will be useful in the Committee's review of Yemen's third periodic report. We remain available should the Committee request or require any further information relating to matters raised in this submission, or for any other matter.

Alkarama will continue to monitor compliance by the Yemeni Government concerning its obligations under the Convention Against Torture, including implementation of the Committee's concluding observations, as they relate to our areas of work.