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amnesty international

YEMEN
Ratification without implementation: the state of human rights in Yemen

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Yemen remains a major human rights violator despite the fact that it has ratified or acceded to most human rights treaties and incorporated many of their safeguards into its domestic legislation. Gross human rights violations have been committed since the country became a party to those treaties, affecting thousands of people, and ranging from arbitrary political arrests to extrajudicial execution and "disappearance" of suspected government opponents and critics, as well as discrimination against women. They have occurred and continue to occur for a range of reasons, including the impunity enjoyed by the perpetrators, particularly the Political Security (PS) branch of the security forces, and state enforcement of legislation which is inconsistent with Yemen's solemn obligations under international human rights treaties.

Suspected political opponents to the government and critics of the state are frequently targeted for arbitrary arrest and administrative detention, which is invariably followed by lengthy incommunicado detention, during which detainees are denied access to families and lawyers. Such conditions have facilitated the systematic use of torture in Yemeni prisons and detention centres, which in some cases has been alleged to be the main or contributory factor of deaths in custody. Other political suspects have been subjected to abduction and beatings. Political trials are rare, but they invariably fall far short of international standards when they do occur.

Serious human rights abuses, such as deliberate and arbitrary killings, have been committed by armed political groups, in some cases against civilians, apparently on the basis of their political or religious beliefs. In other cases, perpetrators committed abuses such as torture in circumstances clearly suggesting that they were acting with the acquiescence of security forces.

The judicial punishments of flogging, amputation and other bodily mutilation, formerly limited to the Yemen Arab Republic (YAR) have been extended to the whole Republic of Yemen, where flogging is widespread and amputations are still imposed after unfair trials.

"Disappearance" and extrajudicial execution have over the years been used as tools in political struggles and have affected the lives of hundreds of people. These patterns of human rights violations have largely been perpetuated by the reluctance of successive governments to stamp them out by effective measures of redress and prevention.

The use of the death penalty has on average steadily increased since the establishment of the Republic of Yemen. Hundreds of people are currently reported to be on death row, contrary to world trends towards restriction and finally abolition of this cruel punishment.

Women have over the years fallen victim to various patterns of human rights violations. Some such violations are similar to those suffered by men. Others are specific to women, based on sexual discrimination and the status of women as a vulnerable group in society. Such violations are contrary to Yemen's obligations under the Convention on the Elimination of All Forms of Discrimination against Women. They are also contrary to its Constitution and other domestic laws.

Protection of refugees in Yemen is in theory guaranteed by the 1951 Convention relating to the Status of Refugees, and by the country's Constitution. However, government policy and practice have often violated the standards of the Convention and the Constitution, with large scale deportations which included people under the protection of the UN High Commissioner for Refugees, and the denial of access to fair and satisfactory asylum procedures for other asylum seekers.

Amnesty International has over the years urged successive governments to take effective remedial and preventive measures to bring Yemen's human rights record in line with international human rights standards. The organization's latest appeal in this respect took place in July 1996 when an Amnesty International delegation held talks with the government based on a detailed memorandum. The government gave significant undertakings to address some of the patterns of human rights violations but remained reluctant on others. However, no practical measures appear to have been taken since then to give substance to these undertakings. The organization is reiterating its appeal to the government to implement the recommendations contained in the report.

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INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 8DJ, UNITED KINGDOM

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I. INTRODUCTION

In a letter dated 19 October 1996 addressed to the Secretary General of Amnesty International, Dr Abdul Karim al-Eryani, Yemen's Deputy Prime Minister and Minister of Foreign Affairs wrote:

> "I have received a press release issued by Amnesty International following the recent visit to Yemen. I was surprised at the harsh criticism of my country's human rights record mentioned in this document....While the Yemeni Government is trying to correct any mistakes in this field that might have happened without its knowledge, and prevent their recurrence in the future, it is really sad and painful to see a well respected organization like Amnesty International engaging itself in criticising my country without bothering, on the other hand, to mention the remarkable development and tremendous steps taken by my government in this field."

Yemen has, in theory, made encouraging progress in the field of human rights. Yemen has become a State Party to most major human rights treaties, and has incorporated in its domestic legislation a number of internationally recognized human rights standards. In practice, however, the Yemeni Government remains a major violator of the principles enshrined in the treaties it has ratified, including the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), as well as the new safeguards it has incorporated in its legislation. Gross human rights violations have been committed since the country became a party to those treaties, affecting thousands of people, particularly political opponents and critics of the state. They have occurred and continue to occur for a range of reasons, including the impunity enjoyed by the perpetrators, particularly the Political Security (PS) branch of the security forces, and state enforcement of legislation which is inconsistent with Yemen's solemn obligations under international human rights treaties. This assessment of the human rights situation is backed up by evidence of a wide spectrum of violations, ranging from political arbitrary arrest to extrajudicial execution and "disappearance" of suspected government opponents and critics as well as discrimination against women.

Those suspected of political opposition and critics of the state are frequently targeted for arbitrary arrest and administrative detention, particularly by the PS, acting beyond any judicial control or supervision and with total disregard for Yemeni laws and international human rights standards. Arbitrary arrest by the PS is invariably followed by lengthy

incommunicado detention, during which detainees are denied access to families and lawyers. Such conditions have facilitated the systematic use of torture in Yemeni prisons and detention centres. In some cases torture has been alleged as the main or contributory factor of deaths in custody. Detainees are also denied access to judges, so the legality of their detention cannot be reviewed.

Political trials are rare in Yemen, but when they take place they invariably fall far short of international standards for fair trial. There are at least 21 people currently held, most of them under sentence of death, imposed after grossly unfair hearings. One of them, Mansur Rajih, a prisoner of conscience, has been held under such conditions for 14 years.

Government opponents and critics of the state have also fallen victim to abduction and beatings. Political suspects have been abducted from their homes or in the street and severely beaten to stop them criticizing the government. Evidence suggests that these abuses were committed by security forces, particularly the PS.

Serious human rights abuses, such as deliberate and arbitrary killings, have been committed by armed political groups, in some cases against civilians, apparently on the basis of their political or religious beliefs. In other cases the perpetrators committed abuses such as torture in circumstances clearly suggesting that they were acting with the acquiescence of security forces. If this is so, the Government of Yemen is legally responsible for such abuses.

The judicial punishments of flogging and amputation and other bodily mutilation, previously limited to the former Yemen Arab Republic (YAR), have been extended to the territory of the former People's Democratic Republic of Yemen (PDRY) following promulgation of the first Penal Code under the Republic of Yemen, which was established in 1990 when the YAR and PDRY were unified into a single state. Sentences of flogging, carried out daily, and amputation, implemented in at least one case, are imposed after unfair trial in contravention of Yemen's international human rights obligations which prohibit such cruel, inhuman and degrading punishments.

Extrajudicial execution has been used to silence dozens of political opponents, since the country's unification in 1990. In the few cases where the government was reported to have carried out investigations these have failed to meet international standards and no findings are known to have been made public.

The whereabouts of hundreds of people who "disappeared" in the former PDRY and YAR, and since the establishment of the Republic of Yemen remains unknown to both the victims' relatives and to Amnesty International. No investigations or inquiries are known to have been carried out to clarify the fate of these victims and to bring to justice those responsible.

The use of the death penalty in the Republic of Yemen is increasing, contrary to the international trend towards restriction and abolition of this ultimate form of cruel, inhuman and degrading punishment. Following promulgation of the new Penal Code in October 1994, the death penalty was retained for a wide range of offences, many of which could include activities relating solely to the peaceful expression of conscientiously held beliefs. Hundreds of people are currently reported to be on death row. In those cases known to Amnesty International, prisoners were sentenced to death after trials in which international standards for fair trial were flagrantly disregarded. The number of executions since the establishment of the Republic of Yemen in 1990 has steadily increased every year.

Women have fallen victims to some of these patterns of human rights violations, as well as suffering other violations based on sexual discrimination which are sustained by law or tradition. Yet Yemen is a State Party to the Convention on the Elimination of All Forms of Discrimination against Women.

Yemen is also a State Party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and Article 45 of its Constitution forbids the extradition of political refugees.[1] However, government policy and practice have, in many respects, violated the standards of the Convention and the Constitution. There have been large scale deportations of foreign nationals and hundreds of people have been denied access to fair and satisfactory asylum procedures to enable them to exercise their right to seek asylum. Some have been forcibly returned to countries where they were at risk of serious human rights violations, even though they were under the protection of the United Nations High Commissioner for Refugees (UNHCR). Others were subjected to arbitrary arrest, detention and torture or ill-treatment.

Amnesty International has over the years urged the government to take appropriate remedial and preventive actions against human rights violations and to fulfill Yemen's obligations under international human rights treaties. The most recent initiative by the organization took place in June 1996 when it submitted to the government a memorandum detailing over 300 cases of human rights violations and recommendations designed to redress and prevent such human rights violations in Yemen. A month later, the organization sent a high level delegation to Sana'a which held talks with ministers and other government officials on the basis of the memorandum. The talks were guided overall by a spirit of frankness and cooperation. On some issues raised in the memorandum the government agreed to take significant steps to remedy the situation. On others it appeared unwilling or reluctant to take action.

The government undertook to provide Amnesty International with a detailed response to all the cases and issues raised in the memorandum by the end of August 1996.

[1] Article 45 of the Constitution states "It is forbidden to extradite political refugees".

The organization asked for such a response so that it could accurately reflect the government's views and comments. In December 1996 Amnesty International sent a further communication to solicit the government's response. As of February 1997 no response had been received. This report is therefore based on the memorandum and reflects the outcome of the talks between Amnesty International's delegation and the government. It is being put on the public record to show that while some progress has been made by Yemen in the field of human rights, significant areas remain of continuing concern to Amnesty International. It also contains detailed recommendations designed to redress and prevent various patterns of human rights violations. Amnesty International is appealing to the Government of Yemen to implement these recommendations without further delay and to take a leading role in the promotion and protection of human rights in the Middle East.

II. PRISONERS OF CONSCIENCE AND UNFAIR TRIAL OF POLITICAL PRISONERS

The rights to freedom of expression and association are guaranteed by the Constitution and other domestic laws as well as international human rights treaties. In practice the exercise of these rights is severely curtailed. Government critics and non-violent political dissidents are frequently subjected to arbitrary arrest and detention, long-term detention without trial, or imprisonment after unfair trial. Hundreds of prisoners of conscience and political prisoners have been subjected to such human rights violations since 1990.

1. Arbitrary arrest and detention on political grounds

Political arrests are carried out by different security forces, particularly the PS. In doing so, security forces act beyond judicial control and in flagrant violation of Yemen's domestic laws which are applied to ordinary criminal cases. Suspects are routinely arrested without warrant, held incommunicado for weeks or months and denied access to lawyers and judges. In some cases detainees were denied access to local and international human rights bodies, including Amnesty International. Detainees are often tortured.

This pattern of human rights violations was practised on a large scale by the PS in the former PDRY and YAR, but was significantly reduced during the period between the unification of the country in May 1990 and the outbreak of the civil war in May 1994. However, with the outbreak of the civil war, arbitrary arrest on political grounds became common practice again.

Victims include individuals suspected of illegal political activities, such as having links with the National Front for the Opposition (MOG), members of legal political parties, journalists and businessmen.

Those targeted for arrest on suspicion of illegal political activities include **Nabil Ahmad 'Abd al-Karim al-'Amudi** and **'Adil 'Ali Ahmad Mahdi al-Yazidi,** who were among a group of students from the University of Aden arrested in May 1995 and detained without charge or trial for about four months before being released. They were all held at the PS headquarters in Aden where most were allegedly tortured during interrogation. They were suspected of political activities in connection with MOG. An Amnesty International delegate visited them after they had spent several weeks in detention in May 1995 and found that they had been denied access to lawyers, and had at no time been brought before a judge to challenge the lawfulness of their detention. The delegate raised their case with the Attorney General of the Republic (*al-Na'ib al-'Am*), in Sana'a, who undertook to examine the legality of their detention. However, they continued to be held under the same conditions until August 1995 when they were released after being forced to sign undertakings not to carry out any political activities.

'Abdullah Muhammad Mustafa 'Ajina, reportedly a former member of the PS, and **'Abd al-Qadir 'Umar al-'Aqili**, an administrator at Aden University, were arrested by the PS in November 1995. The former was reportedly suspected of having links with a political party and was detained in the PS headquarters in Sana'a where he may be still held. The latter is said to have been suspected of having links with MOG and detained in the PS headquarters in Aden until December 1996 or January 1997, when he was released, reportedly without charge or trial. During a meeting with the Governor of Aden in July 1996 Amnesty International delegates requested to visit 'Abd al-Qadir 'Umar al-'Aqili. The Governor agreed to arrange this and asked the delegates to call him later for details. However, when they called him as agreed they were told that he had left the office and no details or explanation regarding access were provided. Amnesty International delegates asked the Deputy Head of the PS during a meeting at the Headquarters of the PS in Sana'a to facilitate access to 'Abdullah Muhammad Mustafa 'Ajina, but were told to arrange this through the Ministry of Foreign Affairs. A representative from the Ministry of Foreign Affairs who attended the meeting undertook to arrange the visit but failed to do so without providing explanation. The delegation subsequently received reports that the detainee had apparently been denied access to a delegation from the Yemeni Parliament which visited other detainees held in the same place. Amnesty International fears that its delegates may have been denied access to the two detainees in order to conceal information about torture, ill-treatment or other human rights violations which the prisoners may have suffered or witnessed.

