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Yemen: Human Rights in Yemen During and After the 1994 War

Sheila Carapico

University of Richmond, scarapic@richmond.edu

Jermera Rone

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YEMEN

HUMAN RIGHTS IN YEMEN DURING AND AFTER THE 1994 WAR

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SUMMARY

During seventy days of conventional warfare between the government forces commanded by the Republic of Yemen Council President, General 'Ali 'Abdallah Salih, and the separatist southern army fighting in the name of the Yemeni Socialist Party (YSP), the government army won a military victory over the rebels and presided over the destruction of institutions and property of the former YSP-ruled People's Democratic Republic of Yemen. The terms of national unity between the two Yemens, never fully resolved in either the May 1990 accord or elections in April 1993, were thus settled on the battlefield in favor of Salih's northern-dominated military government.

Human Rights Watch/Middle East is concerned with both sides' resort to unlawful tactics during the conflict. In particular government forces killed and injured hundreds of civilians by indiscriminately shelling the city of Aden, the attackers deliberately damaged a water pumping station, cutting off Aden's water supply on June 28 and leaving Aden and its suburbs almost entirely without water for weeks. The separatist forces injured and killed civilians by aiming Scud rockets at northern cities, and by indiscriminately attacking government military positions in the immediate vicinity of a Somali refugee camp, injuring and killing scores of refugees.

Both sides arbitrarily detained people without charges and mistreated hundreds of civilians during the conflict.

At the end of the fighting, first the separatists and then government forces engaged in and permitted extensive looting and vandalism of Aden; during the war government army attacks on Socialist Party offices in non-conflictive government-held areas were followed by looting and vandalism that was organized or permitted by the authorities. Ironically, the government now looks to the international community for millions of dollars in assistance to repair damage that could have been prevented if a modicum of military discipline had been exercised in this direction.

Yemen has enjoyed a reputation as one of the more democratic and open countries in the region. Government actions during and in the immediate aftermath of the war signal a departure from human rights norms, as a HRW/Middle East mission to Yemen from July 15-30 observed.

Although a state of emergency was declared on May 5, 1994, the government's obligations under the International Covenant on Civil and Political Rights (ICCPR) were not suspended because the government failed to take the proper steps under the ICCPR. Yemen violated the civil and political rights of its citizens during the conflict; in particular it detained persons without charges and denied them access to legal counsel and families.

After the conflict was over and the state of emergency lifted on July 27, 1994, the government continued to detain several hundred people despite a general amnesty applicable to them. Furthermore, it carried out the death penalty on five common criminals, and confirmed that penalty for nine others. Participants in a journalists' seminar after the war ended were arrested and beaten then released. Presses were vandalized during the conflict, making it difficult for the vibrant press to reestablish itself after the war; by October, even the functioning presses were warned by the government not to publish nongovernment newspapers.

HRW/Middle East calls on the government not to betray Yemen's prior progress towards democratization, and to remedy the serious human rights and humanitarian law violations outlined here.

A delegation from HRW/Middle East visited Yemen from July 15-31, 1994. The delegation consisted of Sheila Carapico, professor of political science at the University of Richmond and consultant to HRW/Middle East, and Jemera Rone, counsel to HRW.

All Yemeni officials interviewed by the HRW/Middle East mission, especially Minister of Planning and Development 'Abd al-Karim al-Iriyani, Minister of Interior Yahya al-Mutawakkil, Chief Justice Muhammad Ismail al-Hajji, Deputy Interior Minister 'Abd al-Rahman al-Shahadi, Assistant Deputy Minister of the Interior in Aden

Colonel Hussain al-Radhi, Attorney General Muhammad al-Badri, and President of the Sana'a Criminal Court Judge Hamud al-Hitar, expressed their genuine welcome to HRW/Middle East, their willingness to cooperate as fully as possible, and their commitment to meeting internationally accepted standards. Dozens of other Yemenis, including guards, soldiers at checkpoints, and ordinary citizens were also very courteous, although some were fearful of reprisal.

On August 24, HRW/Middle East sent a letter to the government of Yemen detailing its concerns about human rights in Yemen, to which the government replied.¹

BACKGROUND TO YEMENI UNITY²

During the Cold War North Yemen, or the Yemen Arab Republic (YAR), and South Yemen, or the People's Democratic Republic of Yemen (PDRY), were as different as west and east. The north leaned toward the West while the PDRY was the closest Soviet ally in the Arab world.

These differences were the product of two Yemeni revolutions in the 1960's. The north's conservative theocracy was overthrown in 1962 by a group known as the Free Officers who established the YAR. The son of the last ruling *imam* (religious leader) secured refuge in and backing from Saudi Arabia for an ill-fated six-year war against the Egyptian-backed republican officers. In 1970 the YAR produced a constitutional civilian government, but in 1974 a military "corrective movement" suspended the constitution. After two presidential assassinations within a year, then-Lt. Col. 'Ali 'Abdallah Salih came to power in Sana'a on July 17, 1978. He has been in power ever since.

South Yemen, after 130 years of British rule centered on its capital Aden, embarked on a radical revolution that helped win independence in 1967 and later brought what was to become the Yemeni Socialist Party to power in Aden. Like the north, the south was prone to political repression and violence. In January 1986, after two weeks of fratricidal bloodletting within the YSP, then-president 'Ali Nasir Muhammad was ousted by the faction of the YSP led by 'Ali Salim al-Bayd. 'Ali Nasir and no fewer than 10,000 of his civilian and military supporters fled to the YAR, and their homes and positions were taken over by the victorious wing of the YSP.

The two Yemens were both different and similar. The YAR remained a deeply religious Islamic society. Two major, heavily armed tribal confederations, Hashid and Bakil, exercised political influence. In contrast, the south, especially Aden city, was relatively more secular, as evidenced by a strong policy in favor of women's rights. In the 1970's, the PDRY nationalized major foreign and domestic enterprises and other property.

Both economies were primarily agricultural, with farm earnings supplemented by remittances from about a third of each labor force that migrated to Saudi Arabia and the Arab Gulf countries. Both were also heavily dependent on foreign aid -- Saudi Arabia and other Arab countries for the YAR, and the Soviet bloc for the PDRY. In 1984, commercially significant quantities of petroleum were discovered near Marib in the YAR near the PDRY border. In the next few years, further oil and gas finds around Shabwa and Hadramawt, both in the south, promised eventually to replace migrants' remittances as the major source of foreign exchange earnings for both regions.

As a by-product of the Cold War and a function of internal politics, Sana'a and Aden fought three short wars, in 1972, 1979, and 1988. Each ended in a draw. Salih also fought -- and won in 1982, with the support of northern tribal and political-Islamist elements and Saudi Arabia -- a domestic uprising in the southern YAR led by the National Democratic Front (NDF), a progressive unificationist movement allied to the YSP.

¹We did not solicit responses from separatist spokespersons since after their military defeat they had no on-going authority over an armed force or territory.

²See also Michael C. Hudson, "Unhappy Yemen: Watching the Slide Toward Civil War," *Middle East Insight*, Vol. X, No. 4/5. (Washington, D.C.: May-August 1994), pp. 10-19.

Most of the weapons in the PDRY arsenal came from the USSR. North Yemen also received most of its arms from the Soviet Union, but was supplied as well by China, the United States, and other Arab and East and West European nations.

Ironically, each short border war between north and south led to agreements in principle to unify the two countries. By the late 1980's this long-standing proposal became a pressing political and economic concern for both sides. Each government faced declining remittances (not yet offset by oil earnings) that made havoc of already weak economies and increased political dissent and pressures for liberalization. Changes in the international arena reduced Soviet support for Aden and Saudi backing for Sana'a. Salih and YSP leader al-Bayd resorted to the ever-popular cause of Yemeni unity to solve their political and economic problems.

THE REPUBLIC OF YEMEN

After nearly two decades, unity negotiations accelerated rapidly between November 1989 and May 1990, when the accord was sealed. When the Republic of Yemen was officially declared on May 22, 1990, the new government, headed by Salih, included all ministers, parliamentarians, civil servants, and soldiers from both the YAR and the PDRY. But many issues regarding division of power and setting of policy remained to be resolved through parliamentary elections set for late 1993.

