



# Yemen

## Human Rights in Turmoil

**Submission to the list of issues prior to reporting in view of  
Yemen's third review by the Committee against Torture**

**Alkarama Foundation – 9 February 2015**

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## 2 Introduction

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Since the last review of Yemen by the Committee against Torture (hereinafter CAT) in 2009, there has been a long period of turmoil and conflict which led to mass human rights violations from all parties, including the governmental authorities and armed groups. The hostilities carried out in the North and the South parts of the country for the past years have resulted in extensive human rights violations, including hundreds of arbitrary arrests and detention, torture and executions.

On 8 March 2014, interim Yemeni President Abd Rabu Mansour Hadi announced the formation of the [Constitution Drafting Committee](#) (CDC), which presented a first draft on 7 January 2015. Following the National Dialogue Conference (NDC) that ended on 25 January 2014, a constitutional referendum was scheduled for September 2014 and parliamentary elections were slated for April 2015. A one-year extension of President Abd Rabu Mansour Hadi's mandate was also agreed upon.

However, as the Houthi rebels seized power on 6 February 2015, proclaiming a new Constitutional decree, this process was put in jeopardy as the Houthis rejected the draft Constitution over a disagreement on the structure of the state and regions.

Aware of the political, economic and social difficulties of Yemen, Alkarama wishes to participate in this process in a spirit of cooperation while reiterating the fact that freedom from torture, cruel, inhumane and degrading treatment cannot be subjected to any exception whatsoever, including conflict and internal divisions, all the more as fundamental rights and freedom should be at the cornerstone of democratic transitions.

Alkarama reviewed carefully the concluding observations of the Committee against Torture, Yemeni laws and the "Replies and comments by the Government of Yemen concerning the issues raised in the provisional concluding observations of the Committee against Torture" (CAT/C/YEM/CO/2) of 9 February 2010. We will thus present this submission to the list of issues taking into account the peculiar situation of Yemen, with the view of having the Convention against Torture (hereinafter UNCAT) fully implemented within the Yemeni legal framework as soon as possible as to close the numerous legal gaps that were highlighted during the last review by the CAT in 2009.

## 3 Definition of torture (article 1)

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We note that torture is prohibited in article 48(e) of the 1991 Constitution, as follow:

e. The law shall determine the punishment for anyone who contravenes the provisions of any paragraph of the present article, together with the appropriate compensation for any damage which the person may suffer as a result of such contravention. Physical or psychological torture at the time of arrest, or during the period of detention or imprisonment shall be deemed a criminal offence that is not subject to any statute of limitations. Anyone who commits, orders or participates in such crime shall be liable to prosecution.

This definition clearly does not abide by the UNCAT standards. Indeed, Alkarama is concerned that with regards to the *mens rea*, the Constitutional definition of torture limits its scope to solely cases where it is used as a mean of coercing a confession during arrest, investigation, detention and imprisonment. This is contrary to both article 1 UNCAT and international jurisprudence which states that the intent is indicative rather than all inclusive<sup>1</sup>.

Second, the definition of torture is not incorporated into domestic law, especially in the Code of Criminal Procedure, the Code of Conducts for security forces, judicial bodies and medical personnel. Lastly, complicity in acts of torture is not expressly punished, when in fact domestic law should criminalise not only the perpetration of torture but also complicity.

*Questions:*

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<sup>1</sup> ICTY, *Prosecutor v. Furundzija*, paras.144 and 153-157.

1. *Is Yemen planning to adopt a definition of torture which is consistent with article 1 UNCAT, including elements on the statute of limitations?*
2. *Is the State party to include all forms of participation in acts of torture as set out in the Convention, including complicity?*
3. *Is the State party going to extend the definition of torture not only to acts of coercion in order to extract confession, but also to punish, intimidate or discriminate on any ground?*
4. *The First National Dialogue Conference on Criminal Justice, held in March 2013, issued recommendations concerning the lack of legislation containing a definition of torture such as the incorporation of an article in the Criminal Code which would define torture in line with article 1 of the Convention. Is this project still ongoing and are the authorities still willing to implement the recommendations issued?*
5. *At which stage is the Criminal justice reform process? Are the different projects planned still carried out?*

## **4 Criminalisation of torture and absolute prohibition (articles 2 and 4)**

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### **4.1 Effective measures to prevent acts of torture (article 2 (1))**

Alkarama is concerned by the lack of effective measures to prevent acts of torture, which consequences were embodied in the past years by numerous cases of torture that did not lead to any investigation or punishment. The fact that the practice of torture and ill-treatment remains widespread in Yemeni places of detention, and that the perpetrators remain unpunished, shows a clear lack of effectiveness in the legislative, administrative and judicial systems to ensure that people are not subjected to torture.

