



Submission to the Universal Periodic Review of Yemen

Human Rights Watch

October 2023

Introduction

This submission highlights Human Rights Watch's concerns regarding the human rights situation in Yemen. Since Yemen's last Universal Periodic Review (UPR) in 2019, the armed conflict in Yemen the Saudi and United Arab Emirates (UAE)-led coalition and the Houthi armed group (also known as Ansar Allah) has continued, leading to serious violations of international humanitarian and human rights law that have resulted in widespread civilian harm. Parties have attacked and mined food and water infrastructure, as well as medical facilities, and have blocked access to humanitarian aid, leaving over 70 percent of the population in need of humanitarian assistance.

Need for Accountability and Redress

In its previous UPR in 2019, Yemen accepted recommendations to investigate and ensure accountability in line with international standards for arbitrary detention, torture, ill-treatment, and sexual violence.¹ Despite the urgency to ratify the Rome Statute, the founding treaty of the International Criminal Court, and core human rights treaties, Yemen did not accept the recommendation to ratify the Rome Statute.² Throughout the conflict, the Saudi and UAE-led coalition and the Houthis have committed unlawful attacks against civilian objects, such as residential homes, hospitals, and schools. There has been virtually no accountability for violations committed by parties to the conflict.

The Houthis and the Yemeni government impose unnecessary restrictions and regulations on humanitarian organizations and aid projects, creating lengthy delays. Human Rights Watch documented severe restrictions by the Houthi authorities, the Yemeni government and affiliated forces, and the UAE-backed Southern Transitional Council (STC) on the delivery of desperately needed humanitarian aid during the outbreak of COVID-19. Despite UN efforts, Houthi forces continue to close the vital roads leading to Taizz, violating freedom of movement and further contributing to the already grave humanitarian crisis in the governorate.

Warring parties have carried out unlawful airstrikes and continue to carry out indiscriminate attacks in violation of the laws of war, some of which might amount to war crimes. The Saudi and UAE-led coalition carried out three attacks in Yemen in late January 2022 in apparent violation of the laws of war that resulted in at least 80 apparently civilian deaths, including three children, and 156 injuries, including two children.

According to do the Yemen Executive Mine Action Center (YEMAC) and the UN mission to support the Hudaydah Agreement (UNMHA), Houthi forces continue to use landmines, which is exacerbating the humanitarian crisis and contributing to the starvation of civilians.

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

¹ A/HRC/41/9, Recommendation 123.41 (New Zealand); 123.50 (Australia); 123.39 (Mexico).

² A/HRC/41/2, p.87 para 619.

Since the UN Human Rights Council narrowly rejected the resolution renewing the Group of Eminent Experts on Yemen's mandate in October 2021, there has been no alternative UN-mandated independent mechanism to monitor the human rights situation in Yemen and ensure accountability for abuses.

Recommendations:

- Adhere to the Mine Ban Treaty's strict prohibition on antipersonnel landmines and clear mined areas as quickly as possible in accordance with international standards;
- Grant and facilitate the free passage of humanitarian assistance and grant persons engaged in the provision of such assistance rapid and unimpeded access to all populations at risk.
- Ratify the Rome Statute and implement the statute in national legislation, including by incorporating provisions to cooperate promptly and fully with the International Criminal Court and to investigate and prosecute war crimes, crimes against humanity, and genocide before its national courts in accordance with international law.
- Accede to the Convention on Cluster Munitions and ensure that it is implemented through national legislation.
- Urge the Saudi and UAE-led coalition, which is operating in Yemen with the government's consent, to impartially and transparently investigate credible reports of alleged violations of the laws of war, make public their findings and fairly prosecute those implicated in war crimes.
- Urge the coalition to provide compensation for wrongful civilian deaths, injuries and harm, and to develop effective systems for civilians to file claims for condolence or *ex gratia* payments and to evaluate the claims.
- Investigate human rights abuses and violations of the laws of war. Establish accountability mechanisms to hold individual personnel accountable and provide redress to victims or their families.
- Ensure investigative bodies and their personnel, including the national commission, are able to operate independently within the country.