The most salient of the unresolved issues was the merger of the two armies and security establishments. Instead of merger, as a show of faith there was a partial exchange of army divisions. Five former PDRY brigades were stationed in the north at Amran, Dhamar, Yarim, Harf Sufiyan, and Arqub, all within a few hours of Sana'a, in territory of the Bakil tribal confederation which tended to oppose the central government it regarded as "Hashid," or members of the other large tribal confederation. The crack northern *al-'Amalaqah* (Giants) Brigade camped at Abyan, which separates the key southern points of Aden and the Hadramawt. Sana'a also put 1,500 well-armed paramilitary *'Amn al-Markazi* (Central Security) officers inside the city of Aden, comparable to its positions in other cities. In early 1994, Aden municipality cut off water and power supplies to the Aden *'Amn al-Markazi* camp.³

Although ten million northerners far outnumbered the fewer than three million southerners, power was shared more or less equally during the three-year transition period. Formerly clandestine political parties emerged above ground, and new ones formed. Many tribal, regional, academic, and journalistic conferences and seminars vigorously used the unprecedented freedom of speech. Continuing human rights concerns included the death penalty, torture, continued detention of former NDF members, unsolved disappearances in the PDRY, abominable prison conditions, and cruel punishment including amputation, and expressed alarm at the wholesale arrests of anti-government protesters in December 1992.⁴ But Amnesty International and other independent monitors did note an improvement in respect for the rights of the accused and prisoners after unity. Middle East Watch took note of the development of civil society in the form of party and press pluralism and freedoms of expression, while noting a pattern of political violence to which the government's response had been adequate.⁵

International monitors pronounced the parliamentary elections of April 27, 1993 "free and fair."⁶ These

³David Warburton, "The 1994 Conventional War in Yemen," (unpublished paper, Sana'a, Yemen, July 25, 1994), gives more details of the identity and positioning of brigades and their subsequent movements.

⁴Amnesty International, "Yemen: Unlawful detention and unfair trials of members of the former National Democratic Front," *AI Index MDE 31/04/93* (London: August 26, 1993). *See also* Amnesty International, "The lives behind the lies: Campaign against 'disappearances' and political killings" (London: 1993).

⁵Middle East Watch, "Yemen: Steps Toward a Civil Society," Vol. 4, Issue 10 (New York: Human Rights Watch, November 1992). In 1994 the name Middle East Watch was changed to Human Rights Watch/Middle East.

⁶International Republican Institute, "International Election Observation Mission Statement of Preliminary Findings, Republic of

1993 elections, with relatively open competition by a dozen parties and several thousand independent candidates for the 301 Chamber of Deputies seats, resulted in a tripartite ruling coalition. Salih's General People's Congress (GPC) won the plurality of deputies' seats, 123. The YSP won fifty-six, including all but three constituencies in the south; the third major party, the *Islah* (Yemeni Grouping for Reform) Party, won sixty-two; the remainder went to smaller parties and independents. Two women were elected, both from the south; one was on the YSP ticket and the second was an independent.

Islah, a nominally Islamist party headed by Hashid paramount shaykh 'Abdallah bin Hussain al-Ahmar, effectively took parliamentary seats and ministerial portfolios from the YSP, and gained one seat on the five-man Presidential Council for *Islah* ideologue 'Abd al-Majid al-Zindani. The YSP, disappointed at its poor electoral showing in the north, where a majority of YSP members reside, refused to accept a diminished role in government, especially one where *Islah* was clamoring for repeal of formerly socialist legislation on matters including education, family law, and economic policy. The unification accord provided that the two regions would retain their separate legislation until national legislation replaced each code.

Within two months after the elections YSP leader and Yemen Vice President al-Bayd left Sana'a and never returned. The government traces the beginning of the crisis that led to the war to August 18, 1993, the date the vice president returned to Aden from a private trip to the U.S.

In the fall of 1993 the vice president issued eighteen points or conditions and refused to take his oath of office for the Presidential Council until they were met. Gradually some, but never all, key Socialist Party figures joined him in Aden. Demands for removal of the army from urban areas and complaints against what YSP press organs called Salih's "military ruling family in Sana'a" were widely shared in many circles in the north which otherwise did not support the YSP. Some socialists and southerners increasingly clamored for confederation or outright secession.⁷ Unsolved killings of political activists, especially YSP activists, began to rise.⁸

As the situation degenerated, independents took the lead in forming a National Dialogue of Political Forces that hammered out a comprehensive reform proposal built around three key points: defining executive power, merging the military and security forces, and decentralizing administration. Salih, al-Bayd, and Parliamentary Speaker al-Ahmar signed the Document of Accord and Agreement in Amman, Jordan, on February 20, 1994. But neither side was prepared to implement a document that would limit their control of budgetary resources and armed forces. That very night former YAR northern and former PDRY southern divisions camped in close proximity at Abyan clashed; Abyan was the stronghold of support for 'Ali Nasir who was still nursing his grudges at the 1986 YSP fight that ousted him from power in Aden.

A series of skirmishes between the former YAR army and former PDRY divisions in the north in the week of February 20, and again in late March and April, showed that military leaders on both sides were prepared to fight. On April 27, Salih effectively declared war as a major tank battle erupted at the northern city of Amran, ending with northern troops threatening to pursue the former southern troops into Bakil tribal territory. On May 4, renewed

Yemen, April 29, 1993," and International Foundation for Electoral Systems "Republic of Yemen Parliamentary Elections -- 27 April 1993: Joint Statement of ERS-IFES Statement of International Observers," both photocopies obtained at the Supreme Elections Committee Information Center, Sana'a, Yemen, May 1, 1993. See also Sheila Carapico, "Elections and Mass Politics in Yemen," *Middle East Report*, No. 185 (Washington, D.C.: November/December 1993), pp. 2-7.

⁷**There were splits within the YSP itself, including those associated with the southern ('Ali Nasir Muhammad) partisans defeated in 1986 and the old NDF in the north.**

⁸**The nephew of al-Bayd died in an assassination attempt on him and two of al-Bayd's sons on October 29, 1993, near Aden; another son survived an assassination attempt in Aden in mid-November 1993. "Vice President's Son Survives Murder Attempt," Paris AFP in English, Aden, Yemen, November 1, 1993, cited in Foreign Broadcast Information Service - Near East and South Asia (FBIS-NES)-9-219 (Washington, D.C.: U.S. Government Printing Office, November 16, 1993), p. 34.**

fighting at Dhamar⁹ sparked off full-scale, army-to-army war. While the former PDRY forces had done much to provoke the war, this attack by Salih's army was done with the ultimate intention of unifying the country under his leadership by military force.

Within a week from May 4, Salih's army was on the offensive, although the government claims that only the capture of large quantities of separatist¹⁰ arms allowed it to prevail. The north claimed the south was re-supplied at Saudi expense and the Saudi press said Iraqi, Eritrean and Sudanese armies assisted the north. By May 21, when a group of sixteen Socialists and others declared the government of the Yemeni Democratic Republic in the south, the separatists were on the military defensive. Ignoring appeals from the U.N. Security Council (Resolutions 924 and 931), Saudi Arabia, and other powers for a cease-fire, the "legitimate forces," as the government army called itself, pressed their advantage.

The major battles of the seventy-day war were fought at and south of the sprawling al-'Anad military base north of Aden (in Lahj province near Bir Nasir), which controlled access to the junction of the two paved roads to Aden from the north; and east of Aden in Abyan province, the second major approach to that port city. Both are fairly flat semi-desert locations. Villagers and then separatist defenders retreated from these areas into Aden, followed by the northern army, some of the previously (pre-1986) PDRY troops¹¹, and irregular Hashid and Islamist volunteers recruited by Islah. Heavy fighting occurred around the Aden airport in Khor Maksur, and in the Dar Saad and Madinat al-Sha'b suburbs. During the war, several truces were called and broken.

Cut off by land in the Aden peninsula, the separatist leadership escaped from Aden late on the night of July 6; many of them had evacuated weeks earlier to Mukalla, the port city of Hadramawt governorate, as the siege of Aden tightened. Aden fell without the feared and expected house-to-house resistance; when the last of the separatist leadership evacuated, its troops faded away. Within one or several days after Aden's July 7 fall, the southern leaders fled Mukalla by sea or air to Djibuti or Oman, followed by 10,000-15,000 other Yemenis, including separatist combatants and their families. Northern troops entered three important locations -- al-Dala' in Radfan, al-Ataq in the Shabwa oil region, and finally Mukalla -- without resistance.

At the United Nations, the government announced a general amnesty, which apparently had already been announced in Yemen on May 23, 1994.

INDISCRIMINATE FIRE

This was a relatively short, slow-moving conventional war, fought mostly in hour-long bursts of medium- and long-range artillery between regular armies. The slow pace allowed civilians to flee and soldiers to seek cover. These factors account for the relatively low military and civilian casualties which numbered, according to informed estimates, about 6,000 civilian and military wounded and 1,500 killed during the seventy-day conflict.

Although this was an internal armed conflict, it resembled an international conflict in the extensive use of tanks and heavy artillery. The rebel forces had a better air force than the government, and the rebels had the only navy.