*Question:*

6. *What measures is the State Party taking to establish an effective policy of eradication of torture by all elements of its security forces as well as to investigate and prosecute non-state actors who committed such crimes?*

### **4.2 Absolute prohibition of torture (Article 2 (2))**

The Yemeni legal framework does not include any provision as to ensure that no exceptional circumstances whatsoever – including a state or threat of war, internal political instability or any other public emergency or an order from a superior officer or a public authority – may be invoked as a justification of torture or ill-treatment.

*Questions:*

7. *Does the State party recognise the absolute and non-derogating character of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment?*
8. *Could the State party indicate if it has adopted legal provisions as to implement the principle of absolute prohibition of torture into its domestic law without any possible derogation?*

#### **4.2.1 Absolute prohibition of torture and counter-terrorism policies and laws**

Alkarama expresses its concern over the lack of a clear and absolute prohibition of torture in Yemeni laws and policies, that translate into a use of such practices by officials against detainees in State Security Prisons run by the Public Security Department, the national security authority and the Department of Anti-terrorism. A broad definition of terrorism, coupled with a peculiar political and security situation, has led to a widespread use of torture, especially aimed at extracting confessions.

We would also like to recall the fact that the Specialised Criminal Court, competent to hear cases of terrorism, continues to be used despite the last calls from the CAT to dissolve the Court. We recall that these courts bring charges that are often broad, against individuals who are denied all basic fundamental guarantees. The standards on which this court functions are inconsistent with all

international fair trial principles. Defendants are often held *incommunicado* for long periods and extended pre-trial detention where they are subjected to torture and other ill-treatments, in addition to being denied the right to seek legal counsel. Despite numerous claims from defendants that they had been tortured, the court systematically failed to investigate these allegations and convicted defendants on the basis of confessions that are very likely to have been extracted under torture.

*Questions:*

9. *What are the specific safeguards in law and practice that the State party had taken in order to ensure that interrogation techniques used in counter-terrorism operation are not breaching its obligations under the convention?*
10. *Has the State party taken any concrete measure to dissolve the Specialised Criminal Court and to, in the meantime, ensure that confessions under torture are systematically rejected?*

### **4.3 Defence of Superior order (article 2 (3))**

Given the numerous cases of torture committed by public officials in State-controlled detention facilities, Alkarama is concerned over the effective incorporation of this principle into the laws applicable to law-enforcement and military officials.

Alkarama noted that in the case of physical coercion and *force majeure*, the Yemeni law states that, in cases of murder and torture, neither the individual who is coerced nor the person responsible for coercing him or her shall be exonerated of responsibility.

However, article 35 of the Code of Offences and Penalties stipulates that a person shall not be deemed to have committed a crime, if he committed a criminal act under pressure of physical coercion that was impossible to resist or in circumstances of *force majeure*. The person responsible for coercing him or her shall answer for the crime, unless it involved the murder or torture of a human being, in which case neither he nor the person who was coerced shall be exonerated of responsibility. Article 225 further stipulates that members of the Armed Forces shall not be made held responsible for refusing to carry out an unlawful order from a superior officer that was in clear breach of the Code of Offences and Penalties or general international law.

*Questions:*

11. *What are the legal standards used to assess the superior's responsibility in case of torture committed by his subordinates? If so, is this legal standard in line with the international legal standard of command responsibility?*
12. *Could the State party provide clear provisions stating that no order from a superior officer or a public authority may be invoked as a justification of torture or ill-treatment and no one should be exempted from liability for committing torture by invoking an order from a superior officer or a public authority?*
13. *What are the steps taken by the authorities to ensure that all members of the Armed Forces are able to recognise an unlawful order? Is this disposition made clear to all members of the Armed forces during trainings and in manuals?*
14. *Can the State party provide information on steps taken to ensure the safety of law-enforcement official and military personnel who refuse to carry out an illegal order?*

### **4.4 Criminalisation of torture under domestic criminal law (article 4)**

Alkarama notes with concern that there is no clear and explicit provision within the domestic criminal system that incriminates the acts of torture and other ill-treatment according to the standards of the Convention.

