

## INTRODUCTION

Freedoms of expression, association and peaceful assembly, and the right to participate in public affairs, are human rights that enable people to share ideas, form new ones, and join together with others to claim their rights. It is through the exercise of these public freedoms that Yemenis can make informed decisions about their economic and social development. It is through these rights that they can take part in civic activity and build a democratic society.

In Yemen, civic space and the exercise of public freedoms has heavily contracted since the escalation of the conflict in March 2015. In a country with a Parliament that has not conducted work for years, and an executive divided politically and geographically, a free and independent media takes on even more prominence, as a forum where public opinion is expressed and debates take place, including to hold policy-makers accountable.

## INTERNATIONAL STANDARDS OF FREEDOM OF EXPRESSION

Most core international human rights instruments include provisions which are directly relevant to the protection of public freedoms. The right to freedom of opinion and expression is explicitly recognized in article 19 of the Universal Declaration of Human Rights; article 19 of, the International Covenant on Civil and

Political Rights; article 5 (d)(viii) of the International Convention on the Elimination of Racial Discrimination; article 13 of the Convention on the Rights of the Child, and article 21 of the Convention on the Rights of Persons with Disabilities. Yemen is a state party to all these treaties.

Freedom of expression includes the right to seek, receive and impart information and ideas of all kinds. It includes information and ideas in political and religious discourse, public affairs, human rights, as well as cultural and artistic expression. The scope embraces expression that may be regarded as deeply offensive. All forms of expression and the means of their dissemination are protected: spoken, written and sign language and non-verbal expression like images, performance and objects of art. Expression is possible through books, newspapers, pamphlets, posters, cartoons, banners, dress and legal submissions. It includes all forms of audio-visual as well as electronic and internet-based modes of expression.

Freedom of expression is guaranteed to all individuals, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, gender identity, national or social origin, property, birth or other status. These rights apply to women, children, indigenous peoples, persons with disabilities, persons belonging to minority groups or groups at risk of marginalization or exclusion,

including non-nationals, such as stateless persons, refugees or migrants, as well as associations, including unregistered groups.

These international standards apply to all branches of Government: executive, legislative and judicial; other public or governmental authorities, at any level – national, regional or local – civil and military equally. The State is also required to protect persons from acts by private persons or entities that would impair the enjoyment of the freedoms. States have the primary responsibility to promote and protect the exercise of these rights and mitigate any adverse conditions. The de facto authorities (Ansar Allah/Houthis), being a non-state armed group, cannot formally become party to international human rights treaties. However, where it exercises territorial control and undertakes government-like functions, it attracts international human rights obligations.

Freedoms of expression carry with them special duties and responsibilities, and so their exercise may be subject to certain limitations (e.g. prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence). Any restrictions must be provided by law and must be strictly necessary for respect of the rights or reputations of others; or for the protection of national security or of public order, or of public health or morals. These grounds may never be invoked as a justification for the

muzzling of any advocacy of multi-party democracy, democratic tenets and human rights.

## FREEDOM OF EXPRESSION AND THE MEDIA

In a democratic society, free and independent journalists hold a mirror up to society and are guardians of the truth. The United Nations Human Rights Committee stated (i.e. General Comment no. 34):

*A free, uncensored and unhindered press or other media is essential in any society to ensure freedom of opinion and expression and the enjoyment of other rights. It constitutes one of the cornerstones of a democratic society. The Covenant embraces a right whereby the media may receive information on the basis of which it can carry out its function. The free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion. The public also has a corresponding right to receive media output.*

In the past, threats against journalists and freedom of expression have been identified as concerns in Yemen by United Nations human rights mechanisms, including the Human Rights Committee, Committee against Torture, and in the Human Rights

Council's Universal Periodic Review.

## FREEDOM OF EXPRESSION IN YEMEN

The ongoing conflict in Yemen, which has entered its ninth year, has impacted freedom of expression and the media. Conflict-driven propaganda and disinformation has succeeded to deepen ideological and socio-political divisions across the country. Parties to the conflict have labelled independent, free and critical voices, as "foreign agents attempting to undermine national security." This has served to delegitimize the work of journalists, foster a climate of self-censorship, and increase negative public opinion and risk to themselves. Those who do not want to be instrumentalized and seek to maintain integrity in their work have left the country or continue to face threats and harassment, arbitrary arrest, enforced disappearance and targeted killing. Some still have aligned themselves to respective conflict parties for expediency of continuing to work or out of fear of reprisals. Journalists also faced restrictions on freedom of movement to visit affected sites and facilities, and difficulty in obtaining official information and reports. Female journalists face additional risks due to their work and are often subject to online bullying. The requirement of *mahram* (male guardian) imposed by the de facto authorities on women's travel since early 2022 has added to female journalists' challenges.