⁹**The electrical transforming station at Ma'bar, near Dhamar, was damaged by the former PDRY forces' attack on the evening of May 4, shutting off power to much of the north for several days.**

¹⁰**We use the term "separatist" to denote those who declared a Yemeni Democratic Republic on May 21, 1994. Government officials and others objected to calling the separatist forces "southern," since not all southerners supported the separatist cause and not all separatist leaders were southern.**

¹¹**It should be noted that Ali Nasir Muhammad remained in Damascus and has not joined the government. "Ali Nasir Forces" is the term widely used to identify forces who left the PDRY after 1986.**

The indiscriminate attacks violative of the rules of war¹² which caused civilian casualties and damage to civilian property fell into four categories: 1) Scud attacks, mostly by the separatists, on urban centers; 2) separatist attacks on and near a camp for Somali refugees near al-Kawd, Abyan governorate; 3) attacks by both sides on villages; and 4) government shelling of Aden, which alone caused the most civilian casualties.

By June 23, there were 2,000 casualties in the north, mostly combatants. In both north and south the majority of casualties were military, with the exception of the city of Aden, where by June 23 there were 1,500 casualties,¹³ 75 percent of whom were civilians. The worst bombing and shelling of Aden occurred from June 23-25, causing an average of about thirty dead and 200 wounded daily. From then until the end of the war, July 7, surface-to-surface fire continued to cause fifteen to twenty deaths and 150 injuries daily in Aden.

During the war there was heated debate on rules of war issues, especially on the subject of killing civilians. A *fatwa* issued in May 1994 by Dr. 'Abd al-Wahhab al-Daylami, dean of the al-Iman College at Sana'a University and member of the supreme committee of Islah,¹⁴ was read repeatedly on Aden radio by those condemning the fatwa. Dr. al-Daylami apparently responded in his capacity as an Islamic scholar to a hypothetical question about the propriety of shooting at enemy fighters who hide behind women and children. His response was that whoever stands between virtuous forces and those who oppose them is *hila*, literally "permissible," and therefore such women and children may be killed or taken. Dr. al-Daylami was appointed Minister of Justice in October 1994.

This fatwa is utterly at odds with the rules of war which prohibit targeting civilians,¹⁵ limit attacks to legitimate military targets,¹⁶ and require attackers to go to great lengths to avoid causing civilian casualties.¹⁷ Using

¹²Protocol I of 1977 Additional to the four Geneva Conventions of 1949, Article 51, defines indiscriminate attacks and reflects the customary international humanitarian law definition of the term:

4. Indiscriminate attacks are prohibited. Indiscriminate attacks are:

(a) those which are not directed at a specific military objective;

(b) those which employ a method or means of combat which cannot be directed at a specific military objective; or

(c) those which employ a method or means of combat the effects of which cannot be limited as required by this Protocol;

and consequently, in each such case, are of a nature to strike military objectives and civilians or civilian objects without distinction.

Yemen acceded to Protocols I and II on April 17, 1990. Yemen acceded to the 1949 Geneva Conventions on July 16, 1970.

¹³ICRC, "Special Appeal for the ICRC's operation in Yemen" (Geneva: June 23, 1994), p. 3. A fraction of the 1,500 casualties were hospitalized in Lahj prior to its fall to the government. *Ibid*.

¹⁴Habib Tarabulsi, "North, South Use of Fatwas To Justify Fighting Seen," Paris AFP in English, June 28, 1994, cited in FBIS-NES-94-124 (June 28, 1994), p. 41.

¹⁵See Protocol I, Article 51 (2), which codifies the customary law rule: "The civilian population as such, as well as individual civilians, shall not be the object of attack...."

¹⁶The customary law definition of military objectives is set forth in Protocol I, Article 52 (2):

... military objectives are limited to those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.

¹⁷See Protocol I, Article 57:

1. In the conduct of military operations, constant care shall be taken to spare the civilian population, civilians and civilian objects.

2. With respect to attacks, the following precautions shall be taken:

(a) those who plan or decide upon an attack shall:

...

civilians to shield combatants or military targets is prohibited as well,¹⁸ but even if one side uses civilians as shields, the other side is not thereby justified in directly attacking civilians.

The fatwa continued to generate debate as it was denounced by the southern leadership,¹⁹ reiterated by an Islah and Hashid leader and member of parliament Shaykh 'Abdallah Bin-Hussain al-Ahmar and broadcast by Sana'a radio,²⁰ and debated abroad.²¹ Many authorities hold that Islamic law requires taking extra care to avoid injury to non-combatants, especially women and children, so that such a fatwa would be contrary to *shari'a*.²²

SCUD ATTACKS

Beginning May 5 separatist southern forces launched several aerial bombing raids and missile attacks on Sana'a and other northern cities, including Scud attacks on Sana'a and Ta'iz, and possibly Hudaydah and Mokha.²³ On May 11 a Scud in Sana'a killed about twenty-five people,²⁴ the worst Scud attack of the war. Prior to that time, the government claimed that the separatists fired six Scuds on May 6, but none of them caused damage or casualties.²⁵

One Scud, apparently directed the Sana'a suburb of Hasaba because Salih's home is there, instead demolished three homes a quarter of a kilometer away, killing several children and adults. A woman survivor of this Scud attack said that five in her house were killed: her three children of intermediate school age, her eighteen-year-old son, and his pregnant wife.

Soldiers guarding the president's home rushed to the scene and pulled this woman and others out of the rubble within fifteen minutes of the night-time attack. Another several people were killed in the house next door and four in another house. This woman lost her house, all her possessions, and the sheep that represented her livelihood to the attack and later looters. At the time of the HRW/Middle East visit, she was living in a tent on top of the rubble that was her house.²⁶

(ii) take all feasible precautions in the choice of means and methods of attack with a view to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects . . .

¹⁸ See Protocol I, Article 51 (7): ". . . The Parties to the conflict shall not direct the movement of the civilian population or individual civilians in order to attempt to shield military objectives from attacks or to shield military operations." Even if the separatist forces had violated this rule and attempted to use civilians as shields, however, which was not alleged, that abuse does not justify another abuse. The attacker remains at all times under a duty to take constant care to spare the civilian population. This means that at times the attacker will be obliged to hold his fire or choose other targets.

¹⁹ Aden Democratic Republic of Yemen Radio Network in English, "South's al-Jifri Speaks at Mosque on Northern Statements," June 10, 1994, republished in FBIS-NES-94-113 (June 13, 1994), p. 23.

²⁰ Habib Tarabulsi, "North, South Use of Fatwas To Justify Fighting Seen," Paris AFP in English, June 28, 1994, cited in FBIS-NES-94-124 (June 28, 1994), p. 41.

²¹ "Yemeni Scholar Fatwa Berated," Political Islam Review, 'Aqidati June 14, translated in FBIS-NES-94-121 (June 23, 1994), p. 2.

²² See Majid Khadduri, *War and Peace in the Law of Islam* (Baltimore: Johns Hopkins Press, 1955), pp. 94-137.

²³ Warburton, "The 1994 Conventional War," p. 28.

²⁴ Associated Press, "Scud Missile Hits the Capital of Yemen, Killing 25," *The New York Times*, May 12, 1994.

²⁵ AFP, "Scuds Fired at Sana'a," Paris AFP in English, May 6, 1994, quoted in FBIS-NES-94-089 (May 9, 1994), p. 27.

²⁶ Interview, Sana'a, Yemen, July 17, 1994.

Scuds were reportedly used in Aden by the government forces;²⁷ this government's use of Scuds in urban areas was also objectionable. Scuds are considered indiscriminate weapons because of their inherent inaccuracy.²⁸ Their use, even against military targets, in any area of civilian concentration is therefore a violation of the rules of war.

SOMALI REFUGEES KILLED AT AL-KAWD REFUGEE CAMP

Indiscriminate shelling caused over twenty dead and forty injured in a Somali refugee camp near al-Kawd in Abyan governorate. This camp of 6,000 was very close to the front line between government troops holding the area and separatist naval and land forces. Daily shelling and bombing by southern naval, land and air forces at the onset of the war in May was directly responsible for the refugee casualties.

The al-Kawd refugee camp was inhabited by Somali refugees who fled the fighting in Somalia in boats across the Gulf of Aden to Yemen. The camp site was provided to the United Nations High Commissioner for Refugees (UNHCR) by the Yemeni government in 1991 for the purpose of moving Somali refugees out of the city of Aden.

