



Disappearances and Arbitrary Arrests in the Armed Conflict with Huthi Rebels in Yemen

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Map of Yemen



Map No. 3947 Rev. 3 UNITED NATIONS
January 2004

Department of Peacekeeping Operations
Cartographic Section

"Map 3947 Rev. 3. Yemen," United Nations Department of Peacekeeping Operations, Cartographic Section, January 2004
<http://www.un.org/Depts/Cartographic/map/profile/yemen.pdf> (accessed September 11, 2008).

I. Summary and Recommendations

In the context of recurring armed conflict with Huthi rebels in the northern Sa'da governorate since 2004, Yemen's security forces have carried out hundreds of arbitrary arrests and enforced disappearances of civilians. Since 2007, but especially in the first half of 2008, the extent of arbitrary arrests and "disappearances" expanded, with the government broadening its targets to include persons reporting on the war's impact on civilians.

After negotiations, on July 17, 2008 hostilities in the latest round of fighting ceased, and on August 17 Yemeni President Ali Abdullah Saleh announced the release of some prisoners. Nevertheless, tens if not hundreds of persons remain in detention, and new arrests have taken place. As documented in this report, the ease and impunity with which security forces arbitrarily arrest and sometimes "disappear" persons warrants a prompt, thorough and independent investigation, and greatly enhanced judicial oversight to prevent such violations from recurring in the future. Those found responsible for arbitrary arrests and enforced disappearances, whatever their position or rank, should be held to account.

The armed conflict between Yemeni government forces and Huthi rebels began in 2004. Husain al-Huthi founded the Believing Youth movement in the 1990s, aimed at reviving Zaidi Islam, a branch of Shi'ism found mainly in Yemen, to counter growing fundamentalist Sunni trends in the northern Yemeni governorates where Zaidis dominate. The conflict began as isolated clashes of the Believing Youth movement (Huthis) with the army in Sa'da. Thereafter, anti-Israel and anti-US demonstrations led by Huthis in San'a, Yemen's capital, which embarrassed the government after it had embraced US counter-terrorism efforts, led to arrests of Huthis and further clashes with them.

Zaidi Hashemites, descendants of the Prophet Muhammad, led the Huthi movement. They had ruled Yemen for a millennium and comprised the state's religious and governing elite until the army-led revolution in 1962, also supported by some Zaidi tribes, deposed them. Zaidi Hashemites are especially prominent in the Sa'da area,

where there has not historically been a significant government law enforcement presence.

Since the clashes of 2004 there have been five periods of sustained fighting, mostly in the countryside, but in June 2008 escalating to the outskirts of San'a. So far an estimated 130,000 persons have been displaced from their homes in the northern governorates, although some may have returned since July 2008.

Over the decade preceding the outbreak of the conflict, Yemen made some advances in the rule of law, especially by setting out rights in the constitution and other legislation, such as the penal code and criminal procedure code. However, these have been eroded by hundreds of enforced disappearances and arbitrary arrests, mainly in the context of the Huthi rebellion but also relating to the government's domestic counter-terrorism efforts and its crackdown on social unrest in southern Yemen. Estimates of the numbers of persons disappeared or detained vary—Yemeni human rights organizations have documented tens of disappeared, and hundreds arbitrarily arrested at various stages since 2004. In August 2008, officials spoke of approximately 1,200 political prisoners remaining detained, some 130 of whom were gradually being released.

Human Rights Watch investigated 62 cases of disappearance and arbitrary arrest linked to the Huthi rebellion for this report. In nearly all of the cases, arresting officials did not identify themselves or inform the detainee or his family why he was being arrested and where he was being taken. The families of persons forcibly disappeared did not know for weeks or months after their arrest whether their loved ones were alive or not, who their captors were, or where they were being held. Some still do not know.

Most detainees, when they reappeared, did so at the Political Security Organization, the security and intelligence agency directly linked to the office of President Saleh, after having been effectively “disappeared” for weeks or months without acknowledgement of their location. Some remain missing—the earliest unresolved enforced disappearance investigated by Human Rights Watch dates back to June 2007.

Those arbitrarily arrested included a wide range of persons, including many who were not actively participating in hostilities against government forces. They can be grouped into three categories. First are persons effectively held hostage to pressure a wanted family member to surrender or end their human rights activities. Second are Hashemites, adherents of Zaidi Shi'ism who may have been targeted by the security forces on the basis of their religious activism. Third are Zaidis going to or returning from areas of recent fighting between the army and Huthi rebels, or who are otherwise suspected of sympathizing with them.

A new and separate category which has emerged over the past two years is that of persons arbitrarily arrested for publishing information about the armed conflict, including journalists and website writers.

The government has also cracked down on Hashemite preachers and scholars in Zaidi religious institutions and mosques, apparently conflating the religious motivations that gave rise to the original Believing Youth movement with armed rebellion. Human Rights Watch documented 14 cases of arrests where Hashemite identity or one's profession as a Hashemite scholar or preacher appeared to be the paramount reason for the arrest. Even activities such as teenagers visiting Zaidi summer camps and attending religious lectures have raised suspicion with the authorities.

In 2008 tight government control over information about the conflict characterized the war. The government attempted to prevent details of the conflict from becoming public by preventing journalists and humanitarian workers from going to the conflict zone, by disconnecting all but a select number of mobile telephone numbers, by threatening journalists with reprisal if they report on the conflict, and by arresting persons who transmitted information, or who could have information, about the conflict because they had recently been to or fled the area.

The government is particularly sensitive to videos and photographs of the war. Political Security detained a 13-year-old child at the airport for having CDs of Huthi rebels. He remained in incommunicado detention for one and a half months, and was released only after seven months.

The government in February 2007 and July 2008 has even arrested persons it had officially appointed to mediate between itself and the Huthis, in an attempt to suppress their activities, when they were about to criticize the government's commitment to come to a peaceful solution.

Despite hostilities ceasing in July 2008, security forces continued to arbitrarily arrest persons from the conflict areas. Displaced persons in the capital remained extremely fearful of arrest. Three groups of internally displaced persons from Sa'da governorate declined to meet with Human Rights Watch because of fears for their own safety. Earlier in 2008, the government arrested persons who had attempted to visit recent conflict areas to assess damage to their property or to bring trapped relatives to safety.

The politics of the Huthi-government conflict reach beyond the boundaries of the affected areas. Security forces have also arrested persons of Iranian origin, or suspected of links with Iran or its embassy. The Yemeni government has in the past accused Iran of providing financial and political support to the Huthi rebels.

This report does not address allegations of torture that Yemeni human rights organizations have made concerning some of the cases Human Rights Watch investigated. We did not receive first-hand information relating to torture, but enforced disappearances greatly heighten the risk of torture, and allegations of physical or mental pain detainees suffered at hands of the captors, jailors or interrogators should form an integral part of any investigation into "disappearances" and arbitrary arrests.

Human Rights Watch urges the government of Yemen to take immediate measures to end the practice of enforced disappearances, release all persons arbitrarily arrested and detained, and promptly try persons charged with a cognizable criminal offense before a court that meets international fair trial standards. The government should also put an end to the violation of the rights to freedom of expression and religion. The authorities should also investigate and discipline or prosecute as appropriate all members of the security forces responsible for "disappearances" and arbitrary

arrests. Human Rights Watch further recommends that the international community closely monitor Yemen's progress in those areas.

Recommendations

To the government of Yemen:

With regard to enforced disappearances

- Establish an independent commission with full authority to investigate all cases of suspected enforced disappearance since the outbreak of armed conflict with Huthi rebels in 2004. The commission should determine who ordered and carried out the arrest and detention, who prevented the detainee from maintaining contact with the outside world, and who was informed about this prohibition.
- Compensate victims of enforced disappearances promptly and adequately in view of the gravity of the crime.
- Prosecute officials and members of the security forces implicated in enforced disappearances, and bar their future employment in the security services.
- Introduce legislation making enforced disappearances a criminal offense punishable by penalties commensurate with the gravity of the crime.
- Institute thorough independent judicial oversight of the arrests and detention of persons by the security services to prevent enforced disappearances in the future.
- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance.
- Clarify in law the powers of arrest and detention of the Political Security Organization and National Security, and establish independent judicial oversight over their places of detention.

With regard to arbitrary arrest and detention

- Immediately release all persons held as hostages for the purpose of compelling the surrender or compliance of wanted relatives.
- Immediately release all persons held solely for possessing or transmitting information that is protected under international human rights law.

- Immediately prosecute or release all persons held for prolonged periods without trial.
- Ensure no child is detained except as a last resort and for the shortest possible time, consistent with juvenile justice standards. Ensure children are not held in adult detention centers.
- Empower a judicial committee to review the cases of all remaining detainees at the Political Security agency and the National Security agency to determine the legality of their detention.
- Investigate and discipline or prosecute as appropriate security officials responsible for arbitrary arrests, including by failing to secure a necessary arrest warrant, failing to present detainees to the courts for charge.
- Strengthen judicial oversight over the practice of arrest and detention.

With regard to freedom of expression and religion

- Review and amend legislation to ensure that Yemeni law does not criminalize protected forms of expression and exchange of information, including through electronic media and contact with international human rights organizations.
- Allow religious study centers to teach and study freely.

To the governments of Saudi Arabia, Qatar, the United States, member states of the European Union, and the United Nations specialized programs:

- Support the good offices of mediators to ensure that releases of prisoners agreed between the government of Yemen and the Huthi rebels take place.
- Support diplomatically the establishment of a commission tasked with investigating enforced disappearances and arbitrary arrests and provide Yemen's government with technical expertise for its work.
- Consider deploying a United Nations mission tasked with monitoring the human rights situation in the northern governorates.

Methodology

Two Human Rights Watch researchers and a consultant visited Yemen for two and a half weeks in July 2008. We conducted 95 interviews with victims and eyewitnesses

of alleged human rights violations, local journalists, human rights activists, intellectuals and academics, politicians, and government officials. Of these interviews, 35 concerned cases of arrest and detention, detailing 62 individual cases, plus nine accounts of large groups of persons arrested in the context of the war. Among those we interviewed were former detainees, families of detainees, and others with first-hand knowledge of arrests.

In most cases, independent accounts in the media or by human rights organizations confirmed the detention of a person and, occasionally, the reasons for detention. These include the detention of Lu'ai al-Mu'ayyad, Yasir al-Wazir, Abd al-Ilah al-Mahdi, Muhammad Muftah, and Isma'il Ghanima.

Interlocutors who helped Human Rights Watch contact victims and persons with firsthand knowledge about arrests, or from the conflict area, included local human rights organizations and members of the Socialist Party, the Islah Party, the Haqq Party (largely representing Zaidis), and the ruling General People's Congress. We consulted documentation by human rights groups, including the Dialogue (Hewar) Forum, the Yemeni Organization for the Defense of Democratic Rights and Freedoms, the National Organization for Defending Rights and Freedoms (HOOD), the Yemen Observatory for Human Rights, including lists of persons alleged to be forcibly disappeared or arbitrarily arrested. We had access to extensive court documentation relating to the arrests and trials of groups of alleged Huthi sympathizers and supporters in 2004-2005 and in 2007-2008.