Arbitrary Detentions, Torture, and Enforced Disappearances

During the previous UPR in 2019, Yemen accepted recommendations to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment³ and several recommendations calling on the government to fight human trafficking and protect victims of human trafficking and sexual violence, while holding perpetrators accountable⁴. Yet as of September 2023, they have failed to implement these recommendations.

Yemen's warring parties, including the Houthis, the Yemeni government, Saudi Arabia, and the UAE and the armed groups they back, continue to arbitrarily arrest, forcibly disappear, and torture people in detention across Yemen. The Mothers of Abductees Association, a Yemeni civil society organization, documented 498 arbitrary detentions and enforced disappearances in 2022. In May 2023, the Houthis disappeared 17 individuals of the Baha'i faith who were having a gathering in a private residence. Parties to the conflict also continue to detain and torture detainees in secret prisons. Conditions of detention across Yemen are appalling, in both official and unofficial detention facilities, creating increased health risks to detainees.

³ A/HRC/41/9/Add.1, Recommendation 124.1 (France); 124.13 (Austria); 124.14 (Denmark).

⁴ A/HRC/41/9, Recommendations 123.69 (Egypt); 123.70 (Honduras); 123.71 (India); 123.72 Iraq; 123.73 (France); 123.74 (Morocco); 123.75 (Myanmar); 123.77 (Philippines); 123.78 (Seychelles); 123.151 (Algeria).

The Yemeni government can improve treatment of individuals detained in areas under its control and urge the Saudi and UAE-led coalition to do the same.

Recommendations

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

Journalists and Human Rights Defenders

In its 2019 UPR, Yemen accepted recommendations to protect journalists and human rights defenders from arbitrary detention, enforced disappearances, torture, acts of aggression or intimidation, and to investigate and prosecute attacks against them.⁵

Throughout the conflict, journalists and human rights defenders across Yemen have been subjected to threats, intimidation, violence, or detention for doing their jobs reporting on the conflict. Human Rights Watch reported in 2021 that the UAE-backed Southern Transitional Council (STC) forces arbitrarily detained and tortured a journalist apparently for his critical reporting. The Yemeni government, the Houthis, and the Saudi and UAE-led coalition should take immediate steps to ensure the protection of journalists and human rights defenders.

Recommendation

- Uphold the rights of human rights defenders and journalists, release any individuals who have been arbitrarily detained and disappeared arbitrarily, and cease hindrance of human rights work, including by threatening detention or restrictions on travel.

Women

⁵ A/HRC/41/9, Recommendations 123.27 (Canada); 123.37 (Luxembourg); 123.49 (Argentina).

Yemen accepted many recommendations to improve the treatment and protection of women in the country, including those calling upon the government to fulfil its obligations under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)⁶, raise the minimum age for marriage to 18⁷ and legislate protections for women against domestic and sexual violence⁸.

Violence against women in Yemen increased during the COVID-19 crisis, according to a 2020 report by UN Women. Guardianship laws govern Yemeni women under Houthi control. Authorities across different areas of Yemen, including in government-held territories, bar women from traveling and obtaining or renewing identity documents, without a male guardian or written approval. Women in Yemen face severe discrimination in law and practice. They cannot marry without the permission of their male guardian and do not have equal rights to divorce, inheritance, or child custody. Lack of legal protection leaves them exposed to domestic and sexual violence. Despite a bill that was drafted by the Yemeni government to define the minimum age for marriage, child marriage also continued, and Yemen still has no minimum age of marriage. In 2021, the UN Group of Eminent Experts on Yemen reported widespread gender-based violence and sexual violence by the Houthi forces and the Saudi and UAE-backed forces. Women have been consistently underrepresented during the ongoing peace talks.