The location turned out to be disastrous for the refugees. Although Abyan is a southern governorate adjoining Aden, Abyan was under control of the government forces at all times during this 1994 conflict. The northern al-'Amalaqah brigade was based in Abyan some twenty kilometers northeast of the refugee camp in 1990.²⁹

From the beginning of the war the al-'Amalaqah brigade was a target for the separatist southerners, since the brigade's position cut Aden off from the eastern oilfields of Hadramawt.³⁰ The separatist southerners tried on May 1 to move an armored unit from Aden toward Zinjibar, the capital of Abyan, but were blocked by the al-'Amalaqah brigade on the Aden-Abyan road. The southerners, attempting to dislodge the brigade, then turned their land, air and naval forces on its positions on that highway, stalling the advance of the al-'Amalaqah.³¹

The refugee camp was fifty kilometers east of Aden, just south of the Aden-Abyan highway, three kilometers east of the second or fallback front line and three kilometers west of the village of al-Kawd.³² During the fighting in early May, the government forces moved their guns to within one kilometer of the refugee camp, placing the refugees in even greater danger.

²⁷AFP, "Two Scud Missiles Hit Aden Airport, Residential Area," Paris AFP in English, May 19, 1994, cited in FBIS-NES-94-098 (May 20, 1994), p. 16.

²⁸Most have a circular error probable no better than 450 meters. That is, half of the time such a Scud will land within a 450 meter radius from the target. The other half of the time it will land outside that circle.

²⁹Abyan was under northern control not only because of the brigade's location, but also because of the appointments made after the 1993 elections, and Abyan's history: it was the home of 'Ali Nasir Mohammed, who lost out in a bloody internal YSP leadership struggle in 1986 in which thousands died, and who fled north with his troops.

³⁰The first fighting took place in Abyan late February 1994, but tensions subsided until late April.

³¹In early May the northern brigade moved north off the road into the desert heading for Dar al-Saad, a suburb north of Aden, but was driven back toward Zinjibar on May 10. These northern forces were subsequently pinned down by combined separatist air, naval and ground operations, driven out of Zinjibar, and hit again around May 12. They continued to be repulsed until May 23. Warburton, "The 1994 Conventional War," pp. 21-22.

³²This second front line, situated at the end of a strategic wadi stretching south from Lahj; it was the fallback position in case the separatists coming from Aden, broke through the first front line. In other words, traveling east from Aden on the highway, the separatists would have to pass through two front lines to reach the refugee camp and then the al-Kawd village. The separatist attack, however, was not frontal but from the sea to the south.

According to a twenty-one-year-old Somali man, 'Abd al-Rasheed, who lived in the camp for seven months, at about 10 A.M. on May 3, 1994, one plane passed over the camp three times and bombed near the building where rations were stored, injuring two children and a man (whom 'Abd al-Rasheed saw).³³ The planes came from the direction of Aden. The refugees also heard fighting at a checkpoint outside the town of al-Kawd. That night at about 7 P.M. shelling started again and rebel artillery killed twenty refugees (at least four of them were women) and injured nine, including two male relatives of 'Abd al-Rasheed.

At 8 P.M. the next morning, May 4, hundreds of Somalis ran for shelter to the seashore a short distance south of the camp. On the seashore they were attacked by separatist planes and naval artillery, and an estimated eight people were killed there. That night, another seven were killed by shelling in the camp.

From the beginning of the shelling the refugees began to leave the camp, looking for shelter in the nearby town of al-Kawd and other villages.³⁴ The UNHCR, however, was unable to cross the front line from the direction of Aden to reach the camp after the fighting broke out.³⁵ Fighting continued on May 5, with aerial bombardment that morning killing four men, according to 'Abd al-Rasheed.³⁶ There was more shelling into and near the camp that night from the rebel navy.

On May 7 another three southern separatist planes bombed in the area of the camp, and many more refugees died and were injured, including fourteen people in the same hut. Bombing continued the next day from planes and as did shelling at night from ships.

The al-'Amalaqah forces moved to a position in a "labor rest" area on the beach less than one kilometer from the Somali refugee camp on the night of May 8. They set up three heavy artillery pieces and troops at the hotel, some on the hotel roof, leading the rebel planes to bomb the hotel and the area up to and inside the camp the next morning, May 9. When the refugees saw that the government troops had stationed themselves so close to the camp, even more refugees fled. 'Abd al-Rasheed left the next day with his family. From the fields surrounding the village of al-Kawd, where they spent the next month, the refugees could hear the fighting in the camp area.

The UNHCR staff, meanwhile, had been evacuated from Aden along with most other foreigners on May 6, under government fire.³⁷ Finally on May 14 a joint UNHCR-International Committee of the Red Cross (ICRC) team managed to reach the camp from the government-controlled area to the north, during a brief lull in the fighting. They found at most 1,500 refugees left in the camp with little or no water, food or medical supplies. The refugees reported that "uniformed men" had taken all the food, medicine, batteries and generators used for pumping water to the camp. Throughout the war, the refugee camp area remained under the control of government forces.

The survivors estimated that some 175 refugees had been killed in the fighting,³⁸ but it later became clear

³³His account is corroborated in part by relief agencies and military reports; no one account of the fighting at this location is yet definitive.

³⁴The refugee camp had an original population of 11,600 but by the time the war started only 6,000 Somali refugees were believed to be living there. Even before the fighting there was continuous movement of the refugees in and out of the camp.

³⁵UNHCR, "Somali Refugees Feared in Grave Danger in Southern Yemen," UNHCR Update on Yemen (Geneva: May 8, 1994).

³⁶A Somali doctor in the camp, contacted by the UNHCR by radio, reported on May 5 that at least six refugees had been wounded. *Ibid.*

³⁷*Ibid.* Foreigners were evacuated from Sana'a beginning on May 8.

³⁸UNHCR, "Somali Refugees Caught in Crossfire in Southern Yemen," UNHCR Update on Yemen (Geneva: May 15, 1994).

that the number was closer to twenty dead and forty wounded.³⁹ The refugees were frightened and jets continued to roar over the camp during the ICRC team's May 14 visit. Evacuation of those still in the camp and of some 4,500 refugees estimated to have fled to nearby villages was urgently required.⁴⁰ Unfortunately, the Sana'a authorities prolonged negotiations on evacuation, and were adamant that the refugees could only be moved to assigned places and nowhere else, despite the fact that the majority of the refugees had already fled on their own. This exposed the remaining refugees to further danger of being caught in the crossfire.

On May 19 or 20 rebel planes dropped two bombs near the cemetery in al-Kawd village, killing four boys (two Somalis and two Yemenis) and two camels they were taking to a watering hole.⁴¹ In the next month, an estimated six Yemeni civilians were killed by bombs that fell in al-Kawd, from which most Yemeni women and children had already been evacuated.⁴²

Finally the Sana'a government approved the evacuation of the al-Kawd refugee camp and the UNHCR and ICRC moved the 800 refugees remaining in the camp to villages near al-Kawd on the night of May 24-25. Later, a total of 3,300 refugees were relocated north to al-Gahin in a four-day operation ending June 10.⁴³

The infrastructure created by the UNHCR in al-Kawd -- toilets, clinics, schools, administrative and storage buildings -- has been thoroughly looted,⁴⁴ making difficult the government's desire to return the refugees to that site. So shaken were the refugees by the al-Kawd experience that several hundred of them voluntarily repatriated to northern Somalia in July and August.

SHELLING AND CIVILIAN DISPLACEMENT: SUBR

In other rural areas, despite heavy artillery and mortar fire, civilian casualties were minimized because women and children fled at the first sign of fighting, followed by the men. In the first six weeks of the war some 20,000 people were displaced from the conflict zones around Aden to the city center.⁴⁵ Another 25,000 were displaced in Lahj and Taiz governorates and 8,000 in Abyan governorate.⁴⁶ Shelling destroyed many deserted homes, shops, workshops, and livestock, and many families returned in July to find their property and livelihoods in ruins.

After southern separatist forces retreated from their large military base at Anad through the town of Subr, the Subr women and children fled. The men stayed behind for a week to guard the houses. They left two days after

³⁹UNHCR, "Update of Yemen" (Geneva: July 4, 1994).

⁴⁰UNHCR Update, "Somali Refugees Caught in Crossfire in Southern Yemen."

⁴¹Interview, surviving nine-year-old boy and relatives of the dead, al-Kawd, Abyan, Yemen, July 22, 1994; interview with foreign witness, Aden, Yemen, July 21, 1994.

⁴²Interviews, al-Kawd villagers, al-Kawd, Abyan, Yemen, July 22, 1994.

⁴³UNHCR, "Update on Yemen" (Geneva: July 4, 1994). Most refugees were moved from twelve different villages to which they had temporarily fled. The newly created temporary camp was located in vegetable storage sheds at al-Gahin south of Lawdar. *Ibid*.

⁴⁴On the day of the HRW/Middle East visit, local men were dismantling the metal frames of latrines. The refugees' huts and their abandoned belongings also were looted.

⁴⁵ICRC, "Special Appeal for the ICRC's operation in Yemen" (Geneva: June 23, 1994), p. 3. The ICRC assisted 5,000 displaced in Aden.