Members of legal political parties subjected to similar arrest and detention included up to 60 members of *Hizb al-Haq*, which had two elected members of parliament, who were arrested in Sana'a in August 1994 and held for lengthy periods. Some were released in November 1994, but others remained in detention until early 1995 when they were released uncharged. Scores of members of other legal political parties have been arrested, such as **Hassan Ahmad Ba'um**, a 56-year-old member of the Yemen Socialist Party (YSP) in

Hadramout. He was arrested on 4 January 1996 from his home and detained for a week before he was released uncharged. The reason for his arrest was reportedly related to his organizational activities within his party.

Dozens of journalists have been similarly detained. **Fadhl 'Ali Mubarak**, a journalist with the daily newspaper, *14 October*, was arrested with others by the PS in January 1995 in Abyan after they issued a leaflet criticizing the government's failure to implement the general amnesty announced by President 'Ali 'Abdullah Saleh during the civil war in 1994. They were detained for over a month before they were released uncharged. In May 1995, Fadhl 'Ali Mubarak was rearrested, together with another group of people, including **Hussein Muhammad Nasser**, President of the Union of Journalists in Abyan. This time Fadhl 'Ali Mubarak was suspected of having links with MOG and detained with the others for over a month in the headquarters of the PS in Abyan before being released uncharged.

Ibrahim Hussein Muhammad al-Basha, a writer and journalist, was arrested from his home in Sana'a at 1am on 27 May 1995. He was taken by a group of armed men belonging to the PS. His family was not informed of the identity of those who took him, where he was being taken or the reasons for his arrest. Amnesty International delegates who were in Sana'a at the time learned of his arrest, and visited the PS headquarters at 11am on 27 May 1995 where they met the Deputy Head of the PS. They inquired about political detainees held in the PS headquarters in Sana'a, including Ibrahim Hussein Muhammad al-Basha. They were told that no political detainees were held there and no one named Ibrahim Hussein Muhammad al-Basha was detained. In a meeting with the Attorney General shortly afterwards, the delegates inquired about the warrant for the arrest of Ibrahim Hussein Muhammad al-Basha, but were informed that no such warrant had been issued. In fact the office of the Attorney General appeared unaware that the arrest had taken place. The Attorney General immediately contacted the Ministry of Interior about Amnesty International's inquiry. A day later Ibrahim Hussein Muhammad al-Basha was transferred to the Public Prosecution where he was interrogated about an article he had published in the weekly newspaper *al-Thawri*, and was released shortly afterwards without charge.

Hundreds of businessmen have been targeted for arrest and detention reportedly because their business activities were perceived to have political significance. They included over 500 money changers detained following mass arrests in March 1995 by members of the PS. They were held for weeks without charge or trial and without access to lawyers or judges before they were released. They also included **Amin Ahmad Qassim** and **'Awadh 'Ali 'Abd al-Habib** who were arrested in June and July 1994 respectively, on suspicion of having business connections with the YSP.

Amin Ahmad Qassim was arrested in June 1994, during the civil war, by members of the PS who called at his home and took him to the PS headquarters in Sana'a where they

interrogated him about his YSP investments and held him for five days. In November 1994 they put him under house arrest and on 3 December took him into custody again. On 10 January 1995 he was released from custody and placed under house arrest until June 1995, when he was released. During this period his business lawyer, his son and employees were also detained. He was denied access to a lawyer or judge and was never charged with any criminal offence.

'Awadh 'Ali 'Abd al-Habib was suspected of business dealings with the YSP and repeatedly arrested and detained between July 1994 and February 1995. The first arrest took place on 27 July 1994 and was reportedly carried out by Dar Sa'd police in Aden, who detained him for 20 days, during which time he was allegedly beaten. In about October, 15 soldiers went to his house at night looking for him. When they did not find him they apparently took his father as hostage. The next day he gave himself up to the PS and his father was released. During his initial detention by the PS he was reportedly interrogated from 9pm until 6am for five successive nights. During the interrogations he was apparently faced with a number of accusations which included being in possession of money belonging to the YSP and involvement in armed militia activities. He remained in detention without charge or trial and his house and other belongings were confiscated. He was released in February 1995 without charge.

Yemen's Constitution and Code of Criminal Procedures (CCP) are in many aspects consistent with international human rights standards regarding arrest and detention, particularly Articles 9 and 14 of the ICCPR. They prohibit arbitrary arrest, guarantee suspects adequate rights while in detention, and stipulate punishment for those who violate these provisions. However, arresting authorities, particularly the PS, consistently disregard these provisions when carrying out arrests and detention of political suspects. They do so beyond any judicial control and are accountable only to the President. In practice they can and do act with total impunity.

Domestic laws which prohibit arbitrary arrest and lengthy detention without trial include Article 47 of the Constitution and Articles 7 and 11 of the CCP. Article 47 (b) of the Constitution categorically prohibits the arrest, search or detention of anyone unless one of two conditions is met. One is that an arrest order must be issued by a judge or the prosecution. The other is in situations of *flagrante delicto*, when the suspect is caught red-handed. Article 7 of the CCP provides that arrest is not permitted except for acts punishable by law. Article 11 provides that individual freedom is protected and that a citizen can be accused of a crime or have their freedom restricted only by order from the competent authorities in accordance with the law.

However, in the overwhelming majority of the cases highlighted above, the individuals were arrested for peacefully exercising their conscientiously held beliefs as guaranteed under Article 41 of the Constitution. This states that:

> "Every citizen has the right to participate in the political, economic, social and cultural life of the country. The State shall guarantee freedom of thought and expression in speech, writing or photography within the limits of the Law."

In addition, to Amnesty International's knowledge, none of these individuals were charged with any recognizably criminal offence under the Penal Code.

The method of arrest is regulated by Articles 70, 72 and 73 of the CCP, which provide important safeguards against arbitrary arrest. Under Articles 70 and 72, the arrest must be carried out with a written and signed order from the competent authority. The order may also be oral, but this is allowed only when the arrest is carried out in the presence of the authority competent to issue the arrest order. Article 73 requires that the suspect must be informed immediately of the reasons for the arrest, and guarantees the suspect's right to see the order of arrest.

The law also provides significant safeguards against arbitrary detention. According to Articles 73 and 77 of the CCP, a suspect is entitled to inform anyone they wish of their detention and to seek the assistance of a lawyer. Article 77 further requires that if the suspect is unable to decide who to inform, the arresting authority must inform his or her relatives or other concerned parties. Article 76 of the CCP and Article 47(c) of the Constitution require that any arrested suspect must be brought before a judge or the prosecutor within 24 hours of arrest. The judge must explain to him or her the reasons for arrest and give him or her the opportunity to challenge the lawfulness of the detention. Detention beyond 24 hours may be extended by a judicial order, but should not exceed seven days. Violation of these safeguards is punishable by imprisonment under the Penal Code.

The responsibility of ensuring implementation of all these safeguards is vested in the public prosecutors in courts throughout Yemen under the supervision of the Attorney General. It is also the responsibility of the prosecution to bring to justice any official who breaches the above provisions. However, in practice these institutions are, as a rule, subordinated to arresting authorities, particularly the PS which carries out arrests and detention of political suspects as described above, in disregard of the rule of law. This reality is supported by evidence from internal human rights bodies as well as Amnesty International's own information.

Evidence from internal human rights bodies include the findings of a commission appointed by the Yemeni Parliament in April 1995 to investigate the mass arrest and detention by the PS of money changers, businessmen and other political suspects (see above). The commission found that the arrests were carried out without a warrant from the Public Prosecution, the detainees were held incommunicado, detained for weeks without

access to the Public Prosecution or the judiciary, and that some of them were ill-treated in the headquarters of the PS. It called on the parliament to question the government and the Head of the PS about the violations. It also recommended that the government assist the Public Prosecution to investigate which members of the PS were responsible for the violations and to ensure they were brought to justice. The commission's recommendations have not been implemented.

Similarly, in a number of cases Amnesty International found that the Attorney General's office had no information about detainees who had been in detention at the PS headquarters for months. In at least one case, that of 'Abdullah Muhammad Mustafa 'Ajina, the Attorney General seemed to have learned about his case from the detainee's family some nine months after his arrest. This is illustrated by a letter the Attorney General addressed to the Head of the PS on 2 July 1996, the day he met Amnesty International's delegation, which asked to be informed of the reason for the detention of 'Abdullah Muhammad Mustafa 'Ajina.

Amnesty International believes that arbitrary arrest is a common practice largely because the PS is accountable to no one except the Office of the President of the Republic, the highest executive authority in the country. As a consequence, victims of arbitrary arrest have no real opportunity to seek redress. Amnesty International believes that any solution to address this serious pattern of human rights violations must start with the introduction of effective accountability and judicial control over all arrest and detention proceedings.

2. Unfair trial of prisoners of conscience and political prisoners

Most prisoners of conscience are subjected to arbitrary arrest and detention without trial and then released uncharged as described above. However, there are currently at least 21 political prisoners, including one prisoner of conscience. Most of them are under sentence of death. All 21 were arrested in the 1980s as members of the former *al-Jabha al-Wataniyya al-Dimuqratiyya,* National Democratic Front (NDF), an opposition organization in the former YAR. They were convicted of murder after hearings which fell far short of international standards for fair trial.

The prisoner of conscience, **Mansur Rajih**, a 39-year-old writer and poet from the province of Ta'iz, has been in prison for 14 years and is under sentence of death. Although he was convicted on murder charges, these are believed to have been trumped up charges used to punish him for his political views. His conviction and sentence were secured despite gross inconsistencies in the prosecution evidence and trial irregularities. Firstly, he was detained for six months in 1983 reportedly on political grounds before he was released uncharged. Eight days later on 8 July 1983 he was rearrested and for nine months he was repeatedly subjected to various forms of torture in order to force him to confess to criminal charges, including murder, and to give information about the activities and leadership of the

NDF before he was finally tried in March 1984 on murder charges. Secondly, at his trial, three prosecution witnesses, who only came forward several months after the murder was committed, gave contradictory accounts of the events in question. When two of them failed to identify Mansur Rajih in court, the judge ruled that this was because of the confusion and their "poor eye-sight". Thirdly, defence witnesses, among them relatives of the murdered victim, asserted that the three prosecution witnesses were not present at the scene of the crime. In fact, two defence witnesses testified that they personally had informed two of the prosecution's witnesses about the murder in the first place. The judge ruled that the defence witnesses were "mentally ill", and their testimonies were deemed inadmissible. Two other witnesses also testified that they were present with the accused elsewhere at the time of the murder, thus providing him with an alibi. One of them was threatened in order to force him to alter his testimony. When he refused, he was detained for six months without charge or trial.

Mansur Rajih

Despite these gross inconsistencies and contradictions in the evidence, Mansur Rajih was found guilty of murder and sentenced to death. His sentence has been upheld on appeal and is pending ratification by the President. [2]

The other 20 prisoners were also convicted and sentenced after hearings which failed to meet international standards for fair trials, in particular Articles 9 and 14 of the ICCPR. In some cases the prisoners were tried *in absentia* even though they were in detention at the time of their trial. In others the prisoners were not informed of the charges against them. Many were denied access to legal counsel while in pre-trial detention or even during the trials. In cases where the prisoners were represented by lawyers, the defence was reportedly denied the opportunity given to the prosecution of calling and cross-examining witnesses. Furthermore, in most of the trials, evidence suggests prosecution witnesses may have been guided by political motives against the defendants rather than the truth. In addition, some of the prisoners may have been convicted solely on the basis of confessions

[2] More details about the trial of Mansur Rajih are to be found in Amnesty International's report *Mansur Rajih: a prisoner of conscience* (AI Index: MDE 31/03/92)

extracted under torture, the use of which as testimony against the prisoner is a direct violation of the CAT.[3]

Amnesty International has repeatedly brought these unfair trial practices to the attention of the government. On 1 May 1992, 27 members of the former NDF, including 16 who had been sentenced to death under similar conditions as the 21 above, were released and their sentences were quashed by presidential decree. However, despite the inconsistencies detailed above, the government continues to reject Amnesty International's appeals for the release of Mansur Rajih, and for full judicial reviews of the other cases with the aim of providing the prisoners with a fair retrial in accordance with Article 14 of the ICCPR and other relevant standards. In a letter addressed to Amnesty International in August 1995 about the 21 prisoners, the Attorney General and the Minister of Foreign Affairs stated that:

> "While appreciating your unrelinquished efforts in following up these cases, we would like to draw your attention to the fact that those people mentioned in your letters are convicted criminals, and not prisoners of conscience as you may think.
>
> Those people were given fair trials in civilian criminal courts in accordance with the common judicial process. Their cases were tried in courts of first instance, then in courts of appeal. Sentences of some of them have been approved by the Supreme Court.
>
> It seems that some of your sources of information are not credible. Some political parties or groups have tried to present some of their imprisoned members or followers as prisoners of conscience. The case is true with the former National Democratic Front (NDF), a former terrorist group that existed in the early 1980s, with the support of the former People's Democratic Republic of Yemen (PDRY). The government of Yemen pardoned all its members except those who committed crimes."