We conducted most interviews in Arabic; two Yemenis, a woman and a man, interpreted for one researcher and the consultant; the third researcher spoke in Arabic. We conducted all but two interviews in the capital, San'a. We are grateful to the Ministry of Foreign Affairs and the Ministry of Human Rights for promptly accommodating our requests to meet them. While in Yemen, Human Rights Watch requested—by telephone on July 23 and in writing on July 28—official permission to travel to Sa'da, but we received no response from the government. Where persons so requested, we have concealed their identities, and used pseudonyms consisting only of a first name.

II. Background

Yemen is a country of 22 million people slightly larger than France, on the southwestern corner of the Arabian peninsula across the Red Sea from the Horn of Africa. The World Bank estimated Yemen's annual per capita gross domestic product at US\$520 in 2003. That year, Yemen ranked 151st out of 177 countries on the Human Development Index.¹ Three quarters of Yemenis live in rural areas.

In 1962, an army coup ended the rule of the Zaidi imamate, establishing a republican regime (Yemen Arab Republic, or YAR) in what was known as North Yemen. A civil war in the 1960s drew in Egypt and Saudi Arabia on the republican and imamate sides respectively. What was then South Yemen had been a British protectorate until it achieved independence as the People's Democratic Republic of Yemen (PDRY) in November 1967. The two Yemens united as the Republic of Yemen in 1990.

President Ali Abdullah Saleh came to power in the YAR in 1978, and continued as president of the Republic of Yemen after unification. A civil war that broke out between forces of the former north and south from May to July 1994 ended with the victory of the north. Despite the turmoil, democratic development, the emergence of civil society and legal reform continued throughout the 1990s. Yemen is due to hold its fourth parliamentary elections since unification in April 2009. A presidential election in 2006 gave Saleh another seven years in office, making him one of the world's longest-ruling leaders.

Since siding with the United States in its counter-terrorism efforts after September 11, 2001, Yemen's gains in respect for the rule of law and civil rights have eroded. Arrests without charge of suspected al Qaeda members since 2002, and arrests and suppression of labor unrest and free speech in the south increased after 2006.

¹ World Bank, "Yemen," <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/MENAEXT/YEMENEXTN/0,,menuPK:310170~pagePK:141159~piPK:141110~theSitePK:310165,00.html> (accessed October 2, 2008).

The war

Armed conflict between Huthi rebels and government forces has erupted into sustained clashes on five occasions between 2004 and 2008.² The government reportedly has used fighter jets, tanks, and artillery to attack rebel hideouts in the mountains as well as in some towns. Rebels are said to have used heavy artillery and anti-aircraft guns. Most fighting has taken place in the countryside, but escalated into urban areas during the fifth period in 2008.³ The clashes have primarily occurred in the northern Sa'da governorate, bordering Saudi Arabia, but spread to 'Amran and Hajja governorates, even reaching Bani Hushaish on the outskirts of San'a in June 2008.

In July 2008, an estimated 17,000 to 20,000 persons displaced by the war lived in seven camps around Sa'da city, and an estimated further 40,000 persons lived with relatives inside the town. In August 2008, the UN humanitarian affairs agency reported a total of 130,000 persons displaced as a result of conflict in Sa'da governorate.⁴

Since 2004, the government has initiated five mediation committees, staffed by important personalities, representatives of political parties, and government officials in an effort to come to a negotiated solution to the conflict. These committees have at times achieved ceasefire agreements, but at various times the government has also arrested mediators who were critical of the government. In 2007 the government of Qatar offered its mediation services; the parties reached a verbal agreement in June 2007, which was finalized and signed in February 2008. However, in May 2008 a bomb explosion in a mosque in Sa'da planted by unknown parties prompted renewed heavy fighting that ended when President Ali Abdullah Saleh announced a halt to hostilities on July 17, 2008.

² The so-called five "wars" occurred in the following periods: June 18, 2004–September 10, 2004; March 19, 2005–April 12, 2005; July 12, 2005–February 28, 2006; February 27, 2007–June 14 or 15, 2007; May 4 or 5, 2008–July 17, 2008.

³ See: Iris Glosemeyer, "Local Conflict, Global Spin: An Uprising in the Yemeni Highlands," *Middle East Report* 232 (Fall 2004), and Sarah Phillips, "Foreboding About the Future in Yemen," *Middle East Report Online*, April 3, 2006 <http://www.merip.org/mero/mero040306.html> (accessed September 4, 2008).

⁴ UN Office for the Coordination of Humanitarian Affairs, "Humanitarian Update. June 2008 Yemen," July 5, 2008 <http://ochaonline.un.org/Default.aspx?alias=ochaonline.un.org/romenaca> (accessed September 4, 2008).

The government imposed an information blackout during the fighting in 2007 and 2008, and in 2008 blocked the movement of people and goods into and out of Sa'da governorate. Huthi rebels and local tribes fighting with the government also imposed their own checkpoints granting selective access. The actions of all sides have restricted humanitarian access.

Sa'da Governorate and the Huthis

The conflict mainly takes place in Sa'da governorate, but fighting has also occurred in other northern areas. Northern governorates are populated predominantly by adherents of the Zaidi strand of Shi'a Islam whose leaders (imams) ruled Yemen for a millennium until a military-led revolution deposed them in 1962. The Sa'da, 'Amran and Hajja governorates are also home to powerful tribes, especially the Hashid and Bakil, who also adhere to the Zaidi sect. Disaffected Zaidi tribesmen also participated in the revolution of 1962. Tribesmen traditionally carry arms, and central governments have never had a significant military or law enforcement presence in these tribal areas.

Sunnis following the Shafi'i school of thought are a majority in Yemen, living mostly in the southern and central parts and the Red Sea coast; Zaidi Shi'a are a large minority, living mostly in the northern highlands.⁵

Although Zaidis are largely reconciled with a republican state, strict Zaidi doctrine holds that the imam, the religious and secular leader, has to be a Hashemite, a term used for the descendants of the Prophet Muhammad.⁶ Yemeni Hashemites are bound by family rather than tribe, setting them apart from Zaidi tribes. During the time of the Zaidi imamate, Hashemites formed the religious and governing elite.

Political and religious developments underlie the tensions that eventually led to the current conflict. For one, Yemenis (often Zaidis) returning to Sa'da from working in

⁵ "Yemen: Coping with Terrorism and Violence in a Fragile State," International Crisis Group Middle East Report no 8, Amman/Brussels, January 8, 2003 http://www.crisisgroup.org/library/documents/report_archive/A400863_08012003.pdf (accessed September 4, 2008), p.18.

⁶ Hashemites can be Sunni or Shi'a Muslims. In Yemen, most Hashemites are Zaidi, and more narrowly defined as descendants of Fatima's marriage to Ali ibn Abi Talib, respectively the Prophet's daughter and his cousin, who later became the leader of the Muslim community.

Saudi Arabia brought with them Sunni Wahhabi religious leanings. Muqbil al-Wadi'i, originally a Zaidi, opened the Dammaj school in Sa'da, in the Zaidi heartland, in the early 1980s to propagate Wahhabi thought, a puritanical interpretation of Islam regarding daily conduct of Muslims that prevails in neighboring Saudi Arabia and is typically hostile to Shi'a doctrines. Furthermore, the (Sunni) Muslim Brotherhood movement in Yemen established Scientific Institutes under the Ministry of Education that reached many Yemenis before the authorities closed them in the late 1990s. After the unification of north and south Yemen in 1990 and the advent of multi-party elections, the Islah Party, which represents the political interests of the Muslim Brotherhood but also includes some tribal and Zaidi interests, emerged as the largest opposition party.⁷

To counter encroaching Sunni ideological currents and a steady weakening of Zaidi religious and Hashmite social influence, in the 1990s Zaidis began to set up their own religious schools and to revive the tradition of Zaidi religious study at mosques and study centers in the area. Unlike the Scientific Institutes, these schools were not part of the government education system. Wary of the growing Sunni influence in Yemen's Zaidi areas, the government in the 1990s reportedly began to financially support Husain al-Huthi and his Believing Youth movement, dedicated to Zaidi religious revivalism. Badr al-Din al-Huthi, the father of Husain, is considered one of three most influential Zaidi scholars in Yemen.⁸

The US-led invasion of Iraq in 2003, followed by the war between Israel and Hezbollah in Lebanon in July-August 2006 and growing tension between Iran and the US, boosted perceptions of Shi'ism as a powerful political force. Starting in 2003, the Huthis began to raise slogans of "Death to Israel, death to America" in demonstrations following Friday prayers at the Great Mosque in San'a's old city center, and the government arrested up to 640 demonstrators in June 2004 with the army pursuing the capture of Husain al-Huthi.⁹

⁷ See: Gabriele vom Bruck, "Disputing Descent-Based Authority in the Idiom of Religion: The Case of the Republic of Yemen," *Die Welt des Islams*, vol. 38 no 2, 1998, pp. 149-191, p.10

⁸ Human Rights Watch interview with Khalid al-Anisi, executive director, HOOD, San'a, July 17, 2008.

⁹ Hassan Al-Zaidi, "Sa'adah Violence Continues... Al-Hothy Remains in a Stronghold in "Mran" Mountains Amidst Heavy Fighting," *Yemen Times*, June 24, 2004, <http://yementimes.com/article.shtml?i=749&p=front&a=1> (accessed September 4, 2008).

The Security forces

There are several security agencies in Yemen, answering to different parts of the government. Their powers and remits overlap, leading to public uncertainty about which agency might be responsible for a particular human rights violation.

A 1980 presidential order established Central Security, tasking the agency with responsibilities ranging from ensuring the safety of property and persons to border patrolling and counter-terrorism.¹⁰ Central Security is under the Minister of Interior's direct authority.¹¹

Also under the Interior Ministry are the Criminal Investigation Department (CID) responsible for non-political crimes and a counter-terrorism unit. However, both the CID and the counter-terrorism unit have carried out arrests of journalists, mosque preachers, and others for alleged political offenses.

Political Security is Yemen's domestic intelligence agency established by decree 121 in 1992 under the name Central Agency for Political Security. Its powers of arrest and detention are by decree and not spelled out in law, and its detention facilities do not fall within the declared places of detention, as required by the Yemeni constitution.¹² The agency reports directly to President Saleh.

National Security, an agency established by decree 262 in 2002, mainly prepares analyses and provides advice to the government. A dispute over competency and authority between it and Political Security led National Security to establish its own detention centers, also undeclared and therefore outside the framework of Yemeni law. Its powers of arrest and detention are similarly by decree and not spelled out in law.¹³

¹⁰ Republican Decision no 107, Ministry of Interior, 1980, published on the website of the Central Security Forces, <http://www.yemencsf.org/> (accessed August 19, 2008).

¹¹ Organizational Regulation of the Ministry of Interior, Ministry of Interior, 1995 www.police-info.gov.ye/laws/Mino1.htm (accessed August 19, 2008).

¹² Human Rights Watch telephone interview with Qasim, lawyer, San'a, September 2, 2008. According to information Human Rights Watch obtained, the Political Security agency's places of detention are also not authorized as required by the constitution.

¹³ "Republican Decision on the Establishment of the National Security Agency by the Republic of Yemen," President of the Republic, August 6, 2002. Article 5.2. provides National Security officers the powers of judicial arrest officers. Article 84 of

Yemen's judiciary provides no effective oversight over the legality of arrests and detentions. National Security and Political Security in particular do not abide by legal requirements that officials conduct arrests only pursuant to a judicial warrant, present suspects for charge within 24 hours of arrest, and release prisoners whose sentences have expired.