⁴⁶United Nations Development Program, "Report of the Interagency Assessment Mission to Taiz and Lahj Governorates in the Republic of Yemen from 13-15 June 1994," p. 2.

the government forces entered the town on foot and in tanks. Although these soldiers reassured the civilian men, the men too fled when rebel forces began to bomb the government tanks. After many civilians left, there was heavy fighting in Subr, which is on the main road from Kirsh through Anad, Lahj, Subr, Bir Nasir and Sheikh Othman to Aden. Apparently the government took, lost and retook Subr by June 6.⁴⁷ Many houses and offices were damaged and livestock lost.

The Subr women and children took refuge in the al-Wa'ara village slightly to the north. The separatist forces were there when the displaced arrived but these troops soon abandoned their camp at al-Wa'ara and headed south to Bir Nasir. At about 6:30 A.M. on the morning after their withdrawal from al-Wa'ara and despite the fact that they had seen numerous displaced civilians in that village, the separatists fired a Katyusha rocket⁴⁸ at the village, killing three displaced girls from Subr village.⁴⁹ This was a violation of the rule requiring attackers to take utmost care to avoid civilian casualties. From al-Wa'ara the villagers were evacuated to Taiz, behind government lines, where they spent the rest of the war in schools tended by the Islah Social Welfare Association.

Villagers who fled conflict areas suffered economic losses, including destruction of shops and death of livestock. While it is not now possible to determine whether this destruction was militarily necessary, or whether it was a violation of the rules of war, its impact on civilians was tremendous. According to shop-keepers interviewed at Subr, for instance, virtually every business along the main road was destroyed. Moreover, most of the thousands of families that evacuated villages were forced to abandon their sheep and goats and other livestock. Most of the livestock perished from thirst or other causes. For instance, one young man at the village of Bir Ahmad lost twenty of his flock of twenty-two sheep and goats, and he estimated that 2,000 of the 3,000 animals in the village were dead when inhabitants returned after the war. This was a grave loss for the young man and his neighbors.⁵⁰ Many said they would only be able to repair their shelled homes if the government provided compensation.

SHELLING OF ADEN

Aden, whose population swelled with displaced persons during the war to an estimated 500,000, was bombed and shelled by government forces from May 4 until July 6. The government intensified its attack after June 19 when the separatist army withdrew many heavy weapons inside the city. Shelling, once fairly limited to the area of the airport in Khor Maksar and other obvious military targets, began regularly to hit civilian areas as the siege of Aden tightened.⁵¹

After June 19, admissions to the largest Aden hospital, al-Jumhuriyya,⁵² averaged 150 war-wounded a day, with about fifteen to twenty deaths daily. The Aden casualties, unlike those in other regions, were predominantly civilian, and one informed source estimated that this hospital's admissions were at least 75 percent civilian. Most military casualties were treated at Aden's military hospital.

⁴⁷Warburton, "The 1994 Conventional War."

⁴⁸This is a multiple rocket launcher.

⁴⁹Relatives of the dead identified them as Hawla Ali Mohamed, 17; Hannah Fadl Ahmed, 20; and Salah Hydara, 15. Seven others were injured, mostly children. At the time of the rocket, there were about thirty-five members of one displaced family in that house. Interview, Subr, Lahj, Yemen, July 20, 1994.

⁵⁰Like many villagers interviewed, the young man who spoke to HRW/Middle East at Bir Ahmad said only "Thanks be to God" that he and his family were spared.

⁵¹Interviews with several Yemenis and foreigners who were in Aden throughout the war. Jean-Pierre Perrin of *Liberation* reported northern combat aircraft bombing Aden about June 1 for the first time.

⁵²Al-Jumhuriyya Hospital admitted an estimated 80 percent of Adeni war-related casualties.

By June 23, about 1,500 war-wounded persons had been admitted to all of Aden's hospitals, according to the ICRC.⁵³ The worst days were later, on June 23-25, when with more intense shelling over wider areas of Aden, the estimated average was 200 wounded and thirty dead per day. On June 30, al-Jumhuriyya Hospital estimated that its total war injury-related patients (including out-patients) had climbed to 2,900, plus 400 dead.⁵⁴ From these figures, the number of 405 killed and 2,707 wounded civilians in Aden may be roughly extrapolated.⁵⁵

Artillery pounded Aden each morning and from 5:00 to 10:00 P.M. nightly. During over three weeks of daily shelling, and especially after government troops overran Bir Ahmad north of Aden on June 24, many high rise apartments and other buildings in outlying suburbs such as Dar Saad, Little Aden (Barakah), Khor Maksur, Mansour, and Shaykh Othman suffered damage ranging from slight shrapnel marks to complete destruction. Residents of these districts fled into the Aden inner city districts of Crater, Ma'alla, and Tawahi (Steamer Point). Despite a government promise broadcast on Sana'a radio not to hit the densely-populated Crater and Tawahi districts, shells did fall there.

Examples of events causing civilian casualties included the bombing of three houses in Khor Maksur near the airport, crushing about ten sleeping people according to neighbors, the bombing of the crowded vegetable *suq* (market) in Crater towards the end of the war, and the shelling of the Hotel Aden Movenpick on July 5 during fighting at the airport, when a French medical volunteer from Medecins Sans Frontieres in the MSF office in the hotel at the time was seriously injured.⁵⁶

The proportion and number of civilian casualties in Aden and the pattern of intensive shelling of urban areas crowded with displaced as well as residents indicates that, especially after June 19, government forces were not complying with their duty to take measures to avoid civilian casualties, and that this attack on Aden was indiscriminate.⁵⁷

DELIBERATE DESTRUCTION OF ADEN'S WATER SUPPLY

The preponderance of the evidence indicates that the water supply of Aden was a direct target of government forces, who deliberately damaged the water system and caused the cutoff of water to Aden, in violation of the rules of war.⁵⁸

⁵³ICRC, "Special Appeal," p. 3.

⁵⁴They were photographed and/or interviewed by members of the Aden branch of The Organization for the Defense of Democratic Rights and Liberties, a Yemeni nongovernmental human rights group.

⁵⁵This is based on a projection of 4,150 casualties for Aden, of whom seventy-five percent were civilian, and a dead to all casualties ratio of 13 percent.

⁵⁶ICRC, "Update No. 4 on ICRC Activities in Yemen" (Geneva: July 7, 1994); interviews with residents of the city.

⁵⁷Protocol I, Article 51 (5) considers the following as an indiscriminate attack:

(a) an attack by bombardment by any methods or means which treats as a single military objective a number of clearly separated and distinct military objectives located in a city, town, village or other area containing a similar concentration of civilians or civilian objects

⁵⁸Destruction of or rendering useless drinking water installations to attack civilians is a violation of Article 14, Protocol II of 1977 to the 1949 Geneva Conventions. Article 14 states:

Starvation of civilians as a method of combat is prohibited. It is therefore prohibited to attack, destroy, remove or render useless, for that purpose, objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works.

Aden depends on water pumped in from several fields outside of the city: Abyan, Bir Ahmed, Lahj and Bir Nasir. At each field the water is pumped from wells into storage tanks. From there it is sent to one central pumping station at Bir Nasir, where it is stored and pumped on to Aden and its suburbs. Bir Nasir, south of al-Hawta in Lahj governorate, pumps 90 percent of Aden's water.

As early as June 11, Aden's normal water supply was already affected by collateral shelling damage by both sides to wells and pipes in the greater Aden region; the director of the Bir Nasir pumping station said repairs could not be conducted because of on-going shelling.⁵⁹ None of this damage was repaired during the war. The water supply was cut off temporarily when the city's main electrical generators at Madinat al-Sha'b were hit by government forces. After that, three supplemental generators at Bir Nasir ran the pumps and water service was restored. The staff of the Bir Nasir pumping station had to evacuate the station because of the fighting. When they left, "fifteen days before the end of the war" (on or about June 23), the three generators were running in good order.⁶⁰ When the Bir Nasir staff returned after July 7, they found the three generators destroyed, apparently having been set deliberately on fire; they were not damaged by artillery, bombs or RPGs.⁶¹ This was the direct and immediate cause of the cutoff of all water pumped from this station.⁶²

On June 27 Bir Nasir and the pumping station fell to government forces and on June 28 the Bir Nasir pumping station ceased to operate and water ceased to flow to Aden.⁶³

As a result of the damage to the water supply system after government forces took control, starting on June 28 half a million people in Aden had to rely on forty-four artisan wells in mosques as their sole source of water. People lined up in the sun to collect this water as frequent power cuts put even these wells out of action for hours on end. The water emergency continued into mid-July; Aden was cut off for over three weeks, and some of its suburbs, like Little Aden, longer.