Restrictions and interference of freedom of the media impact on public behaviour. For example, at the beginning of the COVID-19 pandemic – prior to the period covered in this report, it was observed that conflict parties traded accusations over the outbreak, and selectively disseminated information to media outlets. The de facto Ministry of Information in Sana'a instructed media outlets not to deal with or disseminate information on the pandemic. Some partisan media outlets variously denied the spread of the coronavirus, underreported, failed to report, or chose to inflate figures of cases. These behaviours undoubtedly contributed to a misinformed public and preventable caseloads.

## PRESS AND JUDICIAL SYSTEM

On 11 May 2009, the Supreme Judicial Council Resolution No. 130 of 2009 established a Press and Publication Court, which is responsible for adjudicating all cases related to press and publication crimes stipulated in the Press and Publications Law and other related laws. The resolution also established a specialized Press and Publication Prosecution Department. On 5 July 2010, the Supreme Judicial Council amended the Resolution No 130 of 2009 by restricting the spatial jurisdiction of the Press and Publication Court to cases originating from the Governorate of Amanat al-Asimah, i.e. Sana'a, the capital city. However, the courts of general jurisdiction in other governorates, were given jurisdiction to deal with

press and publication cases according to the Press and Publication Court rules. On 14 August 2022, the Supreme Judicial Council in Aden established a Press and Electronic Publication Prosecution Department in Aden. Despite these dedicated judicial and prosecution organs, practically, a sizable number of journalists are being tried in the Specialized Criminal Courts, which adjudicate charges of serious crimes and crimes against state security. This highlights the challenging environment that journalists are facing in Yemen.

During the period from May 2021 to December 2022, the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Yemen documented at least 56 cases of human rights violations against freedom of expression and the media. These included killing and injury of journalists, arbitrary arrests and detention, raids and closure of media outlets, and incitement against the media. Notable incidents included:

- On 2 June 2021, a Southern Transitional Council (STC) security force seized the buildings of the Yemen News Agency (Saba), Aden Radio and TV channel, the state-run Al-Thawrah newspaper, and the '14 October newspaper,' following orders given by the STC, in Aden Governorate. Reportedly, the old banner of Yemen News Agency was replaced with a new one carrying the name "Aden News Agency". In addition, the pre-1990 southern Yemeni flag was

raised on the building. A number of the journalists were unable to continue working because they objected to this take-over.

- On 3 August 2021, journalist Younis Abdul Salam, was detained by Ansar Allah's Security and Intelligence Service (SIS), Sana'a. He was released without charge on 7 December 2022.

- On 4 August 2021, Dr. Mohammed Ali Naim was assassinated by unidentified gunmen in Sana'a. He was reportedly active on Facebook, where he called on the authorities in Sana'a and Aden to increase salaries and posted about accountability for alleged corruption. On 16 September 2021, a [communication](#) by UN Human Rights Council's Special Procedures mandates (i.e. summary or arbitrary executions, and freedom of opinion and expression), raising concerns that the victim may have been targeted for his human rights work, was sent to the de facto authorities and no response has been received to date.

- On 29 September 2021, the Security Belt Forces, affiliated with the STC in Aden Governorate, detained the owner of Bandar Aden Radio Station, Ra'afat Rashad, and shut down the station. He was detained on charges of not renewing his license and receiving funds from the Islah Party. His detention lasted for three months until he was finally released on 29 December 2021.

- On 2 October 2021, one journalist, Khalid Mahmoud al-Yafa'i, was killed and another, Howaid Mohammed al-Kildy, injured while covering the clashes that took place between two factions of the STC in Aden Governorate.

- On 10 October 2021, while covering the motorcade of the Governor of Aden, two journalists, Ahmed Saleh Bu Saleh, and Tariq Mustafa Hammoud, were killed and another, Ahmad Hodij Baras, was injured in an explosion that targeted the convoy in Tawahi District, Aden Governorate.

- On 9 November 2021, unknown perpetrators killed pregnant news photographer Rasha al-Harazi in Khur Maksar District, Aden Governorate, with an IED placed under her car. She was returning home with her husband, journalist Mahmoud al-Atmi, from a doctor's clinic. He was severely injured. She reportedly worked for news channels Al-Ain and Al-Sharq, while her husband was working for news channel Al Arabiya.

- On 30 December 2021, journalist Hala Fouad Badawi was detained by the Military Intelligence Department in Mukalla District, Hadramawt Governorate. Known for reporting on corruption by public officials, she was detained on charges of sharing intelligence information with a foreign state. In detention, she was allegedly ill-treated, held incommunicado, and denied communication and visits with her family and lawyer. On 3 January 2022, she was transferred



to the Mukalla Central Prison. Her trial before the Specialized Criminal Court of First Instance took place on 23 and 29 March 2022. On 22 April, she was released on bail, and acquitted on 7 December 2022.