The Specialized Criminal Court, established by law in 1999 to try crimes defined in the Quran and included in the penal code, such as highway robbery (حرابة), and other statutory offenses, including abduction of foreigners, harming oil installations, theft by armed groups of means of transportation, membership in an armed group seeking to attack public property or citizens, and attacking members of the judiciary or abducting officials or their family members. In 2004, a new law broadened the court's jurisdiction to include vague crimes against national security.¹⁴ The court is not independent and its trials do not meet international standards of fairness.

Yemen's law of Criminal Procedure lists prosecutors, governors, police officers and others as "judicial arrest officers," and further specifies that "all officers who have been given the quality of judicial arrest officers by law" (emphasis added) may be added to the list. "Republican Decision on Law no 13 of Year 1994 Regarding Criminal Procedures," President of the Republic, art. 84.9. Yemen's constitution prohibits detention "in any place not authorized under the Prisons Administration law." Constitution of the Republic of Yemen, 2001, art.48.b.

¹⁴ Republican Decision on Law no 391 for the Year 1999 Regarding the Specialized Criminal Court, art.3, and Republican Decision on Law no 8 for the Year 2004 Regarding the Specialized Criminal Court, art.1.

III. Enforced Disappearances

The sporadic four-year-old armed conflict between Huthi rebels and government forces in Sa'da governorate has further weakened the already tenuous rule of law in Yemen.

The writ of the law is weak even in peaceful times in Yemen's tribal areas, where tribal custom of settling scores and arbitration sometimes prevails. Tribal chiefs are known to have operated their own prisons. Taking foreign travelers or locals hostage still occurs regularly.

In the context of its war against the Huthi rebels, the government has now, too, arbitrarily arrested innocent civilians, even taking family members as hostages for wanted individuals. Unlike private citizens, the government commands regular law enforcement personnel and operates official detention facilities.

It is therefore all the more disturbing that in nearly all of the 62 cases of arrest Human Rights Watch documented, security officials did not identify themselves as agents of the state, or specify to which agency they belonged. Moreover, they did not inform the detainee, or his family, why they had arrested him or where they were holding him. Families of detainees often did not know for months where their relatives were being held. In eight cases documented in this report, the authorities "disappeared" suspects, most of whom eventually re-appeared at the Political Security or National Security agencies after weeks or months.

Under international law, a government's refusal to acknowledge the detention of an individual or their whereabouts is an enforced disappearance. Many of those "disappeared" in Yemen have eventually been released or their whereabouts reported. But the families of some persons forcibly disappeared still do not know whether their loved ones are alive or not, who their captors are, or their whereabouts.

Political Security emerged as the most likely government body responsible for enforced disappearances because it appears to be holding the largest number of

detainees. Detainees among those whose cases Human Rights Watch documented re-appeared in its detention facilities, most often in San'a, after having been disappeared for weeks or months. In at least three of these cases, National Security appeared to have carried out the initial arrest and detention before transferring the detainees to Political Security.

Legal standards

The UN Declaration on the Protection of All Persons from Enforced Disappearances, proclaimed by the General Assembly in 1992, states that an enforced disappearance has occurred when government officials or agents arrest, detain or abduct against their will an individual “followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, which places such persons outside the protection of the law.”¹⁵

Although a non-binding standard, the declaration reflects the consensus of the international community against this human rights violation and provides authoritative guidance for safeguards to prevent it. Enforced disappearances constitute “a multiple human rights violation.”¹⁶ The declaration recognizes the practice of “disappearance” as a violation of the rights to due process, to liberty and security of a person, and to freedom from torture. It also contains a number of provisions aimed at preventing “disappearances,” stipulating that detainees must be held in officially recognized places of detention, of which their families must be promptly informed; that they must have access to a lawyer; and that each detention facility must maintain an official up-to-date register of all persons deprived of their liberty.¹⁷

¹⁵ United Nations Declaration on the Protection of All Persons from Enforced Disappearances (Declaration against Enforced Disappearances), adopted December 18, 1992, G.A. res. 47/133, 47 U.N. GAOR Supp. (No. 49) at 207, U.N. Doc. A/47/49 (1992), Preamble.

¹⁶ United Nations Commission on Human Rights, “Report submitted January 8, 2002, by Mr. Manfred Nowak, independent expert charged with examining the existing international criminal and human rights framework for the protection of persons from enforced or involuntary disappearance, pursuant to paragraph 11 of Commission Resolution 2001/46” (New York: United Nations, 2002), E/CN.4/2002/71, 36.

¹⁷ Declaration against Enforced Disappearances, art. 10.

The declaration makes clear that armed conflicts, whether international or internal, can never justify the practice of enforced disappearances: “No circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances.”¹⁸

In 2006 the prohibition against enforced disappearances was strengthened by the adoption of the International Convention for the Protection of All Persons from Enforced Disappearance (Convention against Enforced Disappearance). This multinational treaty was opened for signature in February 2007, and at the time of writing, 73 countries had signed the convention and four had ratified it. Yemen has not signed the Convention.¹⁹

The Convention against Enforced Disappearance calls on states to investigate abductions and other acts that fall into the definition of a “disappearance” committed by non-state actors and to bring those responsible to justice.²⁰ International law considers a “disappearance” to be a continuing offense so long as the state continues to conceal the fate or the whereabouts of the “disappeared” person.²¹ When “disappearances” are committed as part of a widespread or systematic attack on a population, they constitute a crime against humanity, recognized under the Convention against Enforced Disappearances and the Rome Statute of the International Criminal Court.²²

¹⁸ Declaration against Enforced Disappearances, art. 7.

¹⁹ International Convention for the Protection of All Persons from Enforced Disappearance, adopted December 20, 2006, G.A. Res. 177 (LXI), U.N. Doc. A/RES/61/177 (2006). The convention has not yet reached the required 20 ratifications by member states to come into force. Albania, Argentina, Honduras and Mexico have ratified the convention so far. See <http://www2.ohchr.org/english/bodies/ratification/16.htm> (accessed August 13, 2008). The Convention offers a slightly different definition of an enforced disappearance from that of the Declaration, including cases of arrests by or with the knowledge or acquiescence of state actors, “followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.” Convention against Enforced Disappearance, article 2.

²⁰ Convention against Enforced Disappearance, art. 3.

²¹ Declaration against Enforced Disappearances, art. 18.

²² Convention against Enforced Disappearances, article 5; Rome Statute establishing the International Criminal Court, article 7(1)(i). Yemen is not a party to the ICC; the government signed the Rome Statute on December 28, 2000, and parliament ratified it on March 24, 2007, but that ratification was rescinded due to an absence of a quorum. See Coalition for an International Criminal Court, “Yemen. Regional & Country Info,” <http://www.iccnw.org/?mod=country&iduct=191> (accessed September 2, 2008), and from a seminar organized at the House of Wisdom, San’a, regarding the International Criminal Court’s prosecutor’s decision to seek an arrest warrant for Sudan’s President al-Bashir, San’a, July 28, 2008. An unidentified member of parliament in the audience clarified that the vote of ratification was revoked for lack of a quorum.

Yemen's constitution prohibits detention "in any place not authorized under the Prisons Administration law."²³ In 1998, Yemen passed a Law on Abductions, which sets penalties in excess of 20 years for officials who are found guilty of participating in an abduction or robbery.²⁴ However, Yemen presently has no law that specifically criminalizes enforced disappearances.

Cases of enforced disappearance

Security forces in Yemen have carried out enforced disappearances over the past two years both of a targeted nature and apparently at random. Security officers have arrested wanted individuals on the street and from their homes, but have also arrested persons at checkpoints based on suspicions regarding their names or provenance.

Security agencies—including Political Security, National Security, and the regular police—have failed to acknowledge some detainee's whereabouts, effectively disappearing them.

The wife of one detainee told Human Rights Watch:

On June 5, 2008, Yasir al-Wazir went out to pray at 11 a.m. I don't know to which mosque he went. By 2 p.m. he had not come back. Usually he would have called if he had stayed out with friends. I called his phone but it was switched off. The next thing we knew was that an internet site, Majalis Al Muhammad, announced that Yasir had been arrested.

His father then went to the local police. There, the officer asked him, "how does your son pray, with his arms by his side [in the fashion of Shi'a Muslims], or with his arms crossed [in the fashion of Sunni Muslims]?" His father replied that Yasir is a Zaidi Muslim and a

²³ Constitution of the Republic of Yemen, 2001, art.48.b.

²⁴ Republican Decision on Law no 24 for the Year 1998 Regarding Crimes of Abduction and Highway Robbery, arts. 2, 5, and 8.

preacher in a Zaidi mosque. The officer said, “Aha, then I think I know where he is. Go to Political Security.”²⁵

As of July 23, 2008, when Human Rights Watch spoke with his wife, the family had still not yet received any official acknowledgement, from Political Security or any other government body, regarding where Yasir’s captors were detaining him.²⁶ However, a family member informed Human Rights Watch that the family was finally able to visit Yasir in detention at Political Security on August 6, 2008.²⁷

Many of those subjected to forced disappearance in Yemen eventually resurface in custody or are simply released. However, “disappearances” do not have to be prolonged in order to cause a family great mental anguish. Not knowing who is responsible for an arrest, or where a loved one is being held puts a heavy emotional strain the “disappeared” person’s friends and relatives of a disappeared person.

The brother of a person arrested on July 21, 2008 and since disappeared was visibly stressed when he told Human Rights Watch two days later that “We have not had word where he is or why he has been arrested.”²⁸ He said that several persons dressed in military uniforms and driving a military vehicle on July 21 apprehended Yahya from the “Peugeot” shared taxi station, where Yahya worked as a driver. After fellow taxi drivers informed Yahya’s family of the event, the shaikh of Yahya’s home town in a Zaidi area, around one and a half hour’s drive outside San’a, sent people to inquire at the security agencies. Yahya’s family told Human Rights Watch:

Political Security said, ‘He is not here,’ the Criminal Investigation Department said, ‘He is not here,’ and National Security said, ‘We do not have a prison,’ although we know they detain people. We don’t know where else to go.²⁹

²⁵ Human Rights Watch interview with Yasir al-Wazir’s wife, San’a, July 23, 2008.

²⁶ Human Rights Watch interview with Yasir al-Wazir’s wife, July 23, 2008.

²⁷ Email communication from a family member of Yasir al-Wazir to Human Rights Watch, August 7, 2008.

²⁸ Human Rights Watch interview with Yahya’s brother, ‘Amran governorate, July 25, 2008.

²⁹ Human Rights Watch interview with Yahya’s brother, July 25, 2008.