Recommendations

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

Refugees, Asylum Seekers, Migrants, and Internally Displaced People

Yemen has been a key transit country for refugees, asylum seekers, and migrants from Somalia, Ethiopia, and Djibouti to Saudi Arabia in search of work or fleeing human rights abuses. In its 2019 UPR, Yemen accepted recommendations to protect the rights of migrants, refugees, and the internally displaced from violence.⁹

Throughout the conflict, the Yemeni government and the Houthis have subjected migrants to severe human rights violations, including detention in inhumane conditions without adequate access to basic services and food. The Houthi armed group launched unidentified projectiles into a migrant detention center in Sana'a in March 2021, causing a fire and killing scores of African migrants. Houthi forces have forcibly expelled thousands of Ethiopian migrants from northern Yemen, including by pushing them to the Saudi border, where Saudi border guards have systemically killed them, in actions that may amount

⁶ A/HRC/41/9/Add.1, Recommendation 124.20 (Estonia).

⁷ A/HRC/41/9/Add.1, Recommendation 124.21 (Germany); 124.68 (Austria)

⁸ A/HRC/41/Add.1, Recommendation 124.68 (Austria).

⁹ A/HRC/41/9, Recommendations 123.166 (France); 123.70 (Honduras); 123.76 (Philippines).

to crimes against humanity.

Despite being a party to the UN Refugee Convention, Yemen does not have a domestic legal framework for refugee protection or a functioning asylum system. The Yemeni government also subjects migrants to arbitrary detention, abuses, and deportations. Humanitarian organizations continue to raise concerns regarding the treatment of migrants across Yemen, in both government and Houthi-controlled territory.

The war has internally displaced more than 4 million people from their homes.

Women migrants from Horn of Africa countries continue to face sexual violence and exploitation at the hands of smugglers and traffickers in Yemen while en route through the country to Saudi Arabia.

Recommendations

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

Abuses against Children

In the 2019 UPR, Yemen accepted many recommendations on ending the recruitment of children in armed conflict, developing a strategy to fight child recruitment and adopting an initiative on the protection of children in armed conflict.¹⁰

Houthi forces and the Saudi and UAE-led coalition have committed serious violations against children throughout the war. The Houthis have recruited thousands of children as soldiers and sent them into battle. One boy told Human Rights Watch that he was recruited at age 13 and was subsequently shot in the chest while fighting the Yemeni army. The Saudi and UAE-led coalition has carried out more than 25,000 airstrikes in Yemen that have killed or injured thousands of children. Human Rights Watch has documented many indiscriminate and disproportionate attacks that have killed or injured children and

¹⁰ A/HRC/41/9, Recommendations 123.42 (New Zealand); 123.149 (Zambia); 123.152 (Belgium); 123.157 (Croatia); 123.159 (Czechia); 123.161 (Eritrea); 123.162 (Estonia); 123.163 (Germany); 123.166 (France); 123.167 (Italy); 123.170 (Lebanon); 123.171 (Malaysia); 123.172 (Malaysia); 123.173 (Norway); 123.174 (Philippines).

destroyed civilian infrastructure, including schools and hospitals. Pro-government Yemeni forces have also carried out indiscriminate missile strikes, deployed children into combat, and attacked schools and hospitals.

In 2022, Houthi authorities signed an action plan with the United Nations, pledging to end recruitment and use of children as soldiers, killing and maiming of children, and attacks against schools and hospitals. Houthi leaders had pledged in 2012 to end use of child soldiers, as did the Yemeni government in 2014. Yemen endorsed the Safe Schools Declaration in 2017. In 2019, the Saudi and UAE-led coalition committed to protect children in a memorandum of understanding signed with the UN.

Recommendations

- End the recruitment of children in armed forces including those serving non-military functions.
- Appropriately investigate and punish officers who allow children in their units or are responsible for the war crime of recruiting or using children under 15.
- Provide former child soldiers all appropriate assistance for their physical and psychological recovery and social reintegration.
- Refrain from using schools for military purposes by Yemeni government and allied forces.
- Prioritize demining and rehabilitation of damaged and destroyed schools.