The Minister of Foreign Affairs has since taken initiatives to seek to resolve the case of Mansur Rajih. Specifically, he has sought to convince relatives of the victim to accept blood money instead of the death penalty. Agreement by relatives of the deceased in this respect would result in the release of Mansur Rajih, but this had not been achieved at the time of writing. In the meantime, he remains held in Ta'iz Central Prison and is suffering

[3] The cases of these prisoners are detailed in Amnesty International's report *Unlawful Detention and Unfair trials of Members of the Former National Democratic Front* (AI Index: MDE 31/04/93).

from ill-health. The organization regrets that the government remains reluctant to address its concerns about the cases of the other 20 in accordance with Yemen's obligations under international human rights treaties. The organization is once again appealing to the government to release Mansur Rajih and to initiate full judicial reviews of the cases of the other prisoners in accordance with international fair trial standards, or release them.

III. ABDUCTION AND BEATING

Suspected political opponents and critics of the state who escape arrest and detention may nonetheless live in fear of life-threatening reprisals, and dozens have been subjected to abduction and beating. In all such cases monitored by Amnesty International a similar pattern has emerged. Abducted by unidentified groups, the victims have been taken to isolated areas, severely beaten and then abandoned. In cases where the abduction failed, the victims were attacked before the abductors ran off.

It appears that this pattern of abuse is adopted to conceal state involvement. The attacks are made to appear like the work of conventional criminal gangs. However, the analysis of the sample cases below provides strong indicators that state security forces, particularly the PS, may be the instigators of the attacks. These indicators relate to: the category of the victims; the fact that no money or valuables are stolen; the identity of some of the perpetrators and their motives; the timing of the abductions and beatings; and the government's reluctance to investigate or take action to prevent such violations.

1. Cases

The people below were all abducted and beaten between December 1994 and December 1995. Their cases were submitted by Amnesty International to the government in 1996 requesting investigation, redress and introduction of preventive safeguards. They are reproduced here as sample cases illustrating this pattern of abuse.

- **Dr Abu Bakr Al-Saqaf**, a 62-year-old professor of philosophy at Sana'a University and **Zayn al-Saqaf**, Director of the Institute for Banking Studies in Sana'a, a poet and former judge.

Dr Abu Bakr al-Saqaf was severely beaten twice during 1995. The first time was on 13 January 1995. He was abducted together with his friend, Zayn al-Saqaf, from outside his house in al-Madina al-Sakaniya in Sana'a by five armed men riding in two Toyota cars with no registration plates. One car was large and of the kind used exclusively by the state's armed forces. The other was small and of the type used mainly by employees of the Ministry of Interior. Both men were returning home in Zayn al-Saqaf's car after a meeting with friends at Maqyal al-Ayam, a qat-chewing club. The five assailants were armed with

automatic weapons as well as thick sticks and iron bars. One was wearing a military uniform and the other four were in civilian clothes. They forced Dr Abu Bakr al-Saqaf and Zayn al-Saqaf into the two Toyotas and drove them to outside the Hadda area south of Sana'a. They subjected them to severe beatings without giving any reasons. Zayn al-Saqaf was left with a broken arm. Both victims were then left to walk back towards Dr Abu Bakr al-Saqaf's house. On their way they met one of Dr Abu Bakr al-Saqaf's neighbours, who took them to hospital where both victims were questioned by members of the ordinary Criminal Investigation Police about the incident, but no further action has been taken.

Dr Abu Bakr al-Saqaf

In December 1994, shortly before his abduction, Dr Abu Bakr al-Saqaf was suspended from his job at the university, after publication of an article of his entitled "Invasion of the South and Internal Colonialism" in which he strongly criticized government policy towards the south since the civil war in 1994. Zayn al-Saqaf was not a member of any political party nor a particular opponent of the government. His car, which was taken from him during the abduction, was returned to him three days later by the Hadda police. His aggressors took his glasses and his watch, but neither was of great value. No money was taken.

Dr Abu Bakr al-Saqaf following his abduction and beating in December 1995

The second time Dr Abu Bakr al-Saqaf was beaten was in December 1995, when he was attacked by an unidentified group of men. As a consequence he lost one tooth and was left with severe injuries to his body, particularly facial wounds (see photo). This took place shortly after Dr Abu Bakr al-Saqaf's return from a conference on Yemen held in London in which he strongly criticized government policy, particularly policy towards the south. His aggressors reportedly kept repeating "stop talking" as they beat him.

- **Dr Jamil Ahmad 'Awn**, a 58-year-old lecturer in the Department of Humanities at

Sana'a University, and **Dr 'Abd al-Rahman al-Manifi**, a 45-year-old lecturer in the same department.

On 27 April 1995 at 9pm the two men were driving in al-Hay al-Siyassi area in Sana'a when a Toyota car with military number plates blocked their way forcing them to stop. Three armed men in plain clothes jumped out and got into their car, while a fourth waited in the Toyota. They apparently informed Dr Jamil Ahmad 'Awn and Dr 'Abd al-Rahman al-Manifi that they were security men and asked them to follow the Toyota. They took them to Street 45 in south Sana'a near the presidential residence and stopped at a quiet corner. They put Dr Jamil Ahmad 'Awn in the Toyota and left Dr 'Abd al-Rahman al-Manifi in his car. They then drove off to al-Sa'ila area in Sana'a, a deserted area used as a rubbish tip. The two men were apparently told to confess, without any explanation. Dr Jamil Ahmad 'Awn and Dr 'Abd al-Rahman al-Manifi asked their abductors, who said they were security men, to take them to a police station or security headquarters, or to contact Ghalib al-Qimsh, Head of the PS, or his deputy Muhammad al-Surmi. The abductors asked them if they knew the Head of the PS and his deputy. Dr 'Abd al-Rahman al-Manifi told them he knew them. As a result, the abductors' attitude apparently changed and they asked the two men to pay 60,000 Riyals in exchange for their release. At this point a night guard in the area approached Dr 'Abd al-Rahman al-Manifi's car. One of the abductors got out of the car and apparently said to the guard: "we are from the Presidency", meaning from the Office of the President of the Republic. He then walked a few metres with the guard. After that the guard left and he returned to the car. The abductors resumed their request for money in exchange for the release of the two hostages. Following some bargaining over the sum, the abductors settled for 15,000 Riyals. The two hostages accepted this as a way out and Dr Jamil Ahmad al-Manifi proposed to collect the money from one of his relatives. He was taken by two of the abductors in their Toyota. Instead of going to his relative's house he took them to the house of a security officer whom he knew. The security officer negotiated with one of the abductors who apparently introduced himself as 'Abduh Najad from the PS. As a result of this negotiation Dr Jamil Ahmad 'Awn was left with the security officer and the two abductors returned to where Dr 'Abd al-Rahman al-Manifi was being held. They told him that they had taken Dr Jamil Ahmad 'Awn to the headquarters where he was beaten and then left. Then they took 1,000 Riyals from Dr 'Abd al-Rahman al-Manifi and released him. They also told him that the officer whom Dr Jamil Ahmad 'Awn knew was their friend. Although the abductors asked for money, this may have been a tactic to hide the political motive of their action after the victims informed them that they knew the Head of the PS and his deputy.

- **Dr Murad Zafir,** a 36-year-old researcher in the Department of Politics at the Yemen Centre for Research and Studies (YCRS).

As Dr Murad Zafir was walking along Riyadh (or Hayil) Street on 30 April 1995, at 12 noon, he was approached by a man in civilian clothes who asked him to get into a

white Toyota Crusader, of the type generally used by the PS. When he refused, the man grabbed him by the hand and pulled out his PS identification card, which he flashed before Dr Zafir too quickly for him to be able to see the name. The man said to him, "You distribute Jafri's leaflets", a reference to 'Abd al-Rahman al-Jafri, leader of MOG who lives in exile. He then attempted to drag Dr Murad Zafir into the car, pulling him by the left hand which had previously been broken in an accident. By this time a group of passers-by had begun to gather around. The PS man told Dr Murad Zafir that the matter was political, before kicking him and throwing him on the ground. Dr Murad Zafir fled and hid.

- **Ma'ad 'Abd al-Waddud Sayf,** the 16-year-old son of the poet and government critic 'Abd al-Waddud Sayf who is Head of the Department of Language and Literature Studies at the YCRS.

On 30 April 1995 at 8.20pm, as Ma'ad 'Abd al-Waddud Sayf was leaving his home, he noticed a black Toyota Crusader car without number plates parked outside. Inside the car were three men. As he began to move, the car started up and deliberately ran into him. He suffered bruising and spinal injuries. This incident occurred after his father, 'Abd al-Waddud Sayf, had published a poem in March criticizing state institutions and government policies. After the publication, the family began to receive verbal and written threats and their house was put under surveillance by cars without number plates.

2. Identity of the victims

The targets of this pattern of human rights violation are mainly government critics, suspected political opponents or people associated with them, including friends and relatives. There is no other obvious reason, such as wealth or involvement in the underworld of vice and crime, to explain why any of them would be targeted by conventional criminal gangs. Most of the victims are well-known intellectuals, such as university professors, writers and senior managers.

3. Identity and motives of the perpetrators

The cases provide a number of significant indicators as to the perpetrators' identity and motives. These include the cars they used, their uniforms, statements they made and circumstantial evidence linking them to the state security forces.

The cars were invariably of makes used mainly by security forces or the Ministry of Interior. In the cases of Dr Abu Bakr al-Saqaf and Zayn al-Saqaf the cars reportedly had military number plates. In other cases the cars had no number plates.

In most cases the abductors wore plain clothes. In at least one case, that of Dr Abu Bakr al-Saqaf and Zayn al-Saqaf, one of the abductors was wearing official military

uniform. In at least two other instances, those of Dr Jamil Ahmad 'Awn and Dr 'Abd al-Rahman al-Manifi as well as Dr Murad Zafir, the abductors apparently identified themselves as state security officials.

In addition, when the abductors of Dr Jamil Ahmad 'Awn and Dr 'Abd al-Rahman al-Manifi were approached by a night guard, they told him that they were from the Presidency. It would appear from the guard's actions that he was convinced that they were indeed state security officials.

The abductors did not appear to have material motives such as theft. Even in the case of Dr Jamil Ahmad 'Awn and Dr 'Abd al-Rahman al-Manifi, the demand for money appears to have been a tactic used to conceal their political motive. The abductors initially kept asking their captives to confess without specifying to what. When the captives said they knew senior state officials, the abductors demanded money instead to secure their release. In other cases the abductors either did not make any requests at all or specifically asked the victims to refrain from their political activity, as happened with Dr Abu Bakr al-Saqaf.

4. Timing

The pattern of abduction and beatings emerged after the 1994 civil war. Most, if not all, of the victims are critics of government policies relating to the southern part of the country or are suspected of having connections with political opposition groups since the civil war. The timing of the attacks seems to suggest a pattern of response to criticism of government policies. This seems particularly clear in the cases of Dr Abu Bakr al-Saqaf and Ma'ad 'Abd al-Waddud Sayf. The former was attacked twice, both times shortly after he voiced strong criticism of government policies towards the southern part of the country. The latter was attacked a month after his father published a poem in which he criticized state institutions and government policies. The author's wife was also reported to have received a message from an unidentified telephone caller saying that a response to her husband's poem would be sent to the family's home. The family's house was apparently kept under surveillance by individuals in cars without number plates during the period leading up to the attack.

5. Government inaction

Despite the availability of the above details the government has failed to initiate thorough and independent investigations into these abductions and beatings. This may be seen as a further indication that the perpetrators of the abductions and beatings are members of the security forces whose objective is to silence government critics and suspected political opponents. Almost all the incidents were widely publicized in the press and were also brought to the attention of the competent authorities by way of public protests, written

appeals by the victims, complaints made to the police, and inquiries made by Amnesty International.

On 18 January 1995, following the abduction and beating of Dr Abu-Bakr al-Saqaf and Zayn al-Saqaf, a demonstration took place including university professors, journalists, writers, businessmen and members of opposition parties. Demonstrators condemned the attack on the victims as an attack on free speech, and marched to the Parliament, sending a five-member delegation to meet the Speaker. He apparently undertook to submit the case for investigation by the Parliament's Human Rights Committee, but no investigation is known to have taken place. A number of public appeals were also made. For example, the Union of Yemen Researchers issued a statement on 3 May 1995 condemning the attack on Ma'ad 'Abd al-Waddud Sayf and Murad Zafir, and calling on the competent authorities to "...investigate the matter.... and to stop such practices....emanating from apparatus which are supposed to protect the security and safety of the citizen not to attack him."

In some cases the victims made direct individual appeals to government authorities. Dr 'Abd al-Rahman al-Manifi and Dr Jamil Ahmad 'Awn sent a letter to Colonel Ghalib al-Qimsh, Head of the PS, which they also copied to the Minister of Interior, the Human Rights Committee in Parliament, the Director of Sana'a University and the Teachers' Union. They detailed their ordeal and urged the Head of the PS to look into the matter. They specifically stated that:

> "...irrespective of the identity of the armed elements and the reasons or objective behind their action, which contravenes the most basic values, the law and Constitution, we seek your intervention on the basis of your duty to protect the security of...the citizen, and investigate...this case and punish the armed group..."