An enforced disappearance continues as a crime until the fate or whereabouts of the person become known. Long-term “disappearances” increase a family’s anguish. Hisham told Human Rights Watch of the case of Hamza Hajar. Hisham, who is from the same region as Hamza, said that: “Hamza disappeared on the Sa’da–San’a road during the fourth war (February 27 to June 14, 2007). Some say that he is in Political Security’s prison in Hudaida, but nobody knows for sure. He was a student at the health institute and wanted to transfer to Sa’da.”³⁰ The Yemeni Organization for the Defense of Democratic Rights and Freedoms (YODDRF) issued a Register Containing Some Missing Persons, listing 286 names. It lists Hamza Abdullah Hajar as “missing” at “Qahrat al-Hajar” on the “Day of the Advance.”³¹ Another YODDRF lists 56 persons as having been “disappeared” between May and June 2008 and whose whereabouts remained unknown in July.³²

Prior to his “disappearance” in 2008, Muhammad Miftah had already been arrested twice by the authorities since 2004 for his Zaidi religious teaching and public criticism of the government. His wife told Human Rights Watch what happened during his third arrest on May 21, 2008:

Fifteen men wearing black clothing with faces half covered blocked his car with their two cars, got out, and started shooting at our car. That was the last anyone has seen of my husband. The children [in the car with him] miraculously escaped injury, but we don’t know if Muhammad was injured. I have been to Political Security 13 times since then. Seven times they said they are holding him, and six times they said they are not. The director told me he was there, but added: “Don’t ask us to release him because only the president can release him. So go to the president.”³³

³⁰ Human Rights Watch interview with Hashim, San’a, July 20, 2008.

³¹ Yemeni Organization for the Defense of Democratic Rights and Freedoms, *Register Containing Some Missing Persons*, no date.

³² Yemeni Organization for the Defense of Democratic Rights and Freedoms, *Register of Some Disappeared During the Month of July 2008*, no date.

³³ Human Rights Watch interview with Jamila Ali Zayid, wife of Muhammad Miftah, San’a, July 22, 2008.

Miftah's son, who was in the car at the time, confirmed this account.³⁴ On August 13, Miftah's family was finally able to visit him briefly at Political Security for the first time. He said he had been detained at Political Security since his arrest.³⁵ On September 7, the authorities released Muhammad Miftah, apparently in a gesture to reduce the number of political detainees.³⁶

In some cases, detainees are forcibly disappeared even after security agencies initially acknowledged that they are holding the person. On June 30, 2008, persons wearing military uniform and driving in a military vehicle entrapped and arrested 23-year-old Lu'ai Mu'ayyad (see below). Family members received a phone call from a man identifying himself only as an officer, and instructing them to bring Lu'ai's medicine to a meeting place in an ordinary street. The next day, Lu'ai rang his family from prison on his cell phone to say he was all right, but could not specify where he was. Since then, the family has not received news about his whereabouts, and was unable to deliver medicine to him. Lu'ai suffers from Hepatitis B, and a doctor in Jordan conducts blood tests every three months and adjusts his medication accordingly. The doctor sends the medication via express mail to the family in Yemen.³⁷ Lu'ai was released on September 11, 2008.

When US citizen Khalid al-Sharif did not return home after going shopping on the morning of June 16, 2008 in San'a, his mother told Human Rights Watch that she began to worry. At 8 p.m. she received a telephone call from a man calling himself Majid al-Mu'ayyad, who said that Khalid had been arrested. Al-Mu'ayyad did not identify himself or specify where he received this information. On the morning of June 17, five persons, two in uniform and three in civilian dress, including one woman, came to search Khalid's house, saying "we are the security forces." They refused to say where Khalid was, and his family had not heard from him since.³⁸ On August 13, his mother was able to visit Khalid briefly in the prison of Political Security.

³⁴ Human Rights Watch interview with the son of Muhammad Miftah, San'a, July 22, 2008.

³⁵ Email communication from Ali al-Dailami, executive director of the Yemeni Organization for the Defense of Democratic Rights and Freedoms, to Human Rights Watch, August 19, 2008, and from Hewan Forum, October 23, 2008.

³⁶ Email communication with Dialogue (Hewan) Center, September 7, 2008.

³⁷ Human Rights Watch separate interviews with the mother, sister, and brother of Lu'ai al-Mu'ayyad, San'a, July 20, 2008.

³⁸ Human Rights Watch interview with Huda al-Kibsi, mother of Khalid al-Sharif, July 22, 2008.

He told her he had been detained at National Security until his transfer there two weeks earlier.³⁹ Khalid remained detained as of September 25, 2008.

In another case, a detainee vanished after being held in two police stations. Amina told Human Rights Watch that her cousin Husain had gone to Bani Hushaish in late May to see his family following recent fighting there. Soldiers denied him passage at roadblocks, so he returned to San'a to stay with her. After one week, officers from the local police station summoned and detained him. Thirteen days later, officers at the local police station told her family that authorities had transferred Husain to the Bani Hushaish police station. Husain's mother was able to visit him there once, after two weeks. After that, the mother received no further information about Husain's whereabouts. "Now, we don't know where Husain is," Amina said.⁴⁰

Hasan Zaid, a mediator between Huthi rebels and the government, told Human Rights Watch that "between the third and fourth war (February 2006 to February 2007), around 350 persons were missing—either disappeared, arrested, or presumed dead."⁴¹ Since then, little or no progress has been made to clarify their fate. Instead, government agents or unknown persons have continued to carry out enforced disappearances.

Ismail Ghanmiya (*sic*, see below) is number 24 on the YODDRF's list of 56 persons disappeared in 2008, described as "arrested instead of his cousin on June 4, 2008."⁴² Journalist Nabil Subai' told Human Rights Watch that he knew that Isma'il Ghanima was arrested in June and kept in San'a for 15 days, after he had transported internally displaced persons from the village of Bait al-Aghrabi, close to Bani Hushaish, where fighting had recently taken place. Nearly two months later, "nobody knows what happened to him."⁴³

³⁹ Email communication from Radhia Mutawakel, Dialogue (Hewar) Forum, to Human Rights Watch, August 14, 2008. The US embassy in Yemen said it was unable to comment on the case. Email communication from US diplomat to Human Rights Watch, August 16, 2008.

⁴⁰ Human Rights Watch interview with Amina, San'a, July 24, 2008.

⁴¹ Human Rights Watch interview with Hasan Zaid, San'a, July 15, 2008.

⁴² "Names of Some Disappeared During the Month of July 2008," *Yemeni Organization for the Defense of Democratic Rights and Freedoms*, around July 20, 2008.

⁴³ Human Rights Watch interview with Muhammad 'Ayish, editor, *Al-Shari'* newspaper, San'a, July 19, 2008.

IV. Arbitrary Arrest and Detention

Enforced disappearances, even when only temporary, are taking place within a context of hundreds, if not thousands, of arbitrary arrests and detentions. In August, officials spoke of 1,200 political detainees remaining in jail, while announcing the release of 70 Sa'da residents being held as prisoners of war.⁴⁴ On August 31, President Saleh ordered the release of 131 detainees arrested in the context of the Sa'da war.⁴⁵ In early September, the government promised the release of 120 more political detainees, some in relation to the Sa'da conflict. On September 24, a credible NGO reported that at least 63 persons remained arbitrarily detained as a result of the Sa'da conflict.⁴⁶ Human Rights Watch has not managed to establish the accuracy of this figure.

Among those released in August are former mediation committee member Shaikh Salih Al Wajman, who had been jailed at the Interior Ministry for two years, and Shaikh Naji Bukhtan and dozens of other detained Huthi loyalists.⁴⁷

Foreign Minister Abu Bakr al-Qurbi, in a meeting with Human Rights Watch, acknowledged human rights abuses in the administration of justice. "Political Security may hold detainees longer than they should [under the law]," he said, owing to "negligence, and because they are overwhelmed with cases right now."⁴⁸ A Yemeni judge was more critical, saying, "Our problem is that justice is not working. All arrests are politicized and the course of justice is blocked."⁴⁹ Minister for Human Rights Huda Alban avoided a question on the legality of detention, but said that she

⁴⁴ Mohammed Bin Sallam, "Sa'ada Security Situation Relatively Calm," *Yemen Times*, August 17, 2008, <http://yementimes.com/article.shtml?i=1182&p=front&a=2> (accessed August 20, 2008).

⁴⁵ "Instructions to Release Detainees of the Sedition Events in Sa'da," *26 September* official news website, August 26, 2008, http://www.26sep.net/news_details.php?lng=arabic&sid=45448 (accessed October 23, 2008).

⁴⁶ Email communication from Dialogue (Hewar) Center, September 7, 2008, and "Press Release Regarding the Solidarity Protest in front of the Prime Ministry and the Interior Ministry for the Release of those Arrested," *YODDRF*, September 24, 2008.

⁴⁷ Mohammed Bin Sallam, "Sa'ada Security Situation Relatively Calm," *Yemen Times*, August 17, 2008, <http://yementimes.com/article.shtml?i=1182&p=front&a=2> (accessed August 20, 2008).

⁴⁸ Human Rights Watch interview with Abu Bakr al-Qurbi, minister of foreign affairs, San'a, July 23, 2008.

⁴⁹ Human Rights Watch interview with Amin Hajar, judge, San'a, July 2008.

“went to the Central Prison a while ago. There were Huthis there, and they were in very good condition, with TV and good food, better than other prisoners.”⁵⁰

Among those detained in violation of international law were persons effectively taken hostage—arrested to pressure a wanted family member to surrender to the security forces or cease their human rights work. Hashemite adherents of Zaidi Shi’ism make up a second category of persons arbitrarily arrested. While there is no clear indication that the security forces target Hashemites merely for their religious affiliation, there are a sufficient number of cases to indicate that security forces arrest those active in religious study or instruction. Third, security forces also arrest Zaidis going to or returning from areas of recent fighting or otherwise suspected of sympathizing with the Huthis.

Legal standards

International law prohibits arbitrary arrest and detention. According to the UN Working Group on Arbitrary Detentions, detention is arbitrary if the authorities provide no valid legal basis justifying the deprivation of liberty; the deprivation of liberty results from the exercise of protected rights or freedoms such as the freedom of belief or of expression; or when violations of international fair trial norms are so grave as to give the deprivation of liberty an arbitrary character.⁵¹

Yemen has been a party to the International Convention on Civil and Political Rights (ICCPR) since 1987. Article 9 of the ICCPR on arbitrary arrest and detention states that “[n]o one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.” Those arrested shall be informed at the time of arrest of the reasons for their arrest and shall be promptly informed of any charges against them. Persons charged with a criminal offense “shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release.”⁵²

⁵⁰ Human Rights Watch interview with Huda Alban, minister for human rights, San’a, July 28, 2008.

⁵¹ See The UN Working Group on Arbitrary Detention, “Fact Sheet no. 26,” <http://www.unhchr.ch/html/menu6/2/fs26.htm>, (accessed September 8, 2008).

⁵² International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, art.9.

The UN Human Rights Committee, which monitors state compliance with the ICCPR and provides authoritative interpretation of the Covenant, has explained that: “‘arbitrariness’ is not to be equated with ‘against the law,’ but must be interpreted more broadly to include elements of inappropriateness, injustice, lack of predictability and due process of law.”⁵³

Yemen’s constitution provides that “[t]he State guarantees citizens’ security, liberty and dignity.”⁵⁴ It prohibits arrests, searches and detentions other than those of a person caught *in flagrante delicto* or pursuant to a judge or a public prosecutor’s order.⁵⁵ The constitution, which contains basic elements of criminal justice procedure, further specifies that the public prosecutor must charge anyone arrested with a crime within 24 hours, and that only a judge may prolong an order of detention beyond an initial seven days.⁵⁶ Yemen’s Penal Code stipulates a prison sentence of up to five years for officials who wrongfully deprive persons of their liberty.⁵⁷

Arrests of family members of wanted individuals

Human Rights Watch received 11 allegations of hostage-taking by government security forces in the context of the government’s conflict with the Huthi rebels. Yemeni security forces in the past have taken persons hostage and held them without charge in order to pressure their relatives to surrender to the authorities or to cease their political or other activities.⁵⁸

⁵³ UN Human Rights Commission, “Rafael Marques de Morais v. Angola,” *Communication No. 1128/2002*, U.N. Doc. CCPR/C/83/D/1128/2002 (2005). In his authoritative commentary on the ICCPR, Manfred Nowak included elements of injustice, unpredictability, unreasonableness, capriciousness and unproportionality in the meaning of arbitrariness. Manfred Nowak, *UN Covenant on Civil and Political Rights: CCPR Commentary*, (2d ed, Kehl am Rein: N.P. Engel, 2005), pp. 224-25.