*Questions:*

15. *Can the State Party explain what are the steps taken to criminalise effectively all forms of torture and other ill-treatment according to the UNCAT definition and modes of participation (i.e. attempt and complicity)*
16. *Could the State party provide detailed examples in which anti-torture provisions were invoked before or by a court?*
17. *If relevant, can the State Party explain what were the sanctions imposed on individuals who were found guilty of torture?*

## **5 Non refoulement (article 3)**

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Alkarama remains concerned about the lack of legal provisions expressly prohibiting the expulsion, return or extradition of a person to another State where there are substantial grounds for believing that he or she would be subjected to torture as stipulated in article 3 UNCAT, as well as the absence of an effective appeal procedure available to persons likely to be subjected to such treatment.

*Questions:*

18. *Is Yemen planning on incorporating article 3 of the Convention into its domestic law?*
19. *Does Yemen conduct inquiries as to ensure that the individuals at risk of extradition are not sent back to a State where he/she could face torture?*
20. *Can the State party explain the considerations that are taken into account while expelling or returning individuals to their other countries, especially concerning migrant workers or persons suspected of terrorism?*
21. *Could the State party provide detailed information on the procedure applied before an extradition, an expulsion or a refoulement with a specific mention to the measures taken to ensure the concerned people are not in danger of being tortured? What are the conditions adopted by the State to ask for diplomatic insurances in cases where an individual is returned to another State and where there is a risk of torture or ill-treatment?*
22. *Are individuals facing expulsion, refoulement or extradition, informed of their right to seek asylum and appeal a deportation decision?*

## **6 Jurisdiction and international cooperation (articles 5, 6, 7, 8, 9)**

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*Question:*

23. *Has the State implemented the principle of "aut dedere aut judicare" in order to ensure that perpetrators of torture are being held criminally responsible?*

## **7 Dissemination of information, training of law enforcement officials, review of interrogation rules (articles 10 and 11)**

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### **7.1 Dissemination of information and training**

*Questions:*

24. *Has the State party planned a policy including campaigns, trainings, awareness programmes towards both judicial and security authorities as well as civil society to ensure the enforcement of legal provisions and to end arbitrary detention as well as promote detainees rights?*
25. *Can the State party provide detailed information about the code of conduct for law enforcement officials, including date of entry into force of rules of conduct for interrogation of arrested, detained and imprisoned persons?*

26. *Has any training material been produced and training sessions effectively implemented for all government forces, including special forces, intelligence and counter-terrorism specialised forces?*

## **7.2 Review of interrogation rules and prison inspections**

### **7.2.1 The issue of un-monitored detention centres and exceptional institutions (articles 11 and 16)**

In its Replies and Comments concerning the issues raised in the provisional concluding observations of the Committee against Torture, the Government of Yemen explained that: *"The Department of Prisons, which is attached to the Office of the Public Prosecutor, is responsible for monitoring prisoners from their arrest until they are sentenced. The Department is also responsible for looking into prisoners' grievances and gathering prisoner data."*<sup>2</sup>

Alkarama express its concern over the lack of regular government inspection and independent monitoring in all detention centres. This requirement for an independent inspection stems from international documents focusing on the management of prisons such as the UN Standard Minimum Rules for the Treatment of Prisoners (UN Rules, Rule 55) and the UN Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment (UN Body of Principles, Principle 29).

Alkarama expresses its deepest concern regarding numerous cases of torture documented in Detention centres that are under the authority of the Political Security Organisation (PSO, which is in charge of domestic intelligence in Yemen. Established by Decree No. 121 of 1992 under the name of the "Central Political Security Agency", it holds special powers of arrest and detention derived from this Decree and is not bound by any other law. Furthermore, it has its own detention centres which are not official and thus not subjected to normal regulations on prisons.

If the Yemeni authorities explained during their last review by the CAT that PSO officers must sign a document certifying that they recognise torture is illegal according to the laws and Constitution of the country and that those who torture prisoners will be punished, Alkarama continues to document cases of torture occurring in these facilities, as well as *incommunicado* and arbitrary detention. This shows that intelligence agencies like the PSO are acting outside the realm of the law, violating basic human rights laws and principles.