In the case of Dr Abu Baker al-Saqaf and Zayn al-Saqaf, the police were fully informed of the attack. Members from the Hadda Criminal Investigation branch interviewed the two victims about the incident and three or four days later they informed Zayn al-Saqaf that they had found his car, which was taken from him by the abductors. However, the two victims are not known to have received any information on any investigation by the police regarding any efforts to trace and prosecute the perpetrators.

Amnesty International has on several occasions expressed concern about this pattern of abuse, and has sought details of any investigations, urging that if no investigation had taken place it should be carried out without delay and in accordance with international human rights standards.

All these appeals and protests have yielded only two partial responses from the authorities in connection with the abduction and beating of Dr Abu Bakr al-Saqaf. One was

a reaction by the PS to the English language weekly newspaper *Yemen Times* which published an article, entitled "Thugs Beat up Abu Bakr al-Saqaf again: Stop writing", accusing the PS of being behind the incident. In a letter published by the paper, the PS's Public Relations' Director denied the PS's involvement and announced that the incident was being investigated.

The other response was a government letter to Amnesty International in January 1996 which said that the attack on Dr Abu Bakr al-Saqaf in December 1995 was being investigated and the findings would be communicated to the organization in due course. However, the Amnesty International delegation which visited Yemen in July 1996 found that no investigation of any of the cases had been or was being carried out. The delegates raised the issue once more with the authorities, but were told that no legal action was possible because the perpetrators of the abductions and beatings were not identified by the victims.

Amnesty International remains gravely concerned at the strength of evidence that the abductions and beatings of government critics have been carried out by state security officials. As long as the government fails to investigate these violations properly, it violates international standards and strongly indicates its own complicity in the abductions and beatings. These violations, if carried out by those acting on behalf of, or with the acquiescence of public officials, would constitute torture or cruel, inhuman or degrading treatment. The government has a duty to carry out prompt and impartial investigations of such incidents, under Articles 12 and 13 of the CAT, and to take steps to ensure that such practices are ended.

IV. HUMAN RIGHTS ABUSES BY ARMED POLITICAL GROUPS

Grave human rights abuses have been committed by armed political groups, including deliberate and arbitrary killings, and physical assaults. The government is not known to have taken action to bring the perpetrators to justice. In some cases security forces were fully aware of the actions being committed by the groups, but did not intervene, apparently because the groups were acting with the acquiescence of the authorities.

Ahmad Mas'ud al-Serafi and **Mahdi Muhammad al-Shubeih**, prominent members of the GPC and supporters of the government, were both shot dead in Sana'a in February 1994. No group has claimed responsibility.

In Tarim in Hadramout in April 1995 members of an armed Islamist group, the Sheikh Bakr group, apparently desecrated the graves of holy men. Two people from al-Husseini tribe in Tarim were shot dead reportedly by members of the armed Islamist group after they tried to stop the desecration. President 'Ali 'Abdullah Saleh reportedly ordered

an investigation into the circumstances of the killings, but Amnesty International is not aware of any findings having been made public.

In September 1995 members of the Bohara religious group were ambushed in Haraz, north of Sana'a, by an armed political group. At least one man was shot dead and seven others were wounded. Members of the religious group were returning from a ceremony in Haraz held to celebrate the birthday of the Bohara's leader. The ceremony and the Bohara group had reportedly been condemned in mosques during Friday prayers as un-Islamic, and fiercely attacked in *al-Sahwa* newspaper, the organ of the Islah party. Evidence suggests that these deliberate and arbitrary killings may have been carried out with the support of factions of Islah party.

In some cases, human rights abuses by armed political groups were reported to have taken place in the presence of security forces, or with the full knowledge of government authorities. For example, **Qassim Jubran 'Ali** was flogged in al-Huta without being convicted (see Section VI below). He was taken from the court by an armed group amidst a massive security presence. He was then severely flogged in public. His lawyer, Bader Ba-saneed, who had been intimidated and threatened by armed men during the retrial, was barricaded in the court building at the end of the trial. An Amnesty International delegate who observed the trial sought assistance from the court prosecutor to ensure the safety of the lawyer. The delegate asked to meet the person in charge of the security of the court, but was repeatedly told by the court prosecutor that the lawyer could leave safely. On this instruction the delegate, the court judge and the lawyer left together. However, after driving about 500 metres from the court building they were stopped by a group of about 10 armed men. The men assaulted the lawyer and tried to take him away. The judge and the Amnesty International delegate did their best to calm them down and after a while the group agreed to let them go, saying that they would catch the lawyer later However, soon afterwards the group chased them on their way to Aden from Lahj and they had to hide in a small village for five hours before they resumed their journey to Aden.

Bader Ba-saneed

This incident took place with the full knowledge of security forces in al-Huta, but they did not intervene to protect the lawyer The incident was immediately reported to the government by Amnesty International. The government informed the organization at the

time that an investigation was being carried out, but to Amnesty International's knowledge neither the defendant who was flogged nor the lawyer or judge have been asked to give details to date. Furthermore, no-one is known to have been brought to trial in connection with the incident.

In the light of such evidence, Amnesty International believes that human rights abuses by armed political groups are being carried out with the acquiescence of security forces or some government authorities. The organization calls on the government to take immediate steps to stop such abuses by investigating each incident and bringing to justice those found responsible.

V. TORTURE

Torture is a criminal offence in Yemen, but it has also been a widespread practice in detention centres, police stations and prisons throughout the country. It has frequently been reported as the main or contributory factor in cases of deaths in custody. Amnesty International has consistently brought to the attention of successive governments allegations of torture, but no serious measures have been taken to tackle the causes of this problem or to bring the perpetrators to justice.

1. Torture as a crime

The prohibition of torture in Yemen is a constitutional principle and torture is considered a crime not subject to any statutory limitation. This is explicitly stipulated in Article 47(b) and (e) of the Constitution which state that :

> " b) ...Any person whose freedom is restricted in any way must have his dignity protected. Physical and psychological torture is prohibited. Forcing confessions during investigation is forbidden... Physical punishment and inhumane treatment during arrest, detention or imprisonment are prohibited.
>
> e) ... physical or psychological torture at the time of arrest, detention or jail is a crime that cannot be prescribable.. " [4]

Article 47 (e) also states that :

[4] Meaning not subject to the statute of limitation

> "The law shall determine the punishment for whosoever violates any of the stipulations of this article and it shall determine the appropriate compensation for any harm the person suffers as a result of such a violation ... All those who practice order, or participate in executing, physical or psychological torture shall be punished."

The punishments for the crime are detailed in Articles 166, 167 and 168 of the Penal Code as follows:

Article 166 states that:

> "Any state official who, while carrying out his duty, tortures or uses force or threatens to use force, either directly or through a third party, against an accused, a witness or an expert in order to force him to confess to a crime or make statements or give information relating to it will be punished by a maximum imprisonment of ten years without prejudicing the victim's right to seek Qisas (retribution), blood money or compensation."

Article 167 states that:

> "Any state employee who punishes or orders the punishment by others of a person with a punishment not passed by a court or more severe punishment than that decided by a court or refuses to implement a release order of that person or keeps him deliberately detained beyond the period fixed by the detention order, will be punished by a maximum imprisonment of three years or by a fine and in all cases by his dismissal."

Article 168 states that:

> "Any state official who by virtue of his job uses force deliberately and unjustly against people in such a way as to harm their honour or cause them physical injury will be punished by a maximum imprisonment of one year or a fine, without prejudicing the victim's right to Qisas (retribution), blood money and compensation. In all cases the state official will be dismissed from his job".

2. Torture in practice

Despite the clarity and firmness of the laws prohibiting and punishing the use of torture, the reality has been completely different.

Facilitated by arbitrary arrest and incommunicado detention, torture has been used by members of different security forces, including the PS, military intelligence, criminal investigation police and members of the armed forces, against political suspects as well as common law prisoners. It has been invariably used to obtain confessions or as a means of punishment.

The methods of torture and other cruel, inhuman or degrading treatment documented by Amnesty International since the unification of Yemen in 1990 include:

- Beatings all over the body, including with rifle butts, iron rods, cables and sticks
- Rape, sexual assault, threat of rape of the victim or his or her relatives in his or her presence
- Electric shocks applied to the body of the victim
- "Kentucky Farruj": suspension from a metal bar inserted between the hands and knees which are tied together
- Victim being urinated on
- Victim walked on while being made to lie naked on slabs of concrete
- Lengthy solitary confinement, in at least one case for six months
- Victim being shackled for lengthy periods
- Burning with cigarettes
- "*Falaqa*" (beating on the soles of the feet)
- Victim being doused with cold water
- Suspension of the victim, sometimes upside down, from the ceiling or window of detention cells while subjected to different forms of torture
- Whipping and lashing
- Sleep deprivation and being kept in adverse weather conditions
- Victim being tied to chair or bound with ropes while being subjected to other forms of torture
- Forced head shaving and insults

One victim, **Muhammad 'Abdullah al-Hayd**, alleged that he and dozens of other detainees held in Si'un Prison in 1995 were beaten with iron bars while their legs were shackled and their hands tied behind them; urinated on; and walked on by soldiers or guards while forced to lie naked on slabs of concrete After his release Muhammad 'Abdullah al-Hayd reportedly bore visible marks of the torture, including on his genitals.

Another victim who was held in secret detention in Sana'a, described his torture as follows :

> "During the first interrogation ... a man in civilian clothes hit me with a stick ten to twelve times on my head, shoulders, legs and back ... others forced

me to take off my shoes, and hit me twice on the soles of my feet. When I crouched on the floor they hit me twice.

"During the second interrogation ... they forced me to stand like a bridge, arched backwards on my hands and feet. When I was unable to hold this position two people whipped me ... When I changed position the second time and crouched in a corner of the room they pulled me out of the corner and hit me with a cane and kicked me ... As they saw me collapse, they stopped beating me. After three hours I was brought back to my cell."

Victims have often been left with serious physical injuries. In some cases such abuses were reported to have been the main or contributory factor in deaths in detention centres and police stations. **Mu'adhab Suleyman Salih**, aged 27, died in July 1994 after 24 hours in the custody of the Criminal Investigation Police in al-Hudaida. The main reason for his death is said to have been torture. His relatives and lawyer initiated a court case about his death, but no progress is understood to have been made with regard to any investigation. **'Ali Bin Salman Bin Qawiran al-Qirzi**, aged 65, reportedly died in an army prison in al-Mukalla in May or June 1995. He was apparently detained by members of the armed forces in al-Mukalla in order to force his son, who was suspected of theft, to surrender to the police. **Ahmad Sa'id Salmayn Bakhabira**, who was arrested in connection with MOG on 11 June 1996, reportedly died the next day while in the custody of security forces in Si'un. His body was reportedly kept at the morgue in Ibn Sina Hospital in al-Mukalla for 17 days before his family was informed of his death. His relatives and friends alleged that his death was caused by severe torture which left visible marks on his body. They appealed to the government for an investigation. To Amnesty International's knowledge there has been no investigation of the circumstances of the death of any of the victims.

3. Impunity

While the Republic of Yemen has promulgated domestic laws against torture and has ratified the CAT, torturers continue to enjoy impunity, and victims continue to search for justice and remedies for the physical and psychological damage sustained as a result of torture. The government has consistently failed to implement its own laws or to comply with its international obligations under the CAT.

In July 1996 the Minister of Interior told an Amnesty International delegation that many officers from the security forces had been punished for acts of torture. He undertook to provide the organization with lists, together with details of the cases of such officers, but by February 1997 no information had been received. Amnesty International's monitoring has revealed no investigations and no steps to bring to justice suspected torturers in any of the cases it submitted to the government. Furthermore, in cases where the government

appeared to take action or legal proceedings were initiated, the results have been inconclusive due to the government's lack of willingness to tackle the issue of torture.

This is illustrated by **'Abdo Muhammad Fateh**, a nine-year-old boy, who was allegedly burned with cigarettes and beaten all over his body while suspended by the wrists from a high window following his detention in al-Amri police station in Sana'a accused of theft. The government apparently ordered the suspension of the suspected officers and referred the case to the Public Prosecution Office. The officers were subsequently charged with ill-treatment and abuse of authority and summoned to appear before a court in Sana'a. However, they failed to appear despite repeated summonses. Amnesty International is not aware that the court has made any progress in the case.

In other cases, torture victims and their relatives have submitted complaints to the Public Prosecution, but no progress has been made. These included the cases of **'Abd al-Baqi Ahmad al-Jabri** and **'Adil Mayhub Sa'id Fawda'i**, who were allegedly tortured in April 1995. They submitted a complaint immediately after their release, but the case is not known to have been concluded.

VI. JUDICIAL PUNISHMENTS OF CONCERN TO AMNESTY INTERNATIONAL

The punishments of flogging and amputation, previously limited to the former YAR, became applicable to the whole of unified Yemen following enactment of a new Penal Code, under Law 12 of 1994. At least one other form of bodily mutilation, gouging of eyes, has been given as a sentence in a court case even though such punishment is not contained in the new Penal Code.