On June 29, the day after Aden lost its water supply, the ICRC appealed for a cease-fire starting June 30 so that it could assist in the water emergency, citing the danger of an outbreak of disease.⁶⁴ Although the parties agreed to a truce from June 30 until July 2 to enable ICRC water engineers to assess the damage at Bir Nasir,⁶⁵ the engineers never succeeded in reaching Bir Nasir either from Aden (across the front line), or from Taiz (through government-held territory). A journalist visited Bir Nasir June 30 "while [the government was] telling the Red Cross in Taiz it was too dangerous" and found it well behind the northern front lines.⁶⁶

⁵⁹Eric Watkins, "Civilians bear the brunt of drive to capture Aden," *The Financial Times* (London), June 11, 1994.

⁶⁰An Agence France Press reporter said from Aden on June 23 that "On the northern front the battle raged for control of the pumping station at Bi'r Nasir which provides Aden's drinking water supplies." Maher Chmaytelli, "Aden Spokesman Appeals for International Help," Paris AFP in English, June 23, 1994, cited in FBIS-NES-94-122 (June 24, 1994), p. 20. On June 24 that same correspondent reported from Aden that long queues had formed in Aden for well water although southern authorities managed to reconnect supplies "from the main pumping station at Bi'r Nasir . . . hit by northern fire several days ago." Maher Chmaytelli, "Northern Troops Keep Up 'Blitz,'" Paris AFP in English, June 24, 1994, cited in FBIS-NES-94-123 (June 27, 1994), p. 28.

⁶¹An RPG is a shoulder-mounted weapon designed to pierce tanks.

⁶²Interview, Bir Nasir, Lahj, Yemen, July 24, 1994, and others in Aden.

⁶³ICRC, "Update No. 4 on ICRC Activities in Yemen" (Geneva: July 7, 1994). On June 29, AFP reported from Aden, "Northern troops were also in control of Bi'r Nasir, 15 kilometres (nine miles) from Aden, where the city's only water pumping station is cited." "Fire Set to South's Only Refinery," Paris AFP in English, June 29, 1994, cited in FBIS-NES-94-125, (June 29, 1994), p. 17.

⁶⁴ICRC, "Yemen: ICRC Appeals for Cease-Fire," press release no. 1780 (Geneva: June 29, 1994).

⁶⁵ICRC, "Update No. 4 on ICRC Activities in Yemen" (Geneva, July 7, 1994).

⁶⁶The journalist wishes to remain anonymous.

HRW/Middle East's site inspection and interviews with employees revealed that before and during the war the generators were located in an unattached shed of tin sheeting. The shed and the generators were completely burned and beyond repair. There were very few bullet holes in the generators. The cable from the generators to the transformers was burned and the transformers were damaged. The cable for remote control of the wells feeding into Bir Nasir was broken. The gate and fence immediately around the pumping station showed no signs of battle or forcible entry. There was gunfire damage on the first floor of a house inside the small compound. A hole possibly caused by a tank gun or a rocket-propelled grenade (RPG) was blown in the second story of the building that housed the switches next to the generator shed and faced the generators. The large water tower above the station was empty; its tank had a gaping hole, probably from the same kind of gun, and the main pipe leading from the tank to the ground was broken in two places. Three large water storage tanks across the highway had been sprayed with automatic rifle fire and their water lost.

Journalists visiting the site on July 2 saw the blackened shed and generators but no damage of any kind in the vicinity which indicated to them there had been artillery shelling, aerial bombardment or any military engagement between the parties at the site. The government soldiers occupying the pumping station told the journalists the damage was caused by separatist bombing from planes on June 30 which killed three soldiers. The journalists concluded instead that the shed and generators had been doused with petrol and set on fire.⁶⁷

Technicians at the station and elsewhere, who asked that their names not be used, concluded from the nature of the destruction that the damage to the pumping station was deliberate, not the result of cross-fire during battle or aerial bombardment.⁶⁸ In addition, they observed that everything had been looted in their absence, from the station's truck down to all spare parts and tools, making repairs more difficult.⁶⁹

Each side blamed the other for disabling the water supply system. Minister of Interior Yahya al-Mutawakkil said that the secessionists laid land mines at Bir Nasir and Bir Ahmad and in pipes along the causeway to Aden near the Aden Hotel "to give the international community reason to criticize the government."⁷⁰ A government source was quoted as saying that some of 156 explosives the separatists attached to parts of the pumping station exploded when government forces arrived, suggesting booby traps. A government soldier said "bandits" had vandalized it. The secessionists denied laying mines and accused government soldiers of sabotaging Bir Nasir to hasten the surrender of rebel forces in the besieged city of Aden.

Based on interviews and inspection of the site, the damage was deliberate, not accidental, and not a collateral result of combat. Observers found it unlikely that rebel soldiers would deliberately destroy equipment vital to Aden's water supply just before they retreated into that city, one of the final remaining stronghold in southwest Yemen. Nor would there appear to be a motive for bandits to vandalize the generators.

Retreating separatist forces reportedly did lay many if not all of the land mines that were said to have killed several technicians and prevented engineers from repairing twelve of Bir Nasir's thirty-two wells; the winds blew the sand away from several land mines near wells and exposed them to view, deterring repair crews. Military authorities were not giving priority to postwar mine clearance at this location, however, despite the continuing water crisis in

⁶⁷Interviews by HRW/Middle East, Sana'a, Yemen, late July 1994. The journalists requested anonymity.

⁶⁸The damage to the pumping station at Bir Nasir was in sharp contrast to damage from shelling and bombardment in towns such as Subr, where rubble and jagged walls left the distinct visual evidence of battle.

⁶⁹The ICRC provided two new generators for the station, but the regular water supply was not restored even by the end of July because of the damage to the storage tanks, mining near damaged wells, the damage to other pumping stations such as Bir Ahmed, and the still undetected damage to pipes at many different locations by shelling.

⁷⁰Interview, Aden, Yemen, July 20, 1994.

Aden. The UN promised emergency landmine sweeping assistance.⁷¹

At Bir Ahmad, a supplementary pumping and water storage station one hour northwest of Aden, there was also damage to both the machinery and the storage system. The two storage tanks had large gaping holes appeared to be caused by direct deliberate hits from weapons such as tank guns or RPGs. Debris in the area indicated fighting around the village (not visible from the station), and a rebel military base about one kilometer away (the base was visible from the pumping station). However, the gaping holes in the water tanks did not appear to be the result of battle but of other direct attacks as in Bir Ahmed; there was conspicuously little damage to the other structures at the pumping station.

PILLAGE

Pillage and extensive destruction of property not justified by military necessity occurred during and after the war, primarily in Aden after government forces gained control of that last rebel-held city, but also in many other cities that changed hands during the war.

Destruction and Pillage of Civilian Objects

Pillage, which includes looting or taking booty or spoils of war, is forbidden by the laws of war.⁷² This prohibition covers individual acts without the consent of the military authorities and also organized pillage. The ordering or authorization of pillage is forbidden, and the parties are obliged to prevent or, if it has commenced, to stop individual pillage. All types of property, whether private, communal, cooperative, state, or other, are protected, although the military authorities retain the right to requisition goods under certain conditions.⁷³ The purpose of this principle is to spare people the suffering resulting from the destruction of their real and personal property.⁷⁴

Destruction of property not absolutely necessary on account of military operations also is forbidden. Both pillage and unnecessary destruction are forbidden by customary international humanitarian law governing even internal armed conflicts.⁷⁵

Government soldiers and officers in Aden were observed by eyewitnesses in Aden to be engaging in extensive organized looting followed by pillage; they also failed to stop the civilian looters. It was separatist officials, however, who began the looting of Aden in the final days of the war, no doubt sensing imminent defeat.

When the war was over many northern officials, foreigners, and others went or returned to Aden; those who arrived quickly observed looting by civilians and northern forces. Observers estimated that 25-30 percent of the looting was well organized and on a large scale; looters arrived in trucks and larger vehicles and loaded up equipment and machinery from the port and elsewhere, using cranes to lift the heavier pieces. Large numbers of vehicles were engaged in this effort even though there was a shortage of vehicles for the water emergency.

The property destruction seemed to target mainly the records, property, and institutions of the former PDRY, now technically the property of the Republic of Yemen. This destruction was tolerated and often authored by government forces.

⁷¹Interview, UNDP Resident Representative Dr. Awni S. al-Ani, Sana'a, Yemen, July 31, 1994.

⁷²IV Geneva, Article 33.

⁷³ICRC, *Commentary on the IV Geneva Convention* (Geneva: ICRC, 1958), pp. 226-27.

⁷⁴*Ibid.*, p. 226.

⁷⁵IV Geneva, Article 53; Theodor Meron, *Human Rights and Humanitarian Norms as Customary Law* (Oxford: Clarendon Press, 1989), pp. 46-47.