#### *Questions:*

27. *Can the State party explain the steps taken to ensure an independent and thorough monitoring and inspection of all places of detention?*
28. *Has the State party undertaken any steps to establish a national system to effectively monitor and inspect all places of detention?*
29. *The International Committee of the Red Cross (ICRC) has entered into discussions with President Hadi with the aim of reaching a written agreement that would give the ICRC more systematic access to detainees held by the Yemeni State authorities. Is this agreement still being implemented to date?*
30. *Can the State party explain the formal procedure governing inspection of police detention facilities, detention centres and other places of detention? Is this procedure carried out by an independent institution?*

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<sup>2</sup> Para.87.

## **8 Duty to investigate, right to redress, protection and compensation (articles 12, 13 and 14)**

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In its replies and comments of 2010, the Yemeni authorities highlighted that under the Constitution and the laws in force, arbitrary detention and torture of suspects or detainees on remand constituted crimes which were not time-barred from prosecution, and the perpetrators of such crimes received their just punishment.<sup>3</sup> However, as we will demonstrate below, the practice of torture and impunity of those responsible for those crimes persists. Alkarama has documented several cases of torture that shows a pattern of lack of accountability for acts of torture, committed by both State and non-state actors, as despite repeated claims from victims and their lawyers, no investigation was open.

In 2011, numerous arbitrary arrests and detentions during which acts of torture were carried out against people who took part in peaceful protests against the government. Many people arrested during these demonstrations were held *incommunicado* and tortured by forces loyal to the Saleh government on charges of "terrorism" and without basic procedural safeguards.

In the region of Arhab (40 kilometres north of Sana'a), local sources reported that on Sunday 30 October 2011, five people were killed, including three children during a bombardment led by the Republican Guard loyal to President Saleh. The bombs wounded 11 others. The same day, Sana'a was the theatre of a mass rally attended by tens of thousands of protesters who marched in the capital, chanting slogans calling for the trial of President Saleh and his cabinet. The march went in front of the headquarters of the Ministry of Justice and started a sit-in demanding the immediate release of hundreds of demonstrators who were detained arbitrarily and subjected to torture and ill-treatment.

Alkarama also documented the cases of six Yemeni<sup>4</sup> nationals working as doctors and soldiers in the Central Security Forces<sup>5</sup> (CSF), who were subjected to torture while detained by co-workers on the basis of their involvement in the peaceful protests that toppled former President Saleh. Arrested from 17 October 2011, they were detained *incommunicado* and in solitary confinement for five months and were subjected to serious acts of torture. They endured electric shocks for long hours, were beaten up with iron bars all over their bodies while being handcuffed, and were suspended from their hands and legs. These acts led to permanent injuries, and Mr Suleiman is now permanently disabled.

The victims lodged a complaint with Sana's Public Prosecutor on 5 March 2012. Despite the evidence, testimonies – which even included the names of the perpetrators<sup>6</sup> – and medical reports supporting the claims of the victims, the investigation stopped before the perpetrators were charged. The victims explained to us that it was mainly due to two reasons: on one hand, the public prosecution tried to stop the proceedings because of the names of the perpetrators and their high ranking positions in the former regime; on the other hand, it seems that the victims were subjected to pressures and threats which forced them to abandon the case.

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<sup>3</sup> CAT/C/YEM/CO/2/Add.1, p.2.

<sup>4</sup> 1. Mahfoud Ali Saif Humairi, Age: 37, Occupation: Doctor  
2. Naji Ali Mohsen al-Suleiman, Age: 27 years Occupation: health worker  
3. Fadel Muhammad Ali al-Adeeb, Age: 35 years Occupation: health worker  
4. Rizwan Ali Qaid Suleiman, Age: 26 years Occupation: soldier  
5. Hamid Abdul Jalil Ana'am Sharabi, Age: 37, Occupation: soldier  
6. Mutlaq Abdullah Ali Suleiman, Age: 23 years Occupation: Soldier

<sup>5</sup> The Central Security Forces (CSF), often responsible for crowd control and accused in the past of using excessive force, was renamed the Special Security Force (SSF) and placed under the direct authority of the interior minister, along with the Counter-Terrorism Unit. The Ministry of Defense also employed units under its formal supervision to quell domestic unrest and to participate in internal armed conflicts.