1. Flogging

Since the enactment of the new Penal Code, flogging has become a daily event throughout the country. This punishment is prescribed for offences of a sexual nature, and in relation to the consumption of alcohol, and slander. Articles 263 and 264 prescribe 100 lashes for fornication, where the offender is not married. In cases of adultery the punishment is death by stoning. Articles 283 and 289 prescribe 80 lashes for consumption of alcohol and slander.

Defendants in such cases are often tried by courts of first instance and flogged immediately afterwards in courts, public places or in police stations, without any appeal to higher courts as is the practice in other criminal cases. In theory defendants can appeal against sentences of flogging, but at the risk of spending lengthy periods in prison while the appeal is heard. They may therefore end up spending time in prison in addition to being flogged if they lose the appeal. If they forgo their right of appeal they are released immediately after the flogging, although women may be kept in detention until they are

collected by male relatives (see Section X). According to the Attorney General, this is because a defendant released on bail pending the appeal must have a guarantor, who would be flogged if the defendant escaped. Because of this risk, according to the Attorney General, it is not easy to find a guarantor in such cases. As a result the best available option for a defendant is to accept flogging without appeal.

The summary nature of such trials can be further aggravated by interference in the work of the judiciary by security forces, or by judges who appear eager to implement this punishment with little or no regard for the legal procedure governing trials. This is in contravention of the guarantee of trials before independent and impartial tribunals contained in Article 14 (1) of the ICCPR and of the UN Basic Principles on the Independence of the Judiciary. Reports received by Amnesty International suggest that in some cases suspected offenders of the articles of the Penal Code referred to above were flogged by security forces without being tried.

In other cases judges found themselves under threat from security forces. If they failed to convict the accused their own physical integrity could be in danger. Their conduct therefore may be entirely guided by the threats rather than the merits of the cases. This was illustrated by a trial observed by Amnesty International in May 1995 in al-Huta court in Lahj (see Section IV on abuses by armed political groups).

The defendant in the case, Qassim Jubran 'Ali, was charged with consumption of alcohol and was detained pending trial. When the defendant's lawyer, Bader Ba-saneed, visited him to discuss the case, the lawyer was himself detained and tortured. When the case came up for hearing the court room was filled with armed men, most of them local security men. The defence lawyer requested the judge to order the armed men outside the court room in order to ensure a fair hearing free from intimidation. The judge responded positively to the defence's request and ordered the head of the court's security forces to ensure that the court was free of armed men.

Qassim Jubran 'Ali following his flogging

However, when the second session took place a week later, attended by an Amnesty International delegate, there was a massive security presence throughout the town and the court room was again filled with armed men who threatened the defence lawyer and intimidated him throughout the hearing. During this process Amnesty International's delegate recorded one armed man shouting at the lawyer

"Where are human rights?". When he inquired what was meant, he was told that it meant "what are human rights going to do for you?", apparently a threat that the presence of a human rights delegate was no protection for the lawyer. The lawyer was subsequently attacked (see Section IV above).

This was the intimidating atmosphere in which the hearing was conducted. The hearing lasted for three hours. The judge then decided to postpone pronouncing the verdict until the next day. However, the defendant was taken to a public place and flogged without a court verdict. At this point it became clear that the defendant was already regarded as guilty by the security forces and armed groups before the trial and that the court hearing was no more than a formality to give the decision legitimacy. In a report to the Minister of Justice, the Director of Lahj Appeal Court stated that the judge had informed the security forces before the trial that he was going to convict the defendant. Amnesty International is concerned that this case and other similar cases show the unfairness of proceedings leading to the imposition of cruel, inhuman and degrading punishments in Yemen.

2. Amputation

Amputation is prescribed for at least two offences, theft and highway robbery. Under Article 298 theft is punished by the severing of the right hand. If the offender commits the same offence again the punishment is the severing of the left foot at the ankle. The article is worded in such a way to facilitate imposition of the punishment. For example, if theft is committed by a group of offenders, amputation applies to all of them equally, irrespective of their individual roles. Highway robbery, according to Article 307 (2), is punishable by amputation of the right hand and the left foot at the ankle.

At least five people have been subjected to amputation since the unification of the country in May 1990. All five had been convicted on charges of theft and had their right hands amputated in August 1991 in Sana'a. Subsequently, the victims' amputated hands were put on public display in the city centre of Sana'a. This apparently created serious debate about the use of the punishment in unified Yemen and as a result the Supreme Court, which is the final appeal authority, is said to have adopted a restrictive approach towards approving sentences of amputation and apparently none has been carried out since.

However, lower courts continued to mete out sentences of amputation for the offences described above. Fifteen people were sentenced to amputation and cross amputation in 1995, one of them was also sentenced to having his eyes gouged out and to death (see below). A further sentence of cross amputation was imposed on three people in January 1997. Amnesty International has not been able to confirm whether any of these sentences were carried out. Government authorities assured Amnesty International that no sentences of amputation have been carried out since a restrictive approach was adopted by

the Supreme Court, but did not guarantee that this would become a normal practice or that those already sentenced would not be subjected to amputations.

3. Gouging out of eyes

At least one prisoner has been sentenced to have his eyes gouged out. He was also sentenced to cross amputation, crucifixion and death by starvation (see Section IX on the death penalty and executions). The sentence was passed in 1995 and is believed to be pending appeal.

To Amnesty International's knowledge, the gouging out of eyes is not explicitly stipulated in any article of the Penal Code. The organization is gravely concerned that such punishment is designed to cause maximum pain before death. It also fears that if the sentence is upheld it will become a precedent for expanding the use of cruel judicial punishments.

In July 1996 the Attorney General confirmed to Amnesty International that gouging out of eyes is not prescribed in Yemeni penal laws. He also stated that should such punishment be upheld upon appeal he would appeal against it.

4. Corporal punishment under International Law

In July 1993 Amnesty International sent a memorandum to the government raising concerns about various clauses of the draft penal code. Specifically, the organization urged the authorities not to include the punishments of flogging and amputation in the new law as they were contrary to Yemen's obligations under international human rights treaties, particularly the ICCPR.

The Human Rights Committee, the treaty body which is charged with interpreting and monitoring implementation of the ICCPR, stated clearly in General Comment 20 (5) (Article 7) (44th Session, 1992) that Article 7 of the ICCPR which prohibits torture and cruel, inhuman or degrading treatment or punishment also extends to corporal punishment. The punishments also violate the CAT. As the UN Special Rapporteur on torture has concluded "No state should be allowed to perform acts as a lawful sanction which in any other form are generally condemned as a serious human rights violation." (E/CN.4/1993/26, p.131).

Successive Special Rapporteurs on torture have raised cases of amputation and flogging with a number of governments, including that of Yemen (E/CN.4/1990/17, page 53). The use of such punishments clearly violates international law and makes a mockery of the human rights treaties which the Government of Yemen has undertaken to uphold. As such, these punishments should be abolished immediately and any outstanding sentences

should be overturned. Amnesty International is dismayed that the recommendations made in the memorandum have not been taken into account and that the punishments of flogging and other forms of bodily mutilation continue to be passed by courts.

VII. EXTRAJUDICIAL EXECUTIONS

Extrajudicial executions, including killings resulting from the deliberate use of excessive lethal force continue to be a serious human rights concern in Yemen. Dozens of people have been killed in such ways since the unification of the country in 1990. Some were deliberately assassinated; others were shot during protests and demonstrations. In some instances, investigations were said to have been ordered or carried out, but these do not appear to have been conducted in accordance with international human rights standards.

1. Possible extrajudicial executions of political opponents

The apparent extrajudicial execution of politicians and dissidents has been a recurring feature of government action against opposition.

Killings carried out directly by government forces include the June 1992 killing of **Colonel Majid Murshid Sayf**, a former member of the Central Committee of the YSP. It reportedly followed an attempt to abduct him at a checkpoint in Sana'a. Subsequently he was said to have been taken to the headquarters of *al-Amn al-Markazi* in Sana'a and killed there. The Attorney General told Amnesty International that the deceased was killed in a clash and that blood money had been paid to his relatives. The Attorney General did not, however, clarify the basis of the findings or the payment of blood money.

In other cases the killings have been carried out by unidentified groups, although the circumstances suggest that security forces may have been responsible. Among the victims was **Hassan al-Huraibi**, a leading member of the Yemeni Assembly Union Party (*Hizb al-Tajamu' al-Yemeni al-Wahdawi*), an opposition party. He was assassinated in September 1991 in Sana'a while in the company of **'Omar al-Jawi**, former head of the Union of Yemeni Writers, who may have been the intended target. Another victim was **Kamil Muhammad al-Hamid**, a nephew of **'Ali Salem al-Bidh**, former Secretary General of the YSP. He was shot dead in October 1993 while in the company of two of 'Ali Salem al-Bidh's sons who were said to have been the intended targets. Security forces were allegedly responsible for the victim's assassination. However, the Attorney General told Amnesty International that this killing was a criminal, not a political act but failed to explain how such a finding was arrived at.

More recently, **'Ali al-Dahish 'Aylan**, a member of the Nasserist Corrective Party (*Hizb al-Tas-hih al-Nassiri*), an opposition party, was killed in suspicious circumstances

similar to the cases above. He was shot dead on 6 October 1996 at 1pm in a street in Sana'a. His assassins were reportedly driving a military vehicle bearing the registration number 15368. One of his assassins is alleged to be a member of the Republican Guard force. Amnesty International has sought details about the case, but has received no response.

2. Killings following protests

Dozens of people have been killed since the establishment of the Republic of Yemen following protests against government policies. The protests have consisted mainly of demonstrations or clashes between the government forces and particular tribes. Most of the victims did not appear to present danger to members of the security forces when they were killed. Their deaths may have been as a result of deliberate use of excessive lethal force. The UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials[5] provide strict rules limiting such use of force, and providing for clear warnings, training and judicial remedies. The Principles state that in the dispersal of assemblies police should avoid using force, and in any case must restrict such force "to the minimum extent necessary." (Principles 13 and 14).

Cases brought to the attention of the authorities by Amnesty International included victims of killings which took place in December 1992, particularly in Ta'iz and Sana'a during demonstrations against government economic policies. Security forces reportedly used lethal force disproportionate to any threat posed, including using anti-aircraft guns and other heavy weaponry. At least 14 people were believed to have been killed. Cases raised with the government also included **'Abdul Rahman Du'ala 'Abdul Rahman**, a Somali refugee who was killed in September 1993 at al-Kud Somali refugee camp in Abyan. He was shot dead reportedly by members of the PS who fired at a group of refugees when they apparently tried to prevent the removal of other refugees from the camp at night.

At least seven people who were shot dead in 1995 when security forces opened fire on supporters of Aden football team who were protesting after a dispute between their team and a team from Sana'a. On 17 February 1996 **Ahmad Muhammad Naser** was shot dead during a demonstration in Aden held by hotel workers in protest against delays in payment of their wages. In this case Amnesty International received conflicting accounts from two government authorities. One claimed that the death was accidental. The other claimed that

[5] "Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life" (Article 9, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials)

the officer who caused the killing was convicted and sentenced. Amnesty International has not been provided with the full facts of the case to enable it to draw a final conclusion.

3. Lack of adequate and systematic investigations

In some of the above cases, the government was reported to have ordered or carried out investigations. However, no information is known to have been made public regarding the terms of reference of any investigations or their findings.

In one case parliament initiated an inquiry into the killings following the protest demonstrations in December 1992. The inquiry apparently did not find security forces responsible for the killings, but ruled nevertheless that the government should pay compensation. It is not clear on what basis the compensation was ordered or whether it has been paid. Similarly, the government is said to have ordered an investigation into the killing of Hassan al-Huraibi. However, no findings are known to have been made public and Amnesty International does not know whether the investigation has indeed been carried out.

Any effective investigation must be guided by the objectives of determining the truth, providing redress for victims and their families and prevention of future violations. To achieve these objectives investigations must be carried out in accordance with the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions. Such investigations must be carried out systematically in "all suspected cases of extra-legal, arbitrary and summary executions" (Principle 9). They must be "thorough, prompt and impartial." The findings of investigations should be made public in the form of a mandatory written report, the perpetrators brought to justice, and the families of victims provided with fair and adequate compensation.

VIII. "DISAPPEARANCES"

Hundreds of victims have "disappeared" since the late 1960s in both the former YAR and PDRY. People have "disappeared" following arrest by security forces or militia, particularly during or in the wake of political power struggles. To date, the fate and whereabouts of most of the victims remain unknown to their relatives and to Amnesty International. Amnesty International's requests for measures of redress and protection against "disappearance" put to successive governments over the years have had very little impact. Indeed the current government seems to be placing political considerations as a clear priority over its human rights obligations.

1. "Disappearance" as a political tool

Successive governments' reluctance to take appropriate investigative and preventive measures against "disappearance" has contributed to making this grave human rights violation not just an isolated practice against political opponents, but a tool repeatedly used on a massive scale by a range of forces whenever the country has faced political or military crisis. This conclusion is supported by the large number of victims and the political circumstances surrounding their "disappearance" during Yemen's recent history, particularly over the past three decades.