A precedent for the destruction and looting of opposition political targets by government forces appears to have been established in the tank and mortar attack on the YSP headquarters in Sana'a on the morning of May 5. Five or six guards and two men working the press in the adjacent newspaper office were taken prisoner. The building was blown open with a large explosion and entered by men and boys who carried off doors, desks, office supplies, and Socialist campaign posters and materials. Security police later surrounded the complex, watching as it caught fire and burned.

On the same day there were similar attacks on private homes of politicians allied with the south, including that of Mujahid al-Quhali, a northern Member of Parliament representing the al-Tashih (Correction) party.⁷⁶ He avoided arrest since he was then in Aden, but his male relatives and guards were arrested and the house was looted down to the electrical and plumbing fixtures. Similar targeted attacks are said to have occurred in other locations.⁷⁷

There was also looting when towns changed hands. At al-Ataq, center of Shabwa governorate, for instance, only two hospital mattresses remained by the time civilian government officials arrived. All Lahj hospitals were looted and inoperable half way through the war. In Mukalla, where there was no battle and no power vacuum, public offices, schools, and buildings were also looted. Vacated homes elsewhere, such as in deserted villages and bombed buildings on the outskirts of Aden, were occasionally robbed of small items such as gold rings, but they did not suffer systematic looting. It was not always possible to know who was responsible for each incident, but the frequency of the looting indicated a failure to prevent if not active encouragement of looting.

Pillage in Aden reached massive proportions in four waves between about July 4 and July 14.⁷⁸ The first stage of looting was carried out by separatist political and military leaders as they prepared to escape the city.⁷⁹ Many witnessed looting during the days before Aden fell; for instance, a journalist saw southern soldiers and civilians looting private northern businesses, including the large luxury Gold Muhur Hotel which was later re-looted by northern forces.

In the second stage, guards and police throughout the city abandoned their posts before government forces entered on July 6-7. The police and guards, who effectively had served the separatist government, not only feared arrest by government soldiers, but also found it necessary to stay home to protect their personal property from looters. Seeing no impediment to theft, some displaced persons and Aden residents mobbed warehouses in the port and elsewhere, took tables and chairs from school houses used by the displaced, and generally helped themselves to whatever was available. About 7,000 tons of food was looted by soldiers and civilians from the U.N. warehouse at Dar Saad before the war ended, and on July 10 a relief official watched helplessly as women and children removed the remaining 1,000 tons of cooking oil.

⁷⁶As one of many shaykhs from the Bakil tribal confederation (which unlike Hashid does not have a paramount shaykh), al-Quhali had participated in a Bakil gathering near Amran in April that the government considered a provocation to war, according to a female relative.

⁷⁷Interviews with eyewitnesses, Sana'a, Yemen, May 6.

⁷⁸The London-based Arabic daily *al-Hayat* in its July 24, 1994 edition cited a "Yemeni report" that the plunder included the goods of 108 branches (offices or operations) of Ministries and public sector companies, eleven factories, thirty-five schools and educational facilities, and 1,200 vehicles, mostly government property.

⁷⁹Attorney General Muhammad al-Badri accused the head of the Ma'alla police station and the then-governor of Aden, al-Siylli, of encouraging the looting of the commercial property of Sana'a merchants, and he claimed that other separatist officials ordered destruction of financial records that allegedly would document their past embezzlement. Interview, Sana'a, Yemen, July 28, 1994. Along with most other high-ranking government officials, al-Badri was in Aden for about two weeks right after the war ended. Separatists made almost identical claims of destruction of evidence in the aftermath of the war by individuals allied with the government.

From July 7 through July 10 or 11 was the third stage: thousands of government troops, volunteers, out-of-town looters and finally souvenir-hunters streamed into Aden. Some observed "food convoys" entering Aden, each truck carrying a few sheep and as many as ten armed men who used the sheep to bribe their way past checkpoints.⁸⁰ During this period no orders were given to halt the looting. No steps were taken by the government which controlled the city to restore order, although many northern officials were then in Aden. For instance, Judge al-Hitar of the criminal court in Sana'a and president of the Yemeni Human Rights Organization, arrived in Aden the day after the city fell and stayed three days, during which time he saw police and uniformed government soldiers looting public property, including buses belonging to a hospital.⁸¹

In this wave, soldiers engaged in extensive looting and vandalism, specifically targeting government offices, public sector enterprises, Socialist Party offices and newspapers, and the vacated offices of international organizations. These were both looted and vandalized as soldiers and officers "requisitioned" equipment and furnishings and also deliberately wrecked files, electrical fuse boxes, and windows. At the palatial YSP headquarters, for example, the floors were thick with newspaper clippings, old YSP conference resolutions, calendars, and unreeled movie film, and the paneling and stained glass were punctured, probably by rifle-butt.⁸²

During the fourth and final stage, ending between July 14 and 11, soldiers opened fire on the few remaining civilian looters and set up dozens of checkpoints around town and on the highways with orders, finally, to confiscate stolen goods and unlicensed weapons. In some cases, however, checkpoint guards simply kept a proportion of the booty. Weapons, vehicles, air conditioners, desks, office and house/hotel furnishings and personal items flooded al-Rahida and other markets just north of the former border.

The damage in Aden has been estimated initially by the U.N. at \$100-200 million dollars U.S., according to Yemeni officials. Specific sites and property looted include the UNDP, UNHCR, and Ministry of Health/WHO offices, the Ministry of Justice, the public textile factory, the cigarette factory (80 percent privately owned), the state-owned Seera Beer factory, the British, German, Italian, and Russian consulates, the offices of Elf Aquitaine and Canadian Occidental, the Chamber of Commerce, the offices of the Organization for the Defense of Democratic Rights and Liberties (a nongovernmental human rights group), Mansoura Prison (including the carpentry workshop), the administrative offices and many large warehouses of the Domestic Trade Corporation (a large state-owned trading company), all YSP and independent newspaper offices, the YSP headquarters, the Aden Movenpik Hotel, Gold Muhur and other private and public sector hotels, all of Aden's museums, the city's sanitation trucks, vehicles from Yemeni and international institutions, and all the docking facilities and warehouses at the port. The hospitals where ICRC delegates were stationed throughout the conflict were not looted on the inside, but all ambulances and other objects in the hospital courtyards were taken.⁸³

Some of the property later was recovered but much was lost to Aden forever. During HRW/Middle East's stay in Aden in late July, the delegation had occasion to see many people, including civil servants brought in from the north, complain to the police about looted property and buildings occupied by government soldiers or officers.

Although a few places, including two consulates, were entered forcibly while people were inside, almost all

⁸⁰On July 21, 1994, there were eleven prisoners in jail in Mansour Prison near Aden; all were accused of looting. One said he, and five other prisoners there, were from Ibb in the former North Yemen. They came to Aden after the government victory. Although admittedly armed, they had no problem passing through army checkpoints.

⁸¹Interview, Sana'a, Yemen, July 25, 1994.

⁸²The large four-story building is scheduled for use by Aden University. One hopes faculty and librarians will be permitted to reconstruct historical files without political interference.

⁸³Staff of donor organizations privately commented that they were offended by government requests to replace equipment the staff knew was looted by soldiers.

buildings were empty of people when looted. A Pakistani family defended the al-Shams Motel simply by standing outside. There is no record of deaths during the looting. Many empty private offices were broken into and looted of valuable office equipment. Some private homes were burgled, but few were looted.

The forty-year-old oil refinery at Little Aden had burned for days during the war, and later was looted extensively.⁸⁴

A group of office workers and mechanics at a public company vociferously complained to HRW/Middle East that they had come to work at 9:00 A.M. the morning the government soldiers entered Aden, but were prevented from entering their workplace -- even to retrieve their personnel files proving their employment and rights to pensions and other benefits -- by government soldiers standing guard. An hour and a half later they returned and found the building still guarded but on fire and surrounded by looted goods. They angrily accused the government forces of economic warfare and colonialism.

The proportion of total damage committed by civilian Islamists, members of the Islah party, is probably relatively minor in light of the extensive destruction done by others, but it attracted attention because it targeted what they saw as symbols of decadence and Westernization: the Seera beer factor in Mansoura,⁸⁵ the Aden Movenpik Hotel, and liquor warehouses and private supplies.