- On 25 January 2022, Ansar Allah forces stormed six local radio stations in Sana'a on the pretext of not having renewed their business licenses. Reportedly, agents interrupted the broadcast, confiscated equipment, and shut the stations down. Five reopened after ten days. After the station lodged a complaint the Press and Publications Court in Sana'a issued a verdict in favour of Voice of Yemen Radio on 24 December 2022 to repeal a decision by the Ministry of Information, which refused to license the station. The Ministry was ordered to issue the license and compensate its owner for rent and payment of salaries during the closure. The verdict was not implemented as of 31 December.

- On 6 February 2022, journalist Marwan Yousef was killed while covering the fighting between Ansar Allah and Government of Yemen (GoY) forces, Harad District, Hajjah Governorate.

- On 25 June 2022, journalist Saber al-Haidari, working for Japan News Agency, was assassinated in Mansoura District, Aden Governorate, when unknown persons placed an explosive device in his car.

- On 6 August 2022, the Security Belt forces arrested journalist Ahmed Maher from Dar Saad

District, Aden Governorate. He was reportedly charged with crimes, including publishing misleading information, and forgery. His trial before the Specialized Criminal Court in Aden was still ongoing in December 2022 with the defendant denied presence at his own trial.

- On 20 September 2022, the Security Belt forces raided the branch headquarters of the Yemeni Journalists Syndicate (YJS) in Tawahi District, Aden. This followed a campaign of harassment and intimidation against the syndicate and its leadership for its refusal to support the STC-affiliated Southern Media Conference.

- On 13 October 2022, the head of the Aden branch of YJS, Mahmoud Thabet Saleh, was subjected to a campaign of harassment by media outlets affiliated with the STC because of his alleged cooperation with YJS' Sana'a office

- As of December 2022, appeals hearings have been postponed at least 20 times for death sentences against four journalists. On 9 June 2015, they were among nine journalists who were arrested at a hotel in Sana'a on charges of espionage. Five were released and four were sentenced to death in April 2020 by the Specialized Criminal Court, Sana'a. There are credible reports that one of the four journalists is suffering from serious health issues and hasn't received the required medical support. On 16 April 2021, a [communication](#) by the UN Human

Rights Council's Special Procedures mandates (i.e. summary or arbitrary executions, arbitrary detention, freedom of opinion and expression, health, human rights defenders, and torture) was sent to the de facto authorities and no response has been received to date.

- In late December 2022, the Security and Intelligence Service detained four YouTube journalists, Mustafa Al-Mawmari, Ahmed Hajar, Ahmed Allaw and Hamoud Al-Misbahi .in a series of arrests in Sana'a, and took them to unknown locations. The journalists reportedly criticised the authorities for corruption, suspension of salaries, and worsening economic conditions in de facto-controlled areas.

- Journalists Muhammad al-Salahi and Muhammad al-Junaid continued to be detained despite having completed their sentences. In 2018, they were arrested in Hudaydah Governorate on charges of espionage, tried in June 2022 by the Specialised Criminal Court, Sana'a, and sentenced to time served in detention.

As this report was being finalized OHCHR also noted that on 17 and 18 January 2023, the first conference of southern journalists and media workers, sponsored by the STC, was held in Aden. The conference concluded with the establishment of an independent syndicate for southern journalists and its elected leadership. The division of Yemen journalists into two syndicates, mirroring similar

division of other professional organizations, come in the context of harassment against office bearers of YJS's Aden office.

## RECOMMENDATIONS

OHCHR stands in solidarity with journalists and their families, who have been detained, attacked or killed, or subjected to harassment, threat and intimidation in the course of their work. It spotlights the vital role an independent press plays in building a democratic society, and the importance of safeguarding public freedoms especially in the absence of a working Parliament for checks and balances between all branches of Government to function.

Government of Yemen and the de facto authorities must take immediate action to:

- Immediately release journalists who have served their sentences and those who are arbitrarily detained and have faced violations of due process, of right to a fair trial and other grave violations.
- Adjudicate the cases of journalists in the Press and Publication Courts while upholding Yemen's international obligations.
- Refrain from prosecuting journalists before Specialized Criminal Courts that are meant for persons allegedly involved in serious crimes and crimes against state security
- Publicly condemn all forms and incidents of attacks against journalists, and commit to ensuring

physical and psychological integrity of journalists;

- Tackle impunity for perpetrators of human rights violations against journalists through timely, effective investigations and prosecution;
- Ensure no legislation is passed to limit the freedom of expression of journalists, and that laws regulating the work of the media adhere to the highest international standards on freedom of opinion and expression; and
- Ensure civil society actors, including media associations and syndicates, can operate freely and independently.

Affirming that the promotion and protection of freedom of expression, requires strong, independent unions and associations to advocate on behalf of the profession of journalism in Yemen, build skills of members, and participate in regional and international associations, OHCHR calls upon adequate donor support to facilitate protection, capacity development and participation of journalists in regional and international meetings.

Resources:

- OHCHR and the safety of journalists and the issue of impunity - <https://www.ohchr.org/en/safety-of-journalists>
- Special Rapporteur on freedom of expression and opinion - <https://www.ohchr.org/en/special-procedures/sr-freedom-of-opinion-and-expression>