Farazdaq Fu'ad Qaied

The most recent large scale "disappearances" were during the civil war which broke out on 4 May 1994 following disagreement over power-sharing between leaders of the former YAR and those of the PDRY. Hundreds of people "disappeared" following arrest by military personnel, the PS or militia groups. Most of them re-appeared when the war ended on 7 July 1994 or shortly afterwards. However, dozens are believed to be still unaccounted for. They include **Farazdaq Fu'ad Qaied**, an army officer (military number 16268), who "disappeared" shortly after arrest on 5 May 1994 in Kharaz area, near Lahj Province. He was admitted to a hospital in Ta'iz for treatment of an injured leg and was apparently shown on television with a group of prisoners from the southern forces. Subsequently, he was transferred to al-Qal'a Prison in Sana'a. His mother eventually tracked him down and in July 1994 visited him in the prison. Two or three months later she returned to al-Qal'a Prison but was told that her son was not held there. She appealed to the authorities for clarification of her son's fate, but received no response. She also put appeals in newspapers seeking information, but to no avail.

Large-scale "disappearances" had also occurred in January 1986 in the former PDRY during and after the 10-day civil war which broke out between different factions of the YSP. Hundreds of people "disappeared" immediately after arrest. Others "disappeared" after detention in Aden and the Governorate of Lahj. Those held in Aden were reportedly detained in military camps such as al-Fateh, al-Mashari', al-Sawlaban and Tareq, or in prisons such as that in al-Mansura. Those detained in the Governorate of Lahj were reportedly held in al-Dali' Prison or *Madrasa al-Najma al-Hamra* (Red Star School).

"Disappearance" was also used as a tool against political opponents during periods of political stability in both the former YAR and PDRY before their unification in 1990. In the YAR dozens of political suspects "disappeared" between 1978 and January 1986. In the PDRY scores of suspected political opponents "disappeared" between the late 1960s and 1978.

Amnesty International has over the years submitted documented cases of victims to the authorities seeking clarification. The memorandum submitted in June 1996 contained 169 representative cases. However, no serious measures have been taken by the government to address this issue.

2. Lack of investigation

Relatives of the "disappeared" have spent considerable time going from one detention centre to another, and from one government security institution to another in search of news about their loved ones, but to no avail. Their search continues. Amnesty International members around the world have, over the years, sent thousands of appeals to successive governments urging investigation of these cases and seeking clarification of the victims' fate and whereabouts. Although the organization has received some replies from the authorities, these have not indicated that the issue has been addressed substantively.

In response to a November 1990 memorandum by Amnesty International, the government replied in December 1990 and October 1991 that those who "disappeared" in the former PDRY before 1978 were executed after summary trials. With regard to those who "disappeared" in the former YAR before 1986, it stated that some individuals were released, but that it had no information about other individuals named by Amnesty International. The government welcomed further information from Amnesty International about "disappearances" in the country, and said it would look into any cases submitted by the organization. Amnesty International welcomed the government's stated willingness to cooperate on this matter, and in September 1992 submitted for investigation a new sample list of 100 cases of people who "disappeared" between 1970 and 1986. No response was received.

Since then Amnesty International has been concerned at the government's apparent reluctance to address the issue of "disappearances". Increasingly since the 1994 civil war, the government appears to have placed "disappearances" in the context of its opposition to the YSP former leadership, rather than approaching it on the merits of the cases. In a letter addressed to the organization in August 1995, in response to appeals by Amnesty International's members on behalf of the "disappeared", the government stated that:

> "...the case of the "disappeared" became high on the agenda of the newly-established Republic of Yemen. However, a search was impeded because

> the Socialist Party (YSP), which became a partner in the ruling coalition, maintained a tight grip on the southern governorate especially prisons and detention centres."

The letter did not refer to the cases of those who "disappeared" in the former YAR, but focused solely on the former PDRY under the former leadership of the YSP living in exile since the civil war of 1994. In this context it added that:

> "Following the defeat of the separatists of the YSP, the government took the initiative of searching all detention centres before closing them down. However, none of those detained in 1986, nor any document about their fate, was found...
>
> "The fate of those "disappeared" in 1986 remains a mystery, and only those who took part in the atrocities committed during that bloody power struggle know their fate. Unfortunately, those responsible fled the country following their defeat after their failed attempt of separating the southern part of Yemen from the northern part. It is believed, however, that those "disappeared" might have been executed shortly after arrest. But there is no solid evidence.
>
> "What happened in January of 1986...has been a painful moment in our history. Bringing this issue back to the surface opens old wounds that, we think, might have healed."

No explanation was given as to the terms of reference of the search carried out in detention centres. However, the search does not seem to have amounted to the thorough, independent and impartial inquiry which Amnesty International has been seeking for at least two reasons. Firstly, in October 1995 President 'Ali 'Abdullah Saleh reportedly announced that he had ordered an investigation into the cases of people who "disappeared" in 1986 in the former PDRY, which suggests that no investigation had been carried out before. The President's reported order of the investigation followed official statements said to have been made earlier in October, announcing that mass graves containing bodies of people who "disappeared" in 1986 had been discovered in Aden, Abyan and Lahj. Secondly, Amnesty International fears that the searches may not have met the internationally required criteria of thoroughness, independence and impartiality, as stipulated in the UN Declaration on the Protection of All Persons from Enforced Disappearance (UN General Assembly Resolution 47/133). A thorough investigation requires a comprehensive methodology in which searches of detention centres are only one element. To fulfill its international obligations, the government must investigate all cases of "disappearance" no matter what part of Yemen they occurred in.

Such investigation is the only way to arrive at the truth, and the truth accompanied by bringing perpetrators to justice and providing compensation, is the only possible healer for relatives of the victims and is a key safeguard to prevent such abuses from happening again. Amnesty International again calls on the government to set up a thorough, independent and impartial inquiry into all cases of "disappearances" brought to its attention, and underlines the requirement of the UN Declaration on the Protection of All Persons from Enforced Disappearance that "An investigation... should be able to be conducted for as long as the fate of the victim of enforced disappearance remains unclarified" (AA.13(6)). Anyone found responsible for "disappearances" on the basis of such an investigation should be brought to justice. Compensation should be provided to families of any victims determined to have died as a result of "disappearance". In addition, the government should introduce mechanisms necessary to stamp out "disappearances". These should include:

- making enforced "disappearance" an offence under criminal law punishable by appropriate penalties which take into account the seriousness of the offence;
- ensuring the right to a prompt and effective judicial remedy as a means of determining the whereabouts or state of health of people deprived of their liberty;
- ensuring that any person deprived of their liberty shall be held in an officially recognized place of detention, and be brought before judicial authority promptly after detention;
- ensuring that accurate information on the whereabouts of detainees is made available to their family and others, and that relatives, lawyers and doctors have prompt and regular access to detainees.

Following Amnesty International's high level talks with the authorities in July 1996, the government agreed to investigate the cases of those who have "disappeared" since 1994 (see Section XII) but remained unwilling to take action on pre-1990 cases. In his letter of 19 October 1996, the Minister of Foreign Affairs reiterated the government's position citing specifically the cases of those who "disappeared" in 1986 in the former PDRY. He stated that:

> "Due to the sensitivity of the issue we asked you several times to close up the file. After all, my government cannot be responsible for what has happened in an independent and sovereign state ten years ago. Despite our request, we continue to receive piles of letters and cards demanding to know the whereabouts of those disappeared people. One wonders if the real intentions of Amnesty International are to promote human rights through constructive ways with concerned authorities, or simply becoming a stage for criticising and attacking my country"

IX. DEATH PENALTY AND EXECUTIONS

The Republic of Yemen retains the death penalty for a wide variety offences. Hundreds of prisoners are believed to be on death row, often after trials which failed to meet international human rights standards. The government continues to justify its use of this punishment on religious and deterrence grounds.

1. Scope of the death penalty

When the Republic of Yemen was established in 1990 and comprehensive projects were started to introduce new laws, Amnesty International hoped that this process would tackle positively, among other things, the use of the death penalty. The organization offered assistance to the new authorities to ensure that the use of the death penalty, previously widespread in the former PDRY and YAR, would be restricted in accordance with international human rights standards and the international trend towards its total abolition. In July 1993 the government offered the organization the opportunity to comment on the draft penal code and the draft code of criminal procedure which became laws in October 1994.

Amnesty International provided two sets of detailed comments and recommendations on the provisions relating to the death penalty in the draft penal code. The first set focused on the inconsistency of the death penalty with international standards which guarantee the right to life, such as Article 3 of the Universal Declaration of Human Rights and other standards restricting the use of this punishment in countries that have not abolished it. The second set of comments and recommendations focussed on the large number of offences punishable by death provided for in the draft penal code. Most of these offences were vaguely worded and open to abuse and applicable to offences that do not result in lethal or other extremely grave consequences. Amnesty International urged that all articles carrying the death penalty be amended to abolish this penalty. Pending the abolition of the death penalty in Yemen, the organization recommended that the Penal Code and CCP should at the very least be amended to provide all the substantive and procedural safeguards as required by international standards.

However, when the draft penal code finally became law in October 1994 most of the death penalty clauses were adopted unchanged. Most of the offences punishable by death remained vaguely worded and could easily be misused to convict people carrying out activities which amount to no more than the peaceful expression of their conscientiously held beliefs. Among such offences are those stipulated in Articles 125 and 259. Article 125 provides for the death penalty for "anyone who committed an act with the intention of infringing upon the independence of the Republic or its unity or territorial integrity". Article 259 prescribes the death penalty for any Muslim who says or does anything contrary to Islam. Amnesty International pointed out that from its own experience in this field such

clauses have been used by states to repress the peaceful exercise of conscientiously held beliefs. It also pointed out that such clauses were inconsistent with Yemen's Constitution and Yemen's international human rights obligations guaranteeing freedom of expression.

Amnesty International's concern about the risks carried by the death penalty clauses is heightened by the fact that the new Penal Code and the CCP do not contain the international safeguards for people facing capital punishment. The UN Special Rapporteur on extrajudicial, summary or arbitrary executions said in 1993 that trials of people facing the death penalty "should conform to the highest standards of independence, competence, objectivity and impartiality of the judges, and all safeguards and guarantees for a fair trial must be fully respected, in particular as regards the right to defence and the right to appeal and to seek pardon or commutation of the sentence" (UN Doc. E/CN.4/1993/46, para. 680).

2. Death row

The exact number of prisoners currently on death row in Yemen is not known to Amnesty International, but is believed to be hundreds, including many people sentenced after unfair trials. They include **'Ali Ahmad Qassim Khubayzan**, who was sentenced to death in addition to amputation of his right hand and left foot as well as the gouging out of his eyes (see Section VI). Although the Attorney General stated that he would appeal against the gouging out of the prisoner's eyes if upheld by the Supreme Court, he maintained that the prisoner will be executed because he committed murder and mutilated the body of the victim. Amnesty International has no details about his trial proceedings.

In cases where trial information is available to Amnesty International, international standards have been ignored. These include, in addition to members of the former NDF whose cases have been highlighted, prisoners such as **Muhammad Ahmad 'Ali al-Salami**, **Mansour Saif al-Horsome** and **Yahya Naji Muhammad al-'Asadi** who were convicted on murder charges.

Muhammad 'Ali Ahmad al-Salami was sentenced to death by a court of first instance. The appeal court found that the evidence in the case was not clear and commuted the sentence to payment of blood money. Relatives of the deceased had 40 days from the date of the appeal court's decision to appeal, but apparently did not do so until seven months later. The Supreme Court then apparently reversed the appeal court's decision and upheld the death sentence. In 1995 the prisoner wrote to the Attorney General seeking a stay of execution and a review of the case, hoping to have the appeal court's decision upheld. He argued that the appeal against the commutation of the death sentence after the expiry of the statutory 40-day period as required by Article 437 of the CCP was null and void under Article 443 of the same code. He also argued that the doubt cast by the appeal court about the case should be interpreted in favour of the accused. When the prisoner submitted his request to the Attorney General in 1995 his death sentence was reportedly about to be sent

to the President for ratification. Amnesty International does not know if the Attorney General has ordered a review of the case.

Mansur Saif al-Horsome was convicted of murdering his wife and sentenced to death in 1993. He reportedly was not provided with adequate opportunities to exercise his rights of defence. His lawyer apparently lost the case file and did not consult him or keep him informed of the case's progress. In addition, it was alleged that the president of the court which tried him was a relative of the prisoner's wife.

Yahya Naji Muhammad al-'Asadi, a father of six children, was convicted of murder and sentenced to death in 1986. In 1988 the prisoner's relatives tried to present defence witnesses to the appeal court but apparently the judge did not offer them the opportunity to be heard and the court upheld the death sentence. The verdict was also upheld by the Supreme Court and in 1989 the case was about to be referred for ratification by the then ruling Presidential Council. Relatives appealed to the court for review of the case as one of the prosecution witnesses had withdrawn his testimony against the prisoner. The court decided that the case should be reviewed. Despite this the death sentence was sent for ratification by the Presidential Council and was ratified in 1992. Subsequently, the case was transferred to Dhamar Prison for execution. The prisoner's relatives were unaware of this until the day before the date set for the execution. One of the prisoner's sons contacted the prisoner's lawyer who in turn contacted other lawyers and lobbied the Attorney General to stop the execution. As a result the execution was stopped, but the case remains before the Supreme Court.

Cases such as these and those of the members of the former NDF raise serious concerns about the standard of fairness of trial procedures followed in cases involving prisoners facing the death penalty. These trials failed to adhere to minimum international standards for fair trial including those stipulated in Article 14 of the ICCPR and paragraph 5 of the Safeguards guaranteeing the protection of the rights of those facing the death penalty, adopted by the UN Economic and Social Council in May 1984 (Resolution 1984/50).