What appears to have happened at the Seera Beer plant is that the Islamist militants (identified by an eyewitness who called them "the bearded ones") arrived after the machinery had already been ruined by government soldiers.⁸⁶ A journalist who saw the fire was told by a government army colonel on the spot that government troops set the fire.⁸⁷ An opposition politician in Aden, Omar al-Jawi of the Al-Tajammu' Party, was told by local Islah Party members, in particular by parliamentarian Jaabel Jaiman, that they were proud to take credit for the burning of the beer factory and all the bottled beer in it.⁸⁸

Most of the smashing by Islamists of an estimated \$7 million dollars U.S. store of hard liquor taken from a government warehouse, and other liquor seized from private homes, took place in front of news cameras near the Gold Muhur Hotel. The looting of the Aden Movenpik Hotel⁸⁹ was far less thorough than of the Trade Corporation or Justice Ministry.

⁸⁴One journalist reported from Aden reported that two north Yemeni warplanes hit the refinery with cluster bombs sending a massive column of black smoke and flames hundreds of feet into the air. Eric Watkins, "Bombed Aden goes about its business," *Financial Times*(London), June 8, 1994.

⁸⁵The Aden government, sensitive to northern war propaganda, announced near the end of June that the brewery, which netted \$8 million dollars U.S. profit in 1993, would be converted into a soft drink factory. It was the only brewery in Yemen. "Al-Bid Decree Turns Brewery Into Soft Drinks Factory," Paris AFP in English, Aden, Yemen, June 27, 1994, cited in FBIS-NES-94-124 (June 28, 1994), p. 37.

⁸⁶The plant had over eight multi-story vats and a large bottling operation. The plant and the vats had gaping holes in them, as from a tank gun or RPG.

⁸⁷Interviewed in Sana'a, Yemen, August 1, on condition of anonymity. He said the flames of the fire were eighty feet high and the smoke "created a second horizon." A reporter for the official *al-Thawrah* newspaper attempted to excuse the fire, claiming it began accidentally when gunfire "spontaneously ignited" the "alcohol in the beer." Interview, Seera beer factory, Mansoura, Aden, July 23, 1994.

⁸⁸Interview, Aden, Yemen, July 19, 1994. Discussions are now underway for conversion of the site to a mosque.

⁸⁹Alcohol was being served to the government officials living on the unlooted (but also unairconditioned) sixth and seventh upper floors of the Aden Movenpick Hotel in late July. The service elevator remained in operation, but the main elevator was said to have been mistaken for a safe and shot open by northern "volunteers."

After the looting spree subsided in mid-July, there were a few incidents of vandalizing directed at a few Christian churches and cemeteries and other non-Muslim places of worship⁹⁰ by unidentified people. On July 21, the cross was broken and a statue damaged by gunfire at St. Francis Church in Tawahi.⁹¹ On July 15, men in a military vehicle demanded that the nuns at the Mother Theresa Home in Aden open the doors of the car shed and the church storehouse, but the nuns, who had a letter from the police promising protection, refused. Later, two Aden mosques reportedly were desecrated by Islamist militants.⁹²

In addition to the looting, some Ali Nasir supporters on their own initiative re-occupied forty to sixty villas in which they had formerly resided, including villas luxury already rented to international organizations like Swedish Save the Children and foreign oil companies.⁹³ Three judges have been assigned to give priority to the property issues raised by these cases. Typical of the confusion in post-war Aden were official statements on the problem, each varying widely from the next: the Minister of the Interior claimed the police have the authority to evict the Ali Nasir squatters without a court order. One judge said no one could evict them without an order and, because of looting, and destruction of Ministry of Justice property the courts had not reopened. A foreign national employed by an oil company complained to the police that he had an order awarding the company possession of a villa for which it had paid rent, but the colonel occupying it since Aden fell would not move out and no police or army official had the nerve to dislodge him.

There was no evidence in late July of efforts to bring looters to justice as a means of complying with the duty to prevent and stop pillage. The Aden Justice Ministry and courts, still sorting through files strewn on the floor to identify what was missing or destroyed, had not resumed operation when the State of Emergency was lifted on July 27. The prosecutor's office was not yet functioning, and police stations were being run by new appointees and volunteers. Although ranking interior ministry officials at the Tariq camp in Aden claimed that about 200 persons had been arrested for looting, the officials were not clear about where the looters were being held. The Mansoura Prison, where we were first told to look, held a mere eleven prisoners detained after the main looting was over, including a fourteen-year-old boy and six men traveling together from a village in Ibb governorate. One assured us the Ibb group had seen no judicial officials but would be released "within a few days."⁹⁴

During a visit to the Radfan army camp,⁹⁵ also suggested by the authorities as the place where looters might be held, the officer in charge said they had no looters but assured us that 200 looters had been transferred to police stations in Aden. At the Ma'alla police station, visited without appointment, we were told by those in charge that they did not have any looters in custody, nor had they ever received any looters, nor ever detained any looters, nor received "authorization" to use force to detain looters or prevent looting.⁹⁶ The Attorney General later said that sixty looters were arrested after being caught in the act, but they were released because it was unfair to prosecute so few

⁹⁰There is no Yemeni Christian community; churches serve the foreign community. The few remaining Yemeni Jews continue to be evacuated by an American committee that has pursued this project for several years; one group of about twenty-five Yemeni Jews from al-Rayda near Amran left as part of this program on August 2, 1994.

⁹¹See "Muslim Fundamentalists Said to Attack Aden Church," Paris AFP in English, Aden, Yemen, July 23, 1994, cited in FBIS-NES-94-142 (July 25, 1994), p. 35.

⁹²Shaher Musa'bain, "A Showdown in Aden," *Yemen Times*, Vol. IV, Issue No. 35 (Sana'a: September 5-12, 1994), p. 1.

⁹³The Ali Nasir supporters, defeated in internal YSP fighting in 1986, abandoned the villas the socialist government had assigned them in keeping with their government rank when they fled north to the YAR. After unification in 1990 the villas were privatized and the then-residents had the right to purchase them on easy terms.

⁹⁴Interviews, Mansoura Prison, Aden, July 21, 1994.

⁹⁵Interview, Radfan army base, Khor Maksur, Aden, July 23, 1994. Similarly, we were told there was a warehouse where looted goods could be claimed by owners, but not able to see it. At Radfan officers said all goods had been returned to their owners.

⁹⁶Interview, Ma'ala, Aden, Yemen, July 24, 1994.

among so many who participated in the looting.⁹⁷

Judicial authorities in Sana'a had brought to the government's attention, before the conflict ended, the need to take measures at the time of victory to prevent just the type of extensive looting and pillage that took place in Aden. Criminal court judge Hamud al-Hitar, also president of the Yemeni Human Rights Organization, held a meeting with the Ministry of Defense before the war's end and requested that special checkpoints be set up to prevent looting and a special tribunal be created to punish looters. He also personally asked President Salih to take extraordinary measures to protect public and private property. The president asked him to form a special court which started functioning at the beginning of June in al-Rahida, but it never received the full cooperation of the military so it was powerless.

DETENTIONS DURING THE CONFLICT

While the always-chaotic criminal justice system came to a halt during the State of Emergency, the security system continued to carry out political detentions. The old Central Security (amn al-Markazi) of the YAR and State Security (amn al-Dawla) of the PDRY had been proclaimed dissolved after unification. They were later officially merged into and replaced by a unified Political Security apparatus (amn al-Siyassi). In fact, although the security forces operated with less cloak-and-dagger intimidation after unity, both State Security and Central Security retained powerful networks of informants, armed troops, and unofficial prisons.⁹⁸

Between May 5 and July 7, security forces of both parties to the conflict detained hundreds of civilians suspected of sympathizing with the other side. To their credit, the parties accepted the ICRC's request that it be permitted to conduct repeated and confidential visits with persons detained in connection with the conflict. By June 23, the ICRC registered 2,834 military and civilian persons detained by both sides in connection with the war, and started to inform families of their whereabouts.⁹⁹ This ICRC notice to family members was particularly useful because security forces, ignoring their responsibilities before the war times, ordinarily do not advise a family of detention even when asked.¹⁰⁰

DETENTIONS BY THE GOVERNMENT

Within days after the war began, there were reports of wide-spread arrests of civilians in Sana'a, Taiz, and Hodeida, mostly by what were referred to as government Political Security (*al-Amn al-Siyassi*) and Military Intelligence (*Istikhbarat askari*). Groups of soldiers entered homes in every part of Sana'a in search of "socialists" or "communists" and took dozens of persons into custody. Although authorities justified the detentions on the grounds that arrested persons were hoarding weapons or planning guerrilla warfare, no charges were presented to any court, and officials approached by relatives usually denied that family members were in custody.

A declaration of a State of Emergency by the Presidential Council in Sana'a on May 5 was made pursuant to

⁹⁷Interview, Sana'a, Yemen, July 28, 1994. He also noted that the general amnesty was not intended to apply to this crime.

⁹⁸This was so well-known and resented that it was the subject in a section of the Amman Accord of February 20, 1994, which provided for reorganization of the Interior Ministry so that the various security units, including Central Security, would be merged and under the control