⁵⁴ Constitution of the Republic of Yemen, 2001, article 48(a).

⁵⁵ Constitution of the Republic of Yemen, 2001, article 48(b).

⁵⁶ Constitution of the Republic of Yemen, 2001, art.48.c.

⁵⁷ Penal Code, Yemen, art. 246.

⁵⁸ US State Department, Bureau of Democracy, Human Rights, and Labor, “Country Reports on Human Rights Practices – 2002: Yemen,” March 31, 2003 <http://www.state.gov/g/drl/rls/hrrpt/2002/> (accessed September 2, 2008), and subsequent reports for 2003-07, <http://www.state.gov/g/drl/rls/hrrpt/2003/> , <http://www.state.gov/g/drl/rls/hrrpt/2004/> , <http://www.state.gov/g/drl/rls/hrrpt/2005/> , <http://www.state.gov/g/drl/rls/hrrpt/2006/> , <http://www.state.gov/g/drl/rls/hrrpt/2007/> (all accessed September 2, 2008).

Hostage-taking is defined under the International Convention Against the Taking of Hostages as the seizure or detention of a person (the hostage), combined with a threat to kill, injure or continue to detain, in order to compel a third party to do some act (or refrain from acting) as a condition for the hostage's release.⁵⁹ Hostage-taking is not specifically prohibited by international human rights law. The practice is however prohibited as an arbitrary deprivation of liberty under the ICCPR.⁶⁰ The Human Rights Committee, in its general comment on states of emergency, stated that states may "in no circumstances" invoke a state of emergency "as justification for acting in violation of humanitarian law or peremptory norms of international law, for instance by taking hostages [or] by imposing collective punishments."⁶¹ Hostage-taking is also specifically prohibited under common article 3 to the four Geneva Conventions of 1949, which is applicable during non-international armed conflicts.⁶² Under the Rome Statute of the International Criminal Court, it is a war crime during armed conflicts.⁶³

Security forces arrested Isma'il Ghanima, whose whereabouts since his arrest are not known (see above), in an apparent attempt to force another family member to surrender. Isma'il's brother Raja told Human Rights Watch that his family received communications that Isma'il's captors "would detain Isma'il until his uncle turns himself in."⁶⁴ His uncle turned himself in three days later and remains detained, but Isma'il has not been freed and his family says "we don't know where Isma'il is, either."⁶⁵

Jamila told Human Rights Watch that she fled fighting in Sa'da via Jawf and Ma'rib to San'a during the most recent round of fighting (May 4 to July 17, 2008). She said that

⁵⁹ International Convention Against the Taking of Hostages, G.A. Res. 146 (XXXIV), U.N. GAOR, 34th Sess., Supp. No. 46, at 245, U.N. Doc. A/34/46 (1979), *entered into force* June 3, 1983, article 1.

⁶⁰ ICCPR, article 9(1).

⁶¹ Human Rights Committee, General Comment 29, States of Emergency (article 4), U.N. Doc. CCPR/C/21/Rev.1/Add.11 (2001), para. 11.

⁶² Geneva Conventions of 1949, common article 3.

⁶³ Rome Statute of the International Criminal Court, 2187 U.N.T.S. 90, *entered into force* July 1, 2002, article 8(2)(a)(viii) and (c)(iii).

⁶⁴ Human Rights Watch interview with Raja Ghanima, San'a, July 24, 2008.

⁶⁵ Human Rights Watch interview with Fatima Husain, wife of Abd al-Ilah al-Bahr, San'a, July 24, 2008.

National Security officials arrested her relative Taha al-Hamrani, a student, on June 8, 2008 as he was sitting for an examination in San'a, and Taha's father on June 11, "because someone with the same family name is wanted on suspicion of fighting with the Huthis. They called the family after they arrested Taha to say his father would be next."⁶⁶

In a hamlet about one and a half hours outside San'a, 'Amir told Human Rights Watch that on July 17 unknown persons apprehended his relative, from the Qahum family, because the Qahum name raised suspicion at a checkpoint. Several persons of that family were wanted.⁶⁷ Back in San'a, two persons displaced from Sa'da and two persons knowledgeable about arrests related to the conflict told Human Rights Watch that on July 28 security forces arrested Muhammad Abdullah Al Qahum in Sa'da and Muhammad Muhsin Al Qahum in San'a because six other persons from the Qahum family were "wanted for involvement with the Huthis."⁶⁸ The four said they were convinced that the Qahums had been arrested to put pressure on the wanted family members.⁶⁹

Hamid, released from one year's detention without charge in February 2008, confirmed these types of arrests from his first-hand experience in a Political Security prison. He said those imprisoned with him were there for a variety of reasons, and included Huthi fighters. He also recalled one person whom political security arrested because his brother in Sa'da was wanted. "He was with me the entire time in prison."⁷⁰

Human Rights Watch spoke to Firas, a Hashemite intellectual who lives in San'a. Firas said that "a few days ago, my brother, who lives in the easternmost part of Sa'da governorate, was arrested because another brother of ours is wanted." The

⁶⁶ Human Rights Watch interview with Jamila, San'a, July 20, 2008.

⁶⁷ Human Rights Watch interview with 'Amir, 'Amran governorate, July 25, 2008.

⁶⁸ Human Rights Watch interview with a group of four Hashemites, San'a, July 28, 2008.

⁶⁹ Human Rights Watch interview with a group of four Hashemites, July 28, 2008.

⁷⁰ Human Rights Watch interview with Hamid, San'a, July 18, 2008.

authorities arrested this brother to force a third brother to give himself up, according to what officers told family members present during the arrest.⁷¹

In four related cases, authorities arrested or threatened a person to pressure a family member to cease his human rights activities. Security forces had already arrested human rights activist Ali al-Dailami in 2006, and before that his brother Yahya al-Dailami in 2004 for their criticism of the government. On May 22, 2008, soldiers arrested the youngest brother, 24-year-old business student Hasan al-Dailami, without alleging any criminal activity on his part. They asked about the activities Ali's human rights organization, in which Hasan is also occasionally active. Hasan recounted to Human Rights Watch how:

About twenty soldiers surrounded the house and about five men in civilian clothes with six soldiers entered, pointed their guns close at me, my mother and other female relatives. They asked about my brothers Yahya, Ali, Abdullah and Hamza, but they were not there. Then officers from the National Security agency handcuffed me behind my back, blindfolded me, and after 30 minutes took me away in a military vehicle.⁷²

In prison, Hasan said, his interrogator "beat me on my back, and kicked me after that, and said he would hang me. Security men then told me Ali should stop his activities for his own sake," before releasing him on an abandoned street at 2 a.m. the next day.⁷³ Ali al-Dailami said that Hasan's arrest "was to intimidate me."⁷⁴

In the second case, security forces arrested a brother by mistake, then forced him to lure his wanted brother to a location to arrest him, their mother and sister told Human Rights Watch. On June 30, Nazar al-Mu'ayyad, brother of Lu'ai al-Mu'ayyad, whose disappearance is discussed above, was driving to work in San'a when two military vehicles stopped his car. Several men got out, blindfolded him, and accused

⁷¹ Human Rights Watch interview with Firas, San'a, July 26, 2008.

⁷² Human Rights Watch interview with Hasan al-Dailami, San'a, July 23, 2008.

⁷³ Human Rights Watch interview with Hasan al-Dailami, July 23, 2008.

⁷⁴ Human Rights Watch interview with Ali al-Dailami, San'a, July 15, 2008.

him of providing help to the Huthis. Only when they looked at his identity card some time later did they realize he was not Lu'ai, whom they sought. The security officers then forced Nazar to call Lu'ai and pretend he needed his help due to a car accident. When Lu'ai arrived, he was arrested, and Nazar freed.⁷⁵

In a third case, Political Security officials detained Zaidi cleric Yahya al-Mahdi without charge at the agency's prison from February 2007 until March 2008. He described to Human Rights Watch how, one month after his arrest, the authorities detained his 16-year-old son because he had "made public calls in the media for my release."⁷⁶ Yahya added that an interrogator told him that his son would remain in prison "until the Huthis withdraw from the mountains. You were both arrested as a precaution."⁷⁷

Arrests of Hashemite religious figures

Hashemites feature frequently among those arrested, although it remains unclear whether the government was targeting them. Human Rights Watch received information about 14 cases where the Hashemite identity or the profession as a Hashemite scholar or preacher of the detainee appeared to be the paramount reason for the arrest.

The Huthi movement is closely identified with the Hashemites. Government officials and politicians have attributed to the Huthis a desire to reestablish the Zaidi imamate.⁷⁸ Furthermore, the origins of the Huthi-led Believing Youth lie in spreading Zaidi religious awareness and identity through itinerant preachers and religious schools mainly staffed by Hashemites in Sa'da and other majority Zaidi governorates in the 1990s.⁷⁹ When the Believing Youth became an armed movement in the early 2000s, Hashemites continued to figure prominently. One person with family ties to

⁷⁵ Human Rights Watch interview with the mother and sister of Lu'ai al-Mu'ayyad, San'a, July 20, 2008.

⁷⁶ Human Rights Watch interview with Yahya al-Mahdi, San'a, July 23, 2008.

⁷⁷ Human Rights Watch interview with Yahya al-Mahdi, July 23, 2008.

⁷⁸ Human Rights Watch interviews with Abu Bakr al-Qurbi, Minister of Foreign Affairs, San'a, July 23, 2008, and Fu'ad al-Dahhaba, member of parliament for the Islah Party, San'a, July 16, 2008.

⁷⁹ Human Rights Watch interview with Muhammad Ayish, journalist, San'a, July 19, 2008.

Huthi sympathizers estimated that 30 percent of fighting Huthis and the entire military leadership today is Hashemite.⁸⁰

The government for its part has put Sunni preachers into formerly Zaidi mosques and fired Zaidi preachers.⁸¹ Human Rights Watch observed signs on mosques saying “Sunni Mosque” in Zaidi areas outside San’a. Our local guide said that these signs had appeared between 2005 and 2008.⁸² In conflating armed rebels with the religious cause that gave rise to them, the government has arrested Hashemite preachers and scholars in Zaidi religious institutions and mosques. “After the war in Bani Hushaish [in June 2008], checkpoints and identity card checks appeared around the capital, and, if you are Hashemite, you became liable to arrest,” one observer told Human Rights Watch.⁸³ Another noted that “for the government, a Hashemite is a Huthi. If he is not outspoken, he is a quiet Huthi supporter. If he says that he is with the government, he is an untrustworthy opportunist.”⁸⁴

On June 5, 2008, unknown security officers arrested Yasir al-Wazir, a Hashemite Zaidi who preaches at a San’a mosque, from a street in San’a. His wife said he has an official license to preach. Yasir had also been a student, and later a teacher for six years, at the Nahrain mosque in old San’a, one of the most important centers of Zaidi religious learning. Yasir’s mother, asked if he might have had contact with the Huthi rebels, said, “I don’t think so. He spends all his time at home. Also, we are a small family, and he has no uncles or other relatives who could be with the Huthis.”⁸⁵

In September 2004 the government arrested Muhammad Miftah, the prayer leader at San’a’s Great Mosque in Rawda, where Huthi supporters chanted anti-Israel and anti-US slogans after Friday prayers in 2003 and 2004.⁸⁶ A court sentenced Miftah to eight years in prison for supporting the Huthis, but President Saleh commuted his

⁸⁰ Human Rights Watch interview with Ali Saif Hasan, political analyst, San’a, July 28, 2008.