3. Executions

During the first two to three years following the unification of Yemen, Amnesty International recorded relatively few executions. However, since then executions have increased alarmingly, as illustrated by the following table:

1990	1991	1992	1993	1994	1995	1996
2	5	5	30	25	41	Unknown [6]

Among those executed in 1993 was a 13-year-old child, **Munir Nasser al-Kirbi**, who, together with three others were convicted of murder and highway robbery. The minimum age for the use of the death penalty has since been increased to 18 in the new Penal Code, but Amnesty International does not know if this has been retroactively applied to overturn the sentence of any children who may be already on death row. The sentencing to death and execution of juvenile offenders is in clear violation of Article 6 (5) of the ICCPR which states: "Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age..."

Amnesty International fears that the increasing number of executions is set to continue and may even accelerate, given the nature and number of offences punishable by death in the new Penal Code, the lack of safeguards for prisoners facing such punishment, and the large number of prisoners believed to be currently on death row. This trend places the Republic of Yemen in opposition to the wishes of the international community to progressively restrict and finally abolish the death penalty.

4. Government justification of the death penalty

In written appeals as well as in meetings with the Yemeni authorities, Amnesty International has repeatedly urged them to abolish the death penalty and protect the right to life. However, the authorities continue to justify the retention of the death penalty on the grounds of religion and deterrence. In a letter addressed to Amnesty International in April 1995, the Minister of Interior argued that the death penalty could not be abolished as it was stipulated in Shari'a law. He added that abolition of the death penalty would lead to the spread of murder and disturbance of public order, and an increase in revenge killings.

[6] The number of executions for 1996 was not available to Amnesty International. The organization requested this information from the Attorney General, but he only said that there had been a few executions, without giving a specific number.

Amnesty International has repeatedly and at length pointed out the inconclusiveness of the correlation between the use of the death penalty and crime prevention. The deterrence argument has repeatedly been used by governments which retain the death penalty without any conclusive evidence that this punishment reduces crimes. According to the organization's own data, in many of the countries which have widened the scope of the death penalty to combat particular crimes, the result has been the reverse. For example, Saudi Arabia, which introduced the death penalty against drug offences in 1987, has witnessed a steady increase in the number of executions for such offences thereby reflecting an increase in the number of drug offences.

Amnesty International takes no position on any religion. The organization's opposition to the death penalty is based on the fact that the death penalty is imposed and carried out by human beings against other human beings. Those who impose such irreversible penalties are fallible, and miscarriages of justice can and do occur in all parts of the world. History is full of cases of people who were sentenced to death and then found to be innocent after they had been executed. The only safe way of protecting people from such risk is to protect everyone from execution irrespective of their offence. Amnesty International opposes the death penalty in all cases as the ultimate form of cruel, inhuman and degrading punishment.

Amnesty International is calling on the Yemeni authorities to reconsider their position on the death penalty in accordance with the wishes of the international community which advocates restricting this punishment with a view towards its final abolition. The organization is urging the government to contribute to the trend set by the international community towards abolition of the death penalty. Specifically, the organization urges the government to halt executions, review the cases of all those on death row, and ensure that international safeguards for trials of prisoners facing the death penalty are consistently observed and implemented.

X. HUMAN RIGHTS VIOLATIONS AGAINST WOMEN

Yemen's Constitution guarantees equal political, economic and social rights to all its citizens (Article 19) and equality before the law (Article 27). Yemen is a State Party to the Convention on the Elimination of All Forms of Discrimination against Women, and was represented at the Fourth World Conference on Women held in Beijing in September 1995. The Platform of Action agreed by governments attending the conference states that:

> "The full and equal enjoyment of all human rights and fundamental freedoms by women and girls is a priority for Governments and ... is essential for the advancement of women"

and that

> "Governments must not only refrain from violating the human rights of all women, but must work actively to promote and protect these rights". (Strategic Objective I, paragraphs 213 and 215).

The disparity between these important statements of principle and actual law and practice is striking. Far from being equal before the law, women remain victims of discrimination in criminal law and procedures, as well as in civil law, including inheritance rights.

Women have fallen victim to a range of human rights violations in Yemen. Some such violations are based on sexual discrimination against women sustained by customs and formal legal rules, or generally against women as a vulnerable group in society. Women have also fallen victim to the various patterns of human rights violations detailed in the previous sections of this report.

Human rights violations against women based on sexual discrimination or their vulnerable status in society include possible indefinite detention unless and until they are collected by a guardian, often male relatives, and sexual abuse. The indefinite detention occurs in cases of "moral" offences such as *zina* (adultery) and *khilwa*, defined in the draft penal code which was in force in the former YAR as an unjustified meeting between an adult male and an adult female who are not close relatives. The latter was an offence under Article 256 of the draft penal code in the former YAR punishable by six months' imprisonment or a fine. Although the new Penal Code, Law 12 of 1994, contains no reference to *khilwa* as an offence, in practice people suspected of *khilwa* are still subjected to arrest and punishment.

In both *zina* and *khilwa* the punishment is in theory the same for men and women. In practice women have often been subjected to detention after serving their sentences when they had no male relatives to collect them, while men involved in the same cases are as a rule released upon completion of the sentence. This discriminatory practice is based on the perception that such women, if released with no male relatives to go to, would commit further such offences. For example, in January 1992 a woman and a man were sentenced to 100 lashes each for *khilwa*. The man was released immediately afterwards, but the woman was detained until her brother came to collect her in March/April and she was released. Another woman detained in Sana'a Central Prison in June 1996 apparently serving a six-month prison sentence, possibly on *khilwa* grounds, remained held despite the fact that she had already spent one year in prison. Amnesty International submitted her case to the Attorney General for clarification, together with cases of other women held with her for many months without access to lawyers, because they had no money to pay them, and without access to a judge. By the time of writing no response had been received.

The sexual abuse of women is facilitated by the fact that arrest, detention and interrogation of suspected women offenders are carried out mainly under male dominated judicial, police and prison administrations. The vulnerability of women detained in such an environment increases further when they are held incommunicado. Victims include three women detained in December 1991 in al-Soor Criminal Investigation Centre in al-Hudaida. They were allegedly subjected to sexual abuse and threatened with rape by their male interrogators. They also include a Somali refugee who was abducted by three policemen on 4 October 1992 while on her way from the former Madinat al-Sha'ab Camp in Aden to Sheikh Othman district in the city. She was reportedly raped at gunpoint. More recently, in November 1995, 120 Somali women refugees were reported to have been subjected to sexual assaults by soldiers or prison guards in Ta'iz. They were among some 280 Somali refugees detained at that time (see Section XI below). Amnesty International expressed serious concern about the allegations of sexual assualt, but received no response from the government.

The various patterns of human rights violations described in the previous sections of this report which women have also been victims of include torture and ill-treatment, corporal punishment and the death penalty.

In addition to sexual assault and abuse referred to above, women have been subjected to other routine torture and ill-treatment such as beating and the use of shackles. For example the women who were subjected to sexual abuse in December 1991 in the Criminal Investigation Centre in al-Hudaida were also subjected to severe beatings and other forms of torture. One of them reportedly sustained a broken arm and a fractured jaw as a result of the torture. The use of shackles has been banned by law, but in practice it is still used in prisons, including on women. Among women victims of this practice was a woman detained in Sana'a Central Prison in June 1996, who was seen by Amnesty International delegates visiting the prison. She was shackled in heavy leg irons. The reaction of prison officials and a representative of the prosecution to Amnesty International's expressions of concern appeared to indicate that the use of shackles in this case was far from exceptional.

With regard to judicial punishments women have been subjected to flogging imposed after trials which fell short of international standards as described in Section VI above. However, Amnesty International does not know if any sentences of amputation have been passed or carried out against women.

Amnesty International does not know the exact number of women on death row, but they include women such as **Sophia Ahmad Hussein al-Sabawi** and **Sabah 'Ali Salih al-Difani**. Sophia Ahmad Hussein al-Sabawi, is under sentence of death for murder. At her trial she reportedly had no lawyer and there has been an allegation of judicial impropriety. She claims the killing was committed in self-defence when her house was broken into. She reportedly appealed but has not obtained any further action from the court. Sabah 'Ali Salih

al-Difani, a 22-year-old divorced woman, was sentenced in December 1995 to death by stoning. She was found guilty of murdering her child, which was born outside of marriage, in order to conceal her sexual relationship with a man who was not her husband. Her case is still subject to appeal.

Amnesty International has repeatedly brought to the attention of successive governments cases of human rights violations against women, but the organization is not aware of any such cases being successfully investigated and redressed. In one case, that of the women who were tortured in the Criminal Investigation Centre in al-Hudaida in December 1991 (see above), the government informed Amnesty International in December 1992 that the officer responsible for the torture had been dismissed and punished. However, information received by the organization subsequently suggested that the officer was merely transferred to a similar job in the Province of Ibb. Other officers who allegedly carried out the torture with him remained in their posts in al-Hudaida.

In a concluded court case which began as a result of an allegation of rape, the verdict seems to have side-stepped the issue. The case began in March 1996 when two women claimed that they were raped while in the custody of the Criminal Investigation Police in al-Mukalla, Hadramout Province. The two women were themselves charged with making false allegations and brought to trial. In August 1996 the court acquitted them and sentenced an officer to two and a half years' imprisonment. However, he was found guilty only on charges of deprivation of liberty under Article 246 of the Penal Code. At the time of writing the case was still subject to appeal. However, Amnesty International is seeking an explanation as to why the verdict made no reference to rape even though the charge of false allegation appears to have been thrown out of court. This contradiction must be addressed and the allegations of rape by police officers must be dealt with conclusively.

XI. HUMAN RIGHTS VIOLATIONS AGAINST REFUGEES

In January 1996 the Yemeni Minister of Interior was reported to have said in a press interview that Yemen had deported 7,500 foreign nationals. The Minister did not explain the process or the procedure followed in the deportations, but according to Amnesty International's information the deportees included recognized refugees and asylum-seekers who were forcibly removed as a result of deportation measures against so-called "illegal" residents in the country or in the context of inter-governmental security cooperation agreements. They were at risk of serious human rights violations on their return.

The deportation measures against so-called "illegal" residents began in August 1995 with a wave of mass arrests of foreign nationals Thousands of people were targeted and detained by security forces, particularly Somalis. At least 418 Somali nationals, many of whom were recognized as refugees by UNHCR, were forcibly returned by ship from Aden

to Bassasso in northern Somalia. They were said to have included women and children who had been living in Yemen after they fled from the civil war in Somalia.

Article 33 of the 1951 Convention relating to the Status of Refugees (UN Refugee Convention) states:

> "No Contracting State shall expel or return ('*refouler*') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion."

Accordingly, Yemen is prohibited under international law from forcibly returning any person to a country where they risk serious human rights violations on return.

The security forces' operation against foreign nationals was reported to have been carried out in clear contradiction to Yemen's international obligations under the UN Refugee Convention. In a statement issued on 29 August 1995 UNHCR announced:

> "According to some reports, police involved in the operation beat refugees, destroyed property, forcibly separated adults from their children and confiscated documents proving refugee status."

According to reports received by Amnesty International, the arbitrariness of police action was most extreme when people were rounded up and detained on the basis of their skin colour. One consequence was that black Yemenis were detained and only released when they could prove their Yemeni origin.

Between the end of August and the beginning of September 1995, UNHCR raised the matter with the government and received assurances that no further Somali nationals would be forcibly returned and that those detained would be released. Hundreds of Somalis were then released and the operation was scaled down against foreign nationals. However, in November 1995, 280 Somali nationals, including the 120 women referred to in Section XI above, most of whom were refugees recognized by UNHCR, were detained by security forces in Ta'iz reportedly because of their ethnic origin and were said to have been at risk of *refoulement*. Amnesty International requested clarification for the reasons of the arrests, and sought assurances that no one would be forcibly returned to a country where they risked serious human rights violations. The organization received no response from the government.

Those reported to have been forcibly returned or at risk of being returned to their country of origin included Saudi Arabian nationals said to have been sought by their government for their political or religious activities. In a response to a press question in

October 1996 about a possible ratification of a security agreement between Yemen and Saudi Arabia, the Yemeni Minister of Interior was reported to have said, " There is a draft convention of cooperation between the two countries in the areas of security and we provided our comments on it and agreed them with the Saudi Arabian Minister of Interior...when we met in Tunis recently... In Yemen we are waiting for the final response from our brothers in Saudi Arabia to ratify the Convention at any time." Amnesty International does not know if the ratification has been completed.

One month after the Minister's statement, approximately 20 Saudi Arabian nationals were reportedly arrested in Sana'a and handed over to Saudi Arabian authorities shortly afterwards. Amnesty International requested clarification from the Yemeni Government about the forcible return of these people to Saudi Arabia. It asked in particular, whether they had been given access to fair and satisfactory asylum procedures prior to their return. The organization has not received any response from the government and those forcibly returned are reported to be detained in Al-Hair Prison in Riyadh where they are believed to be at risk of torture.