<sup>6</sup> The victims named their perpetrator as:

1. Major General Mathar Rashad al-Masri (former Minister of the Interior),
2. Major General Abdul Malik Abdullah Tayeb (former commander of the Central Security Forces,
3. Brigadier General Yahya Mohammed Abdullah Saleh (son of the brother of the former president),

They were helped by the following individuals from the Central Security Forces:

1. Major Mohammed Saleh Masar
2. Mohammed Yahya Masar, soldier
3. Essam Saleh Masar, soldier
4. Ahmed Hammoud Al Hashi, soldier
5. Mohammed al-Maqtari, soldier



On 22 April 2012, a 22 year-old Yemeni citizen Mohammed Saleh Alkhaddma died under torture while in detention in the Oulfi police station in Sana'a. Alkarama documented the case and was able to obtain pictures of the young man's dead body which was covered with traces of injuries caused by torture. Dr Abdawahab Wosabi underwent a similar treatment by the Police forces of the Azal police station in Sana'a, on 5 March 2012 while being detained arbitrarily. He survived the torture inflicted to him but escaped death and sustained multiple serious injuries including multiple fractures.

These two victims filed criminal complaints against the perpetrators, which led to the arrest of six suspects, who were however released few weeks later. The victims' lawyers believe that the suspects benefited from the protection of the former head of the Police in Sana'a, Rizk Al Joufi. They are now free and did not face any effective prosecution.

On 10 July 2012, Nasser Al Mathil was found in a very bad state, handcuffed and blindfolded in the suburbs of Sana'a by his family after he had been kidnapped and detained *incommunicado* by police forces. The family had put pressure on the authorities by organising a protest with his relatives, friends and human rights activists in front of the Attorney General's Office in Sana'a. To our knowledge, no investigation and criminal prosecution has been carried out despite demands from local human rights NGOs.

In March and April 2013, dozens of detainees in a prison under the control of the Political Security Organisation went on hunger strike to protest against the ill-treatment and torture they were subjected to and against the fact that most of them were detained without charges or still detained after a Court decision stating that they should be released. However, no investigation was open as per the allegations of torture the detainees made.

*Questions:*

31. *Could Yemen provide examples of measures of investigations open into allegations of torture as well as measures taken to promote access to justice to the victims of torture or ill-treatment? How do the authorities ensure that no legal, institutional or social barrier prevents the referral of perpetrators to the competent authority?*
32. *Could Yemen take all necessary steps to ensure that the cases described above are fully investigated, that the perpetrators as well as their commanders face criminal prosecution and that an effective redress mechanism is made available to the victims?*
33. *Could the State party provide examples of redress and compensation measures ordered by courts and provided to victims of torture and their families?*

## **8.1 Independence of the judiciary and prosecution of acts of torture**

Alkarama express its concern over the fact that article 26 of the Yemeni Code of Criminal Procedure provides that a complaint may not be filed against law enforcement officials or any public employee for a crime committed while on duty, except with the permission of the General Prosecutor, a delegated public attorney or heads of the prosecution. Given the numerous instances, as described above, in which the Public Prosecution hindered investigations and the course of justice when high levels officials were accused of torture, we express our deepest concern over the lack of independence of the judiciary which allows for impunity to prevail in cases of torture. In particular, it is commonplace for the executive to interfere with the judiciary during investigations related to acts of torture committed by high level officials, as mentioned in the cases of the six Yemenis working for the Central Security Forces described above.

*Questions:*

34. *Can the State party provide information on eventual steps that it plans to take in order to ensure that no judicial authority hinders the investigation or prosecution of high level officials due to a lack of independence and impartiality of the judiciary?*
35. *Can the State party explain how it ensures that the executive does not interfere with the judiciary in high profile cases like the ones describes above? Has anything been done to ensure that those cases lead to a prompt investigation and prosecution, without any interference?*
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## **9 Fundamental Safeguards for Detainees**

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### **9.1 Fundamental legal safeguards of arrested individuals**

Alkarama wishes to reiterate the Committee's concerns about the failure to provide effectively to all detainees with all fundamental safeguards from the beginning of their detention. We have documented numerous cases of *incommunicado* and secret detentions carried out by the authorities against individuals suspected of terrorism, in which the victims were never informed of the charges pending against them and who were denied the right to see their family and lawyer as well as the right to an independent medical examination.

In this regard, we wish to draw attention on the fact that under Yemeni law, persons held in pre-trial detention may meet with their relatives and lawyers, provided that they obtain a written authorisation from the body/entity that issues the detention order. Such a rule has been translated in practice by a widespread use of *incommunicado* detention during which torture is systematically practiced to obtain confessions.