⁸¹ Human Rights Watch interview with a parliamentarian from Sa’da, and with Firas, San’a, July 26, 2008.

⁸² Human Rights Watch observations in an area one hour and 30 minutes drive outside San’a, July 25, 2008.

⁸³ Human Rights Watch interview with Khalid Hammadi, journalist, July 17, 2008.

⁸⁴ Human Rights Watch interview with Judge Amin Hajar, San’a, July 20, 2008.

⁸⁵ Human Rights Watch interview with Nabila, San’a, July 23, 2008.

⁸⁶ Human Rights Watch interview with Jamila Ali Zayid, wife of Muhammad Miftah, San’a, July 22, 2008.

sentence, and he was released on May 21, 2006. As a condition of release, Miftah was prohibited from lecturing in mosques, schools and public fora.

In December 2007, Miftah broke that condition by speaking at an event in Bani Hushaish on the Shi'a religious holiday of Eid al-Ghadir. Authorities promptly arrested and then released him in January 2008. He then joined Al-Haqq party, largely representing Zaidis, and became head of their Shura (Advisory) Council.⁸⁷ Together with the Taghyir [Tagheer] human rights organization, Miftah joined an initiative against the war in Sa'da and documented cases of detention.⁸⁸ Then, on May 21, 2008, according to his wife, and his son who was present, more than one dozen gunmen stopped the car Miftah and his two sons were driving, fired at least 20 bullets into it, and took Miftah with them.⁸⁹ He was not seen or heard from until August 13, 2008, when his family was first able to see him at the Political Security prison (see above). There are no known charges against Miftah.⁹⁰

Another cleric, Yahya al-Mahdi, told Human Rights Watch that Political Security officers came to the Bait al-Mahdi mosque in San'a, where he is the imam, during the evening of February 23, 2007:

There was a driver and four men in civilian clothes, carrying Kalashnikovs [AK-47 assault rifles]. Another car was waiting with three persons in it chewing *qat* [a widely used stimulant], and someone called my name, gripped me violently and pushed me into the car. He said he was from Political Security. They took me to Prison Ma'in 2. One month later, they started the interrogation, trivial questions, like listing my relatives, my religion, which they insulted, asking me if I was a Twelver [non-Zaidi] Shi'a. Until my release on March 23, 2008, they

⁸⁷ Gabriele vom Bruck, "Disputing Descent-Based Authority in the Idiom of Religion: The Case of the Republic of Yemen," in: *Die Welt des Islams* vol. 38 no 2, 1998, pp. 149-191, p.5 and pp.23.

⁸⁸ Human Rights Watch interview with Jamila Ali Zayid, July 22, 2008.

⁸⁹ Human Rights Watch interview with Jamila Ali Zayid, July 22, 2008.

⁹⁰ Email communication from Radhia Mutawakel, Hewar Forum, to Human Rights Watch, August 14, 2008.

never called me again. I was in a cell with perhaps 12 Zaidis and two al Qaeda members.⁹¹

Other cases similarly indicate that the government arrests certain persons primarily for their engagement in Zaidi religious learning and teaching and their Hashemite identity. Until his arrest in mid-2007, Zuhair was the office manager for the Badr Center, a Zaidi center of religious learning. Several staff and pupils there had been arrested in previous years. “In my center, I had 1,000 students. Now, only I remain,” Dr. Murtada al-Mahatwari, the center’s director, told Human Rights Watch: “The rest are in prison or have left since 2004.”⁹² In fact, the authorities have targeted the Badr Center for arrests of its students and staff. A muezzin at the center’s mosque had been released from detention just days before Human Rights Watch’s visit. He said he was arrested solely because of his work for the center.⁹³ Hamid had been a student at the Badr Center for four years at the time of his arrest on February 19, 2007. He told Human Rights Watch:

[The interrogators] asked questions about my religion: “Do you celebrate [the Shi’a holiday] Eid al-Ghadir? Do you celebrate [the Shi’a holiday of] ‘Ashura? What is your religion?” Then they asked me whether I recruited students for the Huthis and they gave me a list of 20 names. I only vaguely knew one person. Then they wanted me to give information about Murtada [Mahatwari] and whether he had connections to the Huthis or the Iranian embassy.⁹⁴

On February 28, 2008, the authorities released Hamid pursuant to the February 1 agreement between the Huthis and the government mediated by Qatar.⁹⁵

⁹¹ Human Rights Watch interview with Yahya al-Mahdi, July 23, 2008.

⁹² Human Rights Watch interview with Murtada Mahatwari, director, Badr Center, San’a, July 15, 2008.

⁹³ Human Rights Watch interview with Ja’far, muezzin, Badr Center Mosque, San’a, July 15, 2008.

⁹⁴ Human Rights Watch interview with Hamid, San’a, July 18, 2008.

⁹⁵ The agreement stipulated that both parties “release those arrested within a period not to exceed one month after the date of this document.” Document of Procedures and Steps to Be Executed in Order to Apply the Agreement That Was Reached Between the Government of Yemeni Republic and Abd al-Malik al-Huthi and Those Who Are With Him in June 2007 A.D., signed by Dr. Abd al-Karim al-Iryani, the Political Adviser to the President of the Republic, for the Yemeni Republic, and Salih Ahmad Ali Habra, for Abd al-Malik al-Huthi and Those Who Are With Him, and Hamad bin Jasim bin Jabr Al Thani, President of the

When the conflict erupted again in May 2008, the arrests resumed. Authorities arrested Jasim, another staff member at the Badr Center, on May 28. Jasim told Human Rights Watch:

The officer from National Security told me I had to prove to him that I was not involved in the war when he arrested me. Later, during interrogation, they wanted to know [what I knew about] Sa'da or Bani Hushaish, how long I had worked at the center, what books I had been typing, because I am the typist. Then he wanted to know what Dr. Murtada does and teaches, and what kind of meetings are held at the center.⁹⁶

Azmi, a father of a Hashemite family, told Human Rights Watch about his two sons, arrested in March 2007 and May 2008 respectively. He said that they were arrested for no reason other than being Hashemite and having attended Zaidi summer camps until the war broke out in 2004, after which they stayed in touch with their religious friends and attended religious lectures. 'Azmi said he sees his son Turki, age 17, once a month at the Political Security prison, but has not had word of the whereabouts of Fahmi, age 19, since he was arrested in May 2008 from his job at the Ministry of Health by unidentified security officers.⁹⁷

'Isam, also a Hashemite, was arrested with Turki in May 2007 but he was released in late January 2008, and told Human Rights Watch why he thought he was detained:

I think I was arrested because I was studying five days a week before sundown prayers at the Nahrain mosque, religious studies in the Zaidi tradition. I was interrogated a total of 18 times. They asked about my religious belief, whether I was Hashemite, which mosque or religious center I study in, what I knew of other such centers in Sa'da, Hajja, and San'a, which books I read, and whether I was teaching Shi'a thought,

Council of Ministers and Foreign Minister, for the State of Qatar (Mediator), Doha, February 1, 2008, art.3, copy on file with Human Rights Watch.

⁹⁶ Human Rights Watch interview with 'Azmi, San'a, July 22, 2008.

⁹⁷ Human Rights Watch interview with 'Azmi, July 22, 2008.

and information about Huthis at Nahrain. Then they asked me whether I was collecting money or medicines for the Huthis, and whether I was the “Huthi Foreign Minister.” Two weeks before I was released I had to sign a statement not to go to Nahrain mosque. I went three times [to the mosque], and each time my family received a phone call.⁹⁸

Others told Human Rights Watch of additional arrests of Hashemites without apparent reason. Hasan Zaid, the mediator who monitors arrests of Zaidis, said, “Recently, the security forces arrested Abd al-Karim Ishaq, who is 84 years old, because he is a Hashemite Zaidi and the keeper of the Hushush mosque.”⁹⁹ A journalist said that the security forces mistakenly arrested Sunni, not Zaidi, Hashemites. “Mu’in al-Mutawakkil is a Sunni in the Islah party, and he was arrested because he has a Hashemite name, in the course of random targeting of Hashemites.”¹⁰⁰ Human Rights Watch heard of three other cases of arbitrary arrests of Hashemite Zaidis, including that of a Hashemite court stenographer whose wife told Human Rights Watch that he was not active in politics.¹⁰¹

Arrests of suspected Huthi sympathizers

Another group of persons arrested in the context of the conflict are those whom the government suspects of having contact with Huthis or of sympathizing with the rebels. Persons fleeing from or returning to a conflict zone may arouse suspicions the authorities deem sufficient for an arrest. The specific reasons for arbitrary arrests of Hashemites are less clear, though almost all those arrested are Zaidi. The number of those arrested as sympathizers is possibly the largest group of arbitrary arrests.

One Hashemite intellectual with ties to negotiators told Human Rights Watch that an exchange of prisoners between the Huthi rebels and the San’a government was part of a verbal truce mediated by the government of Qatar ending the fourth war in June 2007. The government did release some detainees, he said, “but the Huthis objected

⁹⁸ Human Rights Watch interview with Amar al-Qamari, San’a, July 23, 2008.

⁹⁹ Human Rights Watch interview with Hasan Zaid, San’a, July 15, 2008.

¹⁰⁰ Human Rights Watch interview with Muhammad al-Maqtari, *Al-Shari’* newspaper, San’a, July 19, 2008.

¹⁰¹ Human Rights Watch interview the wife of Abd al-Hamid Hajar, San’a, July 22, 2008. Human Rights Watch interview with Jamila, San’a, July 20, 2008. Human Rights Watch interview with Iman al-Ghurbani, San’a, July 22, 2008.

that those released were not Huthi fighters but other Zaidis unrelated to them and arbitrarily arrested. The Huthis wanted their fighters to be freed in order to free the government soldiers.”¹⁰² A member of the Socialist Party agreed: “Hundreds have been arrested in Sa’da governorate only because of their geographic origin. Some were released after the fourth war, but not all.”¹⁰³ A prominent mediator further corroborated this account, saying, “March [2008] was the deadline for the release of the Huthis imprisoned by the government, but this did not happen. They only let 60 detainees go out of 3,000 imprisoned. The deal failed.”¹⁰⁴

Three separate groups of internally displaced persons from Sa’da governorate declined to meet with Human Rights Watch, saying they feared for their own safety because the government was arresting displaced persons and others divulging information. One human rights worker said that in mid-June 2008 “15 persons were arrested from Bani Hushaish, simply for being from there.”¹⁰⁵

Walid, a resident who had fled fighting in Harf Sufyan in the most recent fighting told Human Rights Watch that “since 2004, there has been pressure by the military on Harf residents. They broke into houses, scared children, and arrested fathers and young men.”¹⁰⁶ After Walid returned to Harf Sufyan and cooperated with the soldiers occupying his house there, he said he had “received personal threats from Political Security,” which did not like his engagement for returning displaced persons.¹⁰⁷

Even brief visits to the conflict zone can lead to arrests. After Ghalib drove from San’a to Bani Hushaish to evacuate family members from the conflict zone, he came under surveillance, his sister Amina reported:

Five days after he returned, they arrested him. The local chief of our street summoned Ghalib after work and they went to the local police

¹⁰² Human Rights Watch interview with Firas, San’a, July 26, 2008.