Yemen is also reported to have signed a security agreement with Egypt in March 1996, which is said to have been ratified and entered into force in January 1997. Amnesty International does not know if any Yemenis or Egyptians have been victims of *refoulement* or are at imminent risk of being forcibly returned to their countries of origin where they may face serious human rights violations.

In November 1995 up to 300 Algerian nationals were reported to have been at risk of *refoulement* to Algeria where most of them could face serious human rights violations on return. The organization's concerns were heightened by the fact that the Arab Interior Ministers have publicly made security cooperation a priority without providing assurances that such cooperation will not be carried out in violation of international refugee and human rights law. Amnesty International sought clarification about the 300 Algerians and guarantees that they would not be forcibly returned to Algeria where they would face serious human rights violations. No clarification or guarantees were received from the government.

Amnesty International remains seriously concerned about the human rights violations committed by security forces against refugees in Yemen and about the inconsistency of government policy with regard to the UN Refugee Convention. The organization is seeking government action remedying this situation. Specifically, Amnesty International urges the government to carry out thorough, independent and impartial investigations into the violations allegedly committed by its security forces against refugees and others. In addition, the organization calls on the government to immediately introduce fair and satisfactory asylum procedures whereby those at risk of serious human rights violations if forcibly returned to another country may be identified and protected.

XII. CONCLUDING REMARKS: GOVERNMENT UNDERTAKINGS AND AMNESTY INTERNATIONAL'S RECOMMENDATIONS

Some patterns of human rights violations in Yemen are perpetuated by a range of reasons, particularly the impunity enjoyed by perpetrators, while others are legalized and carried out by the state. The climate of impunity has effectively encouraged the widespread practice of arbitrary arrest and detention of political suspects by security forces, particularly by members of the PS whose activities in this respect have been beyond any judicial supervision as they are accountable only to the President. Abduction and beatings of government critics and opponents, abuses by armed political groups, torture and deaths in custody, "disappearances", extrajudicial executions, violations of the rights of women and refugees have been widespread. Hundreds of people have fallen victim to these human rights violations, but Amnesty International is not aware of any case where those who perpetrated them have been successfully prosecuted and the rights of the victims redressed in accordance with domestic law and international human rights standards.

Human rights violations sanctioned by law in Yemen include the use of the judicial punishments of flogging, amputation, the death penalty and discrimination against women. The government has extended the scope of these in the new Penal Code. Such extensions are in flagrant contravention of Yemen's obligations under international human rights treaties. In addition, these punishments are being implemented without adequate trial safeguards. Such factors have made these grave punishments easy to implement. Flogging has become a daily event throughout the country, and sentences of amputation and executions are on the increase. These trends seem set to increase further unless the government takes immediate action to introduce international trial safeguards for prisoners facing such punishments and initiate policies to work towards their total abolition, and to implement measures to ensure equal treatment of women and men.

The concerns of Amnesty International have been similar to those expressed by the Human Rights Committee when it considered the report on Yemen at its 53rd session in April 1995.

> "The Committee expresses its deep concern at allegations of arbitrary deprivation of life, acts of torture or other cruel, inhuman or degrading treatment, arbitrary arrest and detention, abusive treatment of persons deprived of their liberty, and violations of the right to a fair trial. It is deeply concerned that those violations were not followed by inquiries or investigations, that the perpetrators of such acts were not punished, and that the victims were not compensated. Ill-treatment of prisoners and overcrowding of prisons continue to be of concern." (UN Doc/CCPR/C/79/Add.51, para 13)

1. Government undertakings

An Amnesty International delegation discussed the concerns detailed in this report with the Yemeni Government. The government welcomed some of Amnesty International's recommendations and rejected others on various grounds. Specifically the government undertook to look into the issue of arbitrary arrest, torture, some cases of "disappearances", and human rights violations against women.

i. Arbitrary arrest

The authorities acknowledged that the PS should be made accountable to the law. They said that the government had been looking into ways of possibly creating a public prosecution office to specifically supervise their activities. The Attorney General agreed as a minimum to issue a circular with immediate effect to all arresting authorities, particularly the PS, to remind them that arrests can be carried out only in full compliance with the requirements contained in the Constitution and CCP. The requirements are that arrests are prohibited except by judicial warrant or in cases of *flagrante delicto*, that suspects must be informed of the reason for arrest, that detainees are guaranteed the right of access to a lawyer and relatives within 24 hours, and that any arrested suspect must be brought before a judge or prosecutor within 24 hours of arrest. It was also agreed that the circular would remind all arresting authorities that violation of these safeguards is a criminal offence punishable by imprisonment, and that offenders will not escape punishment.

ii. Torture

The government acknowledged that torture takes place but stated that this was not a result of deliberate policy. The Attorney General expressed appreciation for Amnesty International's recommendations to stamp out torture and undertook to establish a torture monitoring unit in his office. Amnesty International recommended that the unit should be built around two principal objectives - obtaining redress for torture victims and preventing torture. With regard to redress, the unit should play a direct role in investigating all cases of alleged torture, including those where no formal claim had been filed. All allegations of torture should be reported to the unit for investigation. The unit's investigations should be conducted in accordance with both Yemeni law prohibiting torture and international human rights standards. In particular, the investigation should be prompt, be guided by the principles of independence and impartiality, and any findings should immediately be made public. In situations where no claim had been filed as yet, the unit's role should, at a minimum, be to take initiatives to assist potential claimants and alleviate the legal burden which has been a recurrent obstacle in obtaining court hearings of cases. The unit should ensure that the claimants have access to all relevant documentary evidence, including police and other official records and post-mortem reports. The government should also consider initiating prosecution of the perpetrators.

Amnesty International also recommended that the unit's preventative role should entail at least three measures. Firstly, the unit should be made known to the public and security forces alike, with explicit directives making clear that torture is a crime and offenders will not escape punishment, in accordance with Yemen's international obligations under Article 4 of the CAT. These directives should include the duty to disobey superior orders to inflict torture, as implied by Article 5 of the UN Code of Conduct for Law Enforcement Officials. Secondly, the unit should conduct regular, as well as unannounced, visits to detention centres to interview detainees about their treatment upon arrest and during detention. Thirdly, it should ensure that detainees are given an independent medical examination upon arrest and regularly during detention.

iii. Investigation of cases of "disappearances" since 1994

The Attorney General undertook to investigate the cases of people who have "disappeared" since 1994. Amnesty International submitted a sample of 28 such cases. In one case, that of Farazdaq Fu'ad Qaied (see Section VIII above), the organization provided the Attorney General with the home address of the victim's mother in order to facilitate his contact with her to seek further information and to keep her informed of the progress of his investigation and the findings. The organization also undertook to provide the Attorney General with similar details of other victims' relatives as they become available.

iv. Human rights violations against women

The Attorney General agreed to look into human rights violations against women. In particular, he undertook to order the immediate release of any women detained without charge or not charged with a recognizably criminal offence.

In addition, the Minister of Foreign Affairs proposed the establishment of an association to provide assistance to women prisoners. Amnesty International welcomed such a suggestion particularly as one such organization had reportedly been denied authorization by the Ministry of Social Affairs. Amnesty International proposed that the association's assistance to women prisoners could take the form of helping to organize their visits to the court or judge, contacting medical staff for sick prisoners or their children, contacting their families, and, for foreign prisoners, contacting embassies. The association could also help organize activities in the prison such as workshops, which are understood to be available to male prisoners but are limited for females.

v. Pro-active human rights program

The government undertook to consider the development of a general, pro-active program for the prevention of human rights violations. The program would reflect the directions of

the World Conference on Human Rights held in Vienna in 1993 and the UN Conference on Women held in Beijing in 1995.

vi. Cooperation with Amnesty International

Amnesty International offered to provide any assistance within its means that would speed up or help the government to carry forward the above undertakings. The organization has already provided the authorities with proposals about these undertakings. The government in turn agreed to cooperate with Amnesty International, including informing it of steps taken to achieve the above objectives. At the time of writing the organization has not received any information from the government regarding any progress made in implementing the undertakings.

vii. Amnesty International's continuing concerns

While Amnesty International welcomes the above mentioned undertakings, it remains concerned that on other equally important human rights issues the government appears to be unwilling or reluctant to act on the organization's recommendations. Such recommendations relate specifically to the lack of judicial accountability of arresting authorities, particularly the PS; review of the cases of political prisoners; lack of investigation of cases of alleged torture and of deaths in custody, abduction and beatings, long standing cases of "disappearances", and abuses by armed opposition groups; restriction and abolition of judicial punishments of flogging, amputation and the death penalty; and the equal treatment of women, the protection of women prisoners, refugees and asylum-seekers.

2. Recommendations

Amnesty International urges the government to reconsider its position on these concerns and to take steps to address them. In particular, the organization urges the government to include in its implementation of the above undertakings the following recommended steps:

i. Immediate steps must be taken to ensure that arrest and detention are always carried out under independent and impartial judicial supervision in order to protect suspects from being arrested and detained solely on the basis of their political, religious or other beliefs, ethnic origin, sex, or other discriminatory basis.

ii. Immediate action should be taken to release Mansur Rajih and anyone else currently detained for the non-violent expression of his or her political, religious or other beliefs, ethnic origin, sex, or for other discriminatory reasons.

iii. The government should commute the death sentences against the political prisoners mentioned in Section II. It should initiate an independent and impartial judicial review into their cases or ensure they are retried by an independent and impartial tribunal in accordance with international standards for fair trial as set down in Article 14 of the ICCPR.

iv. Allegations of torture and incidents of abduction and beatings should be immediately subjected to thorough, independent and impartial investigations in accordance with Yemen's international obligations under the CAT, particularly Articles 12 and 13.

a The government should ensure that the legal system provides for the victims of torture and their dependents to obtain financial compensation. Victims should also be provided with appropriate medical care or rehabilitation. This is in accordance with Article 14 of the CAT.

b The government should comply with its international obligation under Article 19 of the CAT by filing its initial report with the Committee Against Torture thereby allowing for scrutiny of its undertaking to eradicate torture.

c All perpetrators of torture should be brought to justice.

v. Independent, impartial and public commissions of inquiry should be set up to investigate allegations of torture, incidents of abduction and beatings, abuses by armed political groups, deaths in custody, extrajudicial executions, "disappearances" and violations of the rights of refugees. The inquiries should be conducted in accordance with international human rights standards, including those set down in the CAT and the Principles for the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions. The findings of such investigations should be made public, the perpetrators brought to justice and the rights of the victims redressed.

vi. The government should commute all outstanding sentences of flogging and amputation and take steps to bring Yemen into line with international standards, including Article 7 of the ICCPR, which prohibits the use of these punishments. Pending the achievement of this objective, the government should ensure with immediate effect that international trial safeguards for prisoners facing the death penalty are strictly observed in cases of defendants facing the punishments of flogging and amputation.

vii. The government should abolish the death penalty in law for all offences. Amnesty International urges that until the death penalty is abolished, no further executions be carried out, that steps be taken to commute the death sentences of those on death row, and that no further death sentences be imposed.

Pending the abolition of the death penalty the government should

a Ensure that judicial authorities implement the safeguards guaranteeing protection of the rights of those facing the death penalty (ECOSOC Resolution 1984/50);

b Comply with Article 6 (5) of the ICCPR by ensuring that the death sentence is not imposed on juveniles;

c Amend the law so that the death penalty is imposed only for the most serious crimes, resulting in death or other extremely grave consequences, and is not misused against people for the non-violent expression of their beliefs.

viii. The government should in addition to the undertaking to look into cases of women prisoners, take effective measures to end the practice of detaining women beyond expiry of sentences until they are collected by male relatives and protect women as a vulnerable group against torture. Specifically the government should:

a Issue clear instructions to prison, police and judicial authorities to stop the detention of women beyond expiry of their sentences. Such instructions should also explain that such detention amounts to deprivation of liberty, which is an offence under Article 246 of the Penal Code, and anyone who breaches this article will be punished by up to five years' imprisonment;

b The government should adopt a long term strategy to stop arrest, detention and interrogation of women by male only police officers, prison guards or members of the judiciary. In the meantime the government should ensure with immediate effect that arrest and interrogation of women are carried out by male officers only with the presence of a female officer or female lawyer. In addition, the government should ensure that women in detention are supervised by female staff. In cases where

such an option is not available, the detainees should be given regular access to relatives, friends and lawyers;

c Initiate a review of legislation to ensure the equal treatment of women, consistent with its international treaty obligations under the Beijing Platform of Action.

ix. The Government of Yemen, as a State Party to the 1951 Convention relating to the Status of Refugees, must abide by its obligations under the Convention to identify and protect all people in need of protection through the introduction of fair and satisfactory asylum procedures. It must undertake not to forcibly return any person to a country where he or she is likely to face human rights violations. In addition, the government should clarify the fate and whereabouts of those foreign nationals forcibly removed from Yemen whose cases are mentioned in Section XI.

x. a The government should ensure that there is compliance by the authorities with human rights safeguards in Yemen's Constitution and laws and in international treaties.

b The government should review the extent to which there is compliance by national institutions, such as the security forces and courts, with human rights guarantees in Yemen's Constitution and laws and its international obligations under the ICCPR and the CAT, and take the necessary legislative and administrative measures.

Amnesty International urges the prompt implementation of these recommendations and would extend its cooperation to the government to further these objectives.