*Question:*

37. *Can the State party explain the steps that it is planning to take in order to ensure that no one is detained incommunicado and that all procedural safeguards are granted to all detainees with no exception whatsoever?*
38. *Could the State party provide information on the steps taken to ensure that all detainees are effectively informed of their rights at the time of arrest and of the charges against them and are promptly brought before a judge?*
39. *Could the State party provide information on the steps taken to ensure that all persons deprived of their liberty are effectively guaranteed access to a lawyer of their choice, the right to notify a relative or trusted individual of their detention, and the right to be assisted by an interpreter, when required?*
40. *Does the State party make a clear distinction between custody which is ordered at the preliminary investigation's stage and the pre-trial detention as requested by international standards?*
41. *Could the State party amend its domestic law in order to fulfil its obligations under Convention relating to the fair trial principles, particularly concerning a reasonable length of the pre-trial detention?*

### **9.2 Use of evidence obtained through torture (article 15)**

Alkarama is concerned by the lack of oversight of the interrogation processes particularly of individuals that are suspected of security-related crimes. Judges systematically use statements made by the victims under duress as evidence, even when the victims report the torture they were subjected to to the judge.

*Question:*

42. *What are the legal safeguards implemented by the State party in order to ensure that evidence obtained under torture or inhuman and degrading treatment whether inside or outside of its jurisdiction is excluded from all proceedings before its courts?*

### **9.3 Fundamental safeguards by judicial and quasi-judicial state institutions**

In its concluding observations<sup>7</sup> of 2009, the CAT noted with concern the establishment of the 2008 Commission "to protect virtue and fight vice" stressing the lack of information on the mandate and the jurisdiction of this commission, its appeal procedure and its review by ordinary judicial authorities.

Moreover, we wish to recall that had penalties such as flogging, beatings and amputation of limbs are still practice and applied based on a discretionary ruling from a judge without oversight and without the possibility of appeal.

*Questions:*

43. *Has Yemen taken measures pursuant to the CAT subjects of concerns and recommendations concerning the proper monitoring of the 2008 Commission to protect virtue and fight vice?*
44. *Can the State Party provide information on the mandate and jurisdiction of this commission, existing appeal procedures? Is the commission subject to review by ordinary judicial authorities?*
45. *What are the steps taken by the State Party to ensure that the Commission acts in full conformity with its obligation under the convention, and especially article 2 and article 16?*
46. *Can the State party explain what steps it has taken in order to end the use of Hadd punishments especially given the discretionary power of judges in this matter as well as the absence of appeal and the discriminatory nature of their application?*

## **10 Other forms of cruel, inhumane or degrading treatment (article 16)**

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*Questions:*

47. *What is the legal threshold adopted by the State party in order to differentiate between torture and other forms of ill-treatment?*
48. *Is cruel, inhumane and degrading treatment criminalised in Yemeni law and are victims of such violations offered the same rights to redress as stipulated in article 12, 13 and 14 of the Convention?*

### **10.1 The practice of *incommunicado* & secret detention**

We remain concerned over the widespread use of *incommunicado* and secret detention which constitutes *per se* a form of torture and ill-treatment as well as being conducive to torture being practiced as the detainees are outside the protection of the law.

In May 2014, two French-Tunisians, Aissaoui Taha and Ben Ayed Mourad, were arrested and taken to a secret place of detention. The two men had moved to Yemen ten years ago to study in Hadhramaut Directorate, in the South of Yemen. On 7 and 8 May respectively, they were arrested without any warrant by agents of the Political Security Organisation (Al Amn Assiyassi) and brought to one of its branches. To date, their families remain unaware of their fates and the authorities still refuse to

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<sup>7</sup> CAT/C/YEM/CO/2/Rev.1, para.6.

provide them with any information on their place of detention, in disregard of their most fundamental rights. Their lawyer was also denied visits, under the pretext that no criminal procedure had been engaged against them so far. These two individuals are probably subjected to torture while being secretly detained, the Yemeni political security being notorious for such practices, especially in cases of "terrorism".

On 27 June 2013, Jamil Jamil Al Dabibi, a young father of four, who used to work as a mechanic and motorcycle-taxi driver, was abducted from his work place in Amanat Al Assima, Sana'a, and taken to a prison, where he remained in secret detention for two months before he was allowed to receive family visits. He reported then to his family that he was abducted by the Political Security forces, who blamed him for driving a client suspected of terrorism on his motorcycle from Maabar to Sana'a. Mr Al Dabibi also informed his family that he was subjected to torture, and forced to admit that he was involved in an assassination attempt against the Yemeni president. In February 2014, the family headed for Sana'a central prison for a visit but was surprised to learn that Jamil was not there, and that he had been taken by the Political Security forces to an unknown place. His relatives tried several times to obtain information on his fate, but all the steps taken were unsuccessful, and the Political Security officials still deny his detention.

*Questions:*

*49. Can the State Party provide information over the fate of the aforementioned individuals?*

*50. What measures has the State party taken to put an end to the use of incommunicado and secret detention?*

## **10.2 The plight of civilians living under drones**

In July and August 2014, Alkarama surveyed a sample of individuals who live in areas where drone operations are being carried out by the United States, in order to evaluate the Posttraumatic stress disorders (PTSD) syndromes they were suffering from. We argue that the fear of being killed or having a relative being killed by a drone at any moment and without knowing the reasons that might cause such a death is so intense that it amounts to inhumane and degrading treatment in the sense of article 16 UNCAT. This situation is all the more concerning since it affects vulnerable parts of the population like children, women and caused a flow of internally displaced persons who are vulnerable from violations committed by multiple actors.

Throughout our study, we demonstrated that whether or not the individual had lost a direct family member as a result of a drone attack, he/she will show the same kind of syndromes – showing that the very simple fact of living under these drones have psychological consequences that are no different from those caused by the loss of a relative.

*Questions:*

*51. Has Yemen ensured that past agreements made with the United States of America authorising drone strikes do not violate the prohibition from torture and other cruel, inhuman or degrading treatment?*

*52. Has Yemen ensured that families of victims of drone strikes are entitled to full redress including an independent, thorough and prompt investigation on claims of civilians being killed in drone strikes, including children?*

*53. Could Yemen indicate whether or not physical and psychological care has been provided to civilian living in areas where drones are operating?*

54. *What are the measures that have been or that the State is planning to take in order to ensure the protection of persons, including internally displaced persons, affected by counter-terrorism operations carried out by its own or foreign forces?*

## **11 Acts of torture and other ill-treatment committed by non-State actors**

Non-State armed groups in the south and north of Yemen – including the Houthis who in certain regions notably in the Saada province, act as the *de facto* authority – committed acts of torture and arbitrary detention as well as other violations towards civilians under their control. Groups affiliated to the Houthis, such as “Ansar Allah”, are also responsible for torture and ill-treatment of individuals detained in facilities controlled by the Houthis.

In late July 2012, four young men from the region of Saada – Abid Abdullah Mohamed Meshal (36), Amir Farhan Gmra (25), Dhailullah Gharib al-Badri (25), Fadel Muhammad Jaber Ckabban (23) arrived at Sana’a hospital with their bodies covered with traces of torture. They told the hospital that they had been tortured by the Houthi affiliated group “Ansar Allah”.

In their testimonies to the media and human rights organisations, they stated that they were kidnapped by Houthi militias, who wanted to punish them for not performing the “Tarawih”<sup>8</sup> prayers and of being “unbelievers”. They were taken to places of and *incommunicado* detention where they were detained in solitary confinement. They reported being beaten with electric cables with an extreme brutality, being subjected to insults and death threats for three days. The militias released them on the condition that they practice the Tarawih prayers. Despite reporting the incident to the authorities, no investigation was carried out.

According to our local sources, Houthi armed groups are still holding dozens of civilians in the Saada region. The victims are detained *incommunicado* and suffer from very bad detention conditions. As an armed group exercising control over the region, they also organised “trials” disregarding fair-trial guarantees. In August 2014, Fouad Saleh, a civilian from the province of Imran was executed by the Houthi militias after having been detained in a prison under their control located in the Directorate of Zlama Harbour.

### *Questions:*

55. *What are the steps that the State Party is taking in order to ensure the right to life, security and liberty as well as the right to be free from torture and other ill-treatment, committed by groups who at the time of the offense were non-state actors?*

56. *Can the State party provide information about the conditions of detention, the legal safeguards and the current number of people arrested by the Houthis as non-state armed group as well as their fate?*

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<sup>8</sup> Tarawih prayers are surrogate prayers that are supposed to be performed after breaking the fast during Ramadan.