¹⁰³ Human Rights Watch interview with Aidroos al-Naqeeb, Socialist Party, San’a, July 17, 2008.

¹⁰⁴ Human Rights Watch interview with Hasan Zaid, San’a, July 15, 2008.

¹⁰⁵ Human Rights Watch interview with Ahmad ‘Arman, executive director, HOOD, San’a, July 20, 2008.

¹⁰⁶ Human Rights Watch interview with Walid, San’a, July 20, 2008.

¹⁰⁷ Human Rights Watch interview with Walid, July 20, 2008.

station. The police questioned him: “Who are the people you took from Bani Hushaish?” The police detained him at the station for one month, and then transferred him to Political Security.¹⁰⁸

Amina told a similar story of Husain, whose enforced disappearance following an attempted trip to Bani Hushaish to visit relatives is discussed above. One week after soldiers turned him back from a checkpoint, he was arrested. His whereabouts are currently unknown.¹⁰⁹ Soldiers in mid-July 2008 arrested Husain’s uncle, ‘Issa, from his house in Bani Hushaish. ‘Issa had been mentally deranged since undergoing an operation five years ago and had refused to leave his house during fighting, Amina said. His family does not know his whereabouts.¹¹⁰

Two persons independently told Human Rights Watch about the recent arrests of up to 16 students at the University of San’a. The reasons for the arrests, human rights activist Ali al-Dailami said, were that the students had all transferred from Sa’da university to San’a, and a local shaikh had reported them to the authorities in exchange for money.¹¹¹ Hasan Zaid, the mediator, added that the authorities had mistaken all arrested students as Zaidis due to their last names, but that some of them had changed their religious outlook to that of the Sunni Muslim Brothers.¹¹²

Another case underlines that security forces arrest persons on suspicion of Huthi sympathies, based merely on geographical origin. ‘Aisha had recently fled Dhahyan, the “city of religious knowledge and scholars,” which witnessed heavy fighting in mid-May 2008. She told Human Rights Watch:

The men of our family stay inside in San’a. They are afraid they could be arrested anytime because they are from Dhahyan. My cousin was arrested two days ago and has not yet been released. He came from

¹⁰⁸ Human Rights Watch interview with Amina, San’a, July 24, 2008.

¹⁰⁹ Human Rights Watch interview with Amina, July 24, 2008.

¹¹⁰ Human Rights Watch interview with Amina, July 24, 2008.

¹¹¹ Human Rights Watch interview with Ali al-Dailami, director, YODDRF, July 15, 2008.

¹¹² Human Rights Watch interview with Hasan Zaid, San’a, July 15, 2008.

Sa'da where he is a student. He is not active in politics. My other cousin Yusif was arrested three months ago.¹¹³

The politics of the Huthi-government conflict have reached beyond the people living in or fleeing the affected areas. The Yemeni government has in the past accused Iran of providing the Huthi rebels with religious rhetoric, and financial and political support.¹¹⁴ (A former member of government with access to the president and cabinet-level documentation during the first wars said the government was never able to prove Iranian governmental support for the Huthis.)¹¹⁵ Days after President Saleh had declared an end to hostilities, Foreign Minister al-Qurbi did not want to repeat accusations against Iran, telling Human Rights Watch, "Now is not the time to dwell on foreign interference. We have said what we said about Iran."¹¹⁶

Now persons with religious, political, or travel connections to Iran appear to be at heightened risk of arrest on suspicion of supporting the Huthis. In late June 2008, a Yemeni working in Kuwait was arrested in Yemen during his vacation because he had an Iranian stamp in his passport from accompanying his Kuwaiti sponsor on a trip to Iran.¹¹⁷ In 2006, a Yemeni woman working for the Swedish Radda Barnen (Save the Children) humanitarian organization, was arrested and held for three hours as she got out of her car by her office, which is close to the Iranian embassy.¹¹⁸ Members of the Khuja family, living in the southern city of Aden but of Iranian origin, were arrested in June or July on charges of being Twelvers, the Shi'a sect dominant in Iran.¹¹⁹

¹¹³ Human Rights Watch interview with 'Aisha, San'a, July 20, 2008.

¹¹⁴ Abduh 'Ayish, "Politics and Sectarianism Are Main Reasons for Rebellion of Huthis in Sa'da, *Al Jazeera.net*, May 22, 2008 <http://www.aljazeera.net/NR/exeres/8773F26B-2257-430A-8DB1-7B546E32FD26.htm> (accessed August 19, 2008).

¹¹⁵ Human Rights Watch interview, San'a, July 2008 (name and precise date withheld on request).

¹¹⁶ Human Rights Watch interview with Abu Bakr al-Qurbi, minister of foreign affairs, San'a July 23, 2008.

¹¹⁷ Human Rights Watch interview with Ahmad 'Arman, executive director, HOOD, San'a, July 20, 2008.

¹¹⁸ Human Rights Watch interview with Amal Basha, director, Arab Sisters Forum, San'a, July 16, 2008, and with journalist Nabil al-Sufi, San'a, July 17, 2008.

¹¹⁹ Human Rights Watch interview with Hasan Zaid, San'a, July 15, 2008.

V. Restrictions on Free Expression and Information Exchange

Tight government control over information about the conflict has been a particular feature of the fighting in 2008. In the view of one journalist, the government's tactics changed as the Huthi rebels began to increase their media efforts in 2007.¹²⁰ The government imposed a near-complete blockade on the travel of persons and goods in and out of Sa'da governorate, principally by closing the main road connecting Sa'da to San'a via 'Amran. Occasionally, persons fleeing fighting and destruction were able to move south.¹²¹

The government also attempted to prevent news about the details of the conflict from becoming public by preventing journalists and humanitarian workers from going to the conflict zone, by disconnecting all but a select number of mobile telephone numbers, by threatening journalists not to report on the conflict, and by arresting persons who transmitted information about the impact of the fighting, or who could have such information because they had recently left the area. Foreign Minister Abu Bakr al-Qurbi told Human Rights Watch, "We have to differentiate between freedom of expression and journalistic crimes. In any case, we have to accept a court's verdict."¹²²

Few arrests result in formal charges, much less guilty verdicts. A notable exception is the prosecution of Abd al-Karim al-Khaiwani, whom the Specialized Criminal Court in June 2008 sentenced to six years in prison for writing critical articles about the war in 2007.¹²³ Fellow journalists and lawyers familiar with the trial, including one who was part of the defense team, could not say what the precise legal charge against al-

¹²⁰ Human Rights Watch interview with Khalid Hammadi, journalist, San'a, July 17, 2008.

¹²¹ Human Rights Watch interview with foreign doctor working in Sa'da, San'a, July 27, 2008, and with internally displaced person from Dhahyan who could not flee south to San'a, but only north to Bakil 'Amir, San'a, July 28, 2008.

¹²² Human Rights Watch interview with Abu Bakr al-Qurbi, minister of foreign affairs, San'a, July 23, 2008.

¹²³ *Deteriorating State of Freedom of Expression in Yemen*, Letter by Article IX and undersigned organizations to President Ali Abdullah Saleh, August 7, 2008 <http://www.article19.org/pdfs/letters/yemen-deteriorating-state-of-freedom-of-expression-in-yemen.pdf> (accessed September 2, 2008).

Khaiwani was.¹²⁴ President Saleh pardoned and released al-Khaiwani on September 25, 2008.

Legal standards

The International Covenant on Civil and Political Rights guarantees the right “to hold opinions without interference”¹²⁵ and to freedom of expression, which includes the freedom “to seek, receive and impart information and ideas of all kinds.”¹²⁶ Similarly, the UN Declaration on Human Rights Defenders, which the General Assembly adopted by consensus in 1998, sets out the rights to “know, seek, obtain, receive and hold information about all human rights and fundamental freedoms [and] freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms.”¹²⁷ The declaration expressly provides for the right to protest peacefully against human rights violations, including by gathering information.¹²⁸

Under the ICCPR, during a declared state of emergency that threatens the life of a nation, a state may derogate from some rights, including the right to freedom of expression.¹²⁹ There are, however, important legal limitations on this practice. According to the Human Rights Committee, “[m]easures derogating from the provisions of the Covenant must be of an exceptional and temporary nature.” Furthermore, such measures must be “limited to the extent strictly required by the exigencies of the situation.”¹³⁰ Yemen has not declared a public emergency in areas affected by the armed conflict, nor has it announced its derogation from any human rights protections.

¹²⁴ Human Rights Watch email correspondence with Nadia al-Sakkaf, editor-in-chief, Yemen Times, August , 2008, and Human Rights Watch telephone interview with Qasim, lawyer, September 2, 2008.

¹²⁵ ICCPR, art.19 (1).

¹²⁶ ICCPR, art.19 (2).

¹²⁷ Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, A/RES/53/144 (UN Declaration on Human Rights Defenders), art.6.

¹²⁸ UN Declaration on Human Rights Defenders, articles 12 and 13.

¹²⁹ ICCPR, article 4.

¹³⁰ Human Rights Committee, General Comment 29, States of Emergency (article 4), U.N. Doc. CCPR/C/21/Rev.1/Add.11 (2001), para. 2.

The Yemeni Press and Publications Law of 1990 broadly prohibits publication of:

Any secret document or information which might jeopardise the supreme interests of the country or expose any of its security or defence secrets [and] [a]nything which might cause tribal, sectarian, racial, regional or ancestral discrimination, or which might spread a spirit of dissent and division among the people [and] [a]nything which leads to the spread of ideas contrary to the principles of the Yemeni Revolution prejudicial to national unity or distorting the image of the Yemeni, Arab or Islamic heritage.”¹³¹

These vague prohibitions constitute arbitrary restrictions on free speech under international law. Penalties include closing the publication, banning the journalist from practicing journalism, [and] a YAR10,000 (US\$50) fine or one year in prison.¹³²

Cases of arrests

The bureau chief of an Arab television station told Human Rights Watch, “One month after the fifth war started, the Ministry of Information told us explicitly not cover the war.”¹³³ Earlier, in 2007, the government allowed journalists to go to Sa’da. One who went told Human Rights Watch that it was a tightly organized bus tour to Razih and Sa’da city, with no individual choice of locations. “We mainly saw soldiers sleeping in tents,” he recalled.¹³⁴ Hasan Zaid, the Zaidi mediator, told Human Rights Watch that two local journalists working with foreign news networks received threats from the Ministry of Information “not to cover the Sa’da war.”¹³⁵

In June 2007, the first issue of a new newspaper, *Al-Shari’* (The Street), led with a report about army recruiting of volunteers. The Ministry of Defense accused the editor, managing editor and the journalist of the article of releasing military secrets,

¹³¹ Law No 25 of 1990 on Press and Publications, December 26, 1990, art.103.b)-d).

¹³² Law No 25 of 1990 on Press and Publications, December 26, 1990, arts. 104-106.

¹³³ Human Rights Watch interview with the bureau chief of an Arab TV station, San’a, July 17, 2008.

¹³⁴ Human Rights Watch interview with Khalid Hammadi, journalist, July 17, 2007.

¹³⁵ Human Rights Watch interview with Hasan Zaid, San’a, July 15, 2008.

which is punishable by death. “In July 2007, armed men using a vehicle belonging to the Ministry of Defense broke into the newspaper’s offices and left a death threat,” Muhammad ‘Ayish, an editor of *Al-Shari*’ told Human Rights Watch.¹³⁶ The court case against the paper continues. Nabil Subai’, the recipient of the death threat, has since left his position as editor-in-chief at *Al-Shari*.¹³⁷ An international humanitarian aid worker told Human Rights Watch that “a number of ministries told us that the government doesn’t want foreigners to report on what is happening there.”¹³⁸

On July 14, 2008 freelance Dutch journalist and videographer Willem Marx arrived in San’a to report on the political situation in Yemen. On July 20, he set off from San’a heading south toward Ma’rib, with Ali al-Bukhaiti and Muhammad al-Bukhaiti as his guide and interpreter. They encountered a checkpoint only half an hour outside the city, which did not let them pass. An intelligence officer and a soldier boarded their car headed back to San’a “to clear up something with your permission to travel,” Marx told Human Rights Watch. “We had our permission in order.”¹³⁹ Marx said that the officers took Ali and Muhammad al-Bukhaiti to what he later learned were National Security offices on the outskirts of San’a, but that the officers never identified themselves. Officers separated Marx from the Bukhaitis, interrogated, and eventually took him in another car, supposedly to the Ministry of Information to verify his journalistic credentials. Instead, officers took him to the airport and summarily deported him the same day. The authorities released Muhammad al-Bukhaiti in the week of September 13th, but Ali al-Bukhaiti remains detained at an unknown location.¹⁴⁰

Yemeni human rights organizations tell a similar story of arrest and intimidation. Ali al-Dailami, director of the Yemeni Organization for the Defense of Democratic Rights and Freedoms, told Human Rights Watch that on July 15, 2008, the authorities

¹³⁶ Human Rights Watch interview with Muhammad ‘Ayish, editor, *Al-Shari*’ newspaper, San’a, July 19, 2008.

¹³⁷ Human Rights Watch interview with Nabil Subai’, journalist, San’a, July 16, 2008.

¹³⁸ Human Rights Watch interview with a representative of a foreign humanitarian organization, San’a, during the week of July 15–July 22, 2008.

¹³⁹ Human Rights Watch telephone interview with Willem Marx, New York, August 12, 2008. Due to the risk of tribal kidnappings of as well as al Qaeda attacks on Western foreigners, the Yemeni tourist police requires foreigners to register their travel route, vehicle and Yemeni companions ahead of time.

¹⁴⁰ Human Rights Watch interview with Muhammad al-Bukhaiti, July 23, 2008, and telephone interview with Willem Marx, New York, August 19, 2008, and email communication by Marx to Human Rights Watch, September 16, 2008.

arrested three youth—Ahmad Abdullah Kuhlani, 15, Muhammad Abd al-Rahman al-Haid, 17, and Ahmad Dhaiba, 19—who had participated two days earlier in a demonstration in front of parliament demanding to know the whereabouts of persons on the list of forcibly disappeared persons compiled by the YODDRF.¹⁴¹ Al-Dailami himself had been arrested in October 2006 at the airport on his way to Denmark on an official invitation to participate in a discussion about prisons. His captors did not tell his family where they were taking him, and told European Union officials, when they inquired, that “he is being kept on suspicion of belonging to al Qaeda.” On that occasion Dailami was released without charge two months later.¹⁴²

Khalid al-Anisi, the executive director of the National Organization for Defending Rights and Freedoms (HOOD), a Yemeni human rights organization close to the Islah Party, told Human Rights Watch that “we faced pressures to close our organization after calling for a stop to the war in 2004 and criticizing the domestic use of the army.”¹⁴³ After HOOD began monitoring arrests and took part in mediation efforts in 2005-06, al-Anisi said, a high-ranking official, “who had a part in the decision to go to war, called me and said, ‘What you are doing is more dangerous than what the Huthis are doing.’”¹⁴⁴ Muhammad Mikhlafi, of the Yemen Observatory for Human Rights (YOHR), close in outlook to the Socialist Party, said he could not make public the results of an investigation on the numbers of those killed in fighting in Harf Sufyan in June and July 2008 for fear that his investigator would be arrested.¹⁴⁵

His fear appears to have been justified. Human Rights Watch investigated 10 cases in which persons were arrested for publishing or holding information on the conflict.

The sister of one person arrested in late May 2008 told Human Rights Watch that “Mu’adh was arrested because he spoke a lot about Sa’da, was active in the field of human rights, and is a Hashemi. He said that the war is unjust and oppressive, and

¹⁴¹ Human Rights Watch interview with Ali al-Dailami, executive director, YODDRF, San’a, July 15, 2008.

¹⁴² Human Rights Watch interview with Ali al-Dailami, July 15, 2008.

¹⁴³ Human Rights Watch interview with Khalid al-Anisi, executive director, HOOD, San’a, July 17, 2008.

¹⁴⁴ Human Rights Watch interview with Khalid al-Anisi, July 17, 2008.

¹⁴⁵ Human Rights Watch interview with Muhammad Mikhlafi, director, YOHR, San’a, July 26, 2008.

that the people in Sa'da needed humanitarian aid."¹⁴⁶ She described Mu'adh's arrest, which she witnessed: "We were driving from the university. On the way, two Hilux cars were chasing us. They blocked the road and got out. They had pistols and took him. Forty-one days after the arrest he called for the first time from prison."¹⁴⁷

On June 30, security forces arrested Lu'ai al-Mu'ayyad (see above). Since then, no charges have been brought against him. His mother told Human Rights Watch that Lu'ai is the editor of the website yemenhurr.net (Free Yemen), where he published critical reports on the conflict in Sa'da.¹⁴⁸ Yemen blocks access to the site from inside the country.¹⁴⁹ An influential Zaidi figure with ties to both the government and the Huthis told Human Rights Watch that President Saleh informed him via telephone in late July that he would not intercede on behalf of Lu'ai, whose family had sought to obtain specialized medical care for him, "because he is part of the information cell."¹⁵⁰ Lu'ai's mother explained further that the authorities had in late 2006 arrested her brother, Anwar Muhsin Abu Talib, as he left the family's house because, she said, "he had pictures of destroyed houses in Dhahyan. He remained in prison of Political Security for 11 months without charge before they released him. Now he is afraid and does not go out of the house."¹⁵¹

The government is particularly sensitive to videos and photos of the war. Hamid, who had been arrested from the Badr Center, told Human Rights Watch about several detainees he met while in detention, including Rashid, "a prisoner who was only 13 years old. Rashid was arrested at the airport for having CDs of Huthis. He remained in detention for about seven months before being released. Family visits did not begin until one and a half months following his arrest."¹⁵²

¹⁴⁶ Human Rights Watch interview with Mu'adh's sister, San'a, July 22, 2008.

¹⁴⁷ Human Rights Watch interview with Mu'adh's sister, July 22, 2008.

¹⁴⁸ Human Rights Watch interview with the mother of Lu'ai Mu'ayyad, San'a, July 20, 2008.

¹⁴⁹ Human Rights Watch interview with the sister of Lu'ai Mu'ayyad, San'a, July 22, 2008. Human Rights Watch also verified that the site is blocked on August 19, by two persons simultaneously opening the site from Yemen and from outside Yemen while communicating over the telephone and opening other sites to ensure there is no general server failure.

¹⁵⁰ Human Rights Watch interview with influential Zaidi figure, San'a, July 29, 2008.

¹⁵¹ Human Rights Watch interview with the mother of Lu'ai Mu'ayyad, July 20, 2008.

¹⁵² Human Rights Watch interview with Hamid, San'a, July 18, 2008.

In the trial of persons the government accused of plotting to set off explosives and poison San'a's water supply in 2007, the main evidence produced against some of the 15 defendants consisted of transmitting Huthi videos to the media. "The evidence contains the fact that money changed hands, that there were CDs with videos of the war, and that there was an agreement to supply medicines to Sa'da," a lawyer for the defense told Human Rights Watch.¹⁵³ This evidence was used to press charges of setting off explosives and attempting to poison San'a's water supply. "When I asked the prosecution for evidence of the unsubstantiated charges," the lawyer said, "they could not even specify when the crimes of explosions or poisoning or the conspiracy were supposed to have occurred, but wrote 'from 2006 to the moment of arrest' in the charge sheet."¹⁵⁴

One of those arrested was Ibrahim Abu Talib, who was working in a computer shop. According to a lawyer familiar with the case:

Basim Humaidan, the central figure in the accusation, came to the shop and wanted to use a computer. The two had no previous relation. Basim said he wanted to burn CDs with war footage. Ibrahim told him that he does not have the right equipment, and Basim left. That was the basis of his accusation. Ibrahim's sentence was eight and a half years in prison. Another defendant, Muna Khalid, was sentenced to six years in prison because Basim asked her for information about a journalist and she showed him the journalist's house.¹⁵⁵

The government has also arrested persons officially appointed to mediate between the government and the Huthis when they expressed criticism of government policies. Abdullah Al Wajman told Human Rights Watch about his father, Shaikh Salih Ali Al Wajman, of the Bani Hadi tribe in Sa'da, who was arrested on February 15, 2007. He recalled that he was with his father when:

¹⁵³ Human Rights Watch interview with Qasim, lawyer, San'a, July 22, 2008.

¹⁵⁴ Human Rights Watch interview with Qasim, July 22, 2008.

¹⁵⁵ Human Rights Watch interview with Qasim, July 22, 2008.

The minister of interior called him and other members of the Sa'da Committee, Ibrahim al-Mansur, Muhammad Shari' and others, to talk about the Huthis because he was a mediator. The president appointed him a mediator three months before that war and he met Husain and Abd al-Malik al-Huthi. All were arrested for one day, because they had written a report that was unfavorable to the government. One week later, the minister called my father again to discuss Sa'da over lunch. At the ministry, people sent my father to Mujahid al-Ashmuri, the head of detention for shaikhs. After three months, they told him, "We arrested you to protect you. Because we are afraid terrorists will harm you."¹⁵⁶

The *Yemen Times* on August 17, 2008 reported the Ministry of Interior released Shaikh Wajman that day as part of a prisoner exchange with the Huthis.¹⁵⁷

On July 3, 2008, agents of Political Security arrested Abdullah al-Mu'ayyad outside his house in San'a. He was part of the official fourth San'a mediation committee and had worked with the Qatari delegation. His wife told Human Rights Watch that before his arrest he had grown disillusioned with the government's mediation efforts: "He told me he thought the [mediators] were only there to prolong the war."¹⁵⁸

¹⁵⁶ Human Rights Watch interview with Abdullah Salih Al Wajman, San'a, July 22, 2008.

¹⁵⁷ Mohammed Bin Sallam, "Sa'ada Security Situation Relatively Calm," *Yemen Times*, <http://yementimes.com/article.shtml?i=1182&p=front&a=2> (accessed August 20, 2008).

¹⁵⁸ Human Rights Watch interview with Iman al-Mansur, San'a, July 22, 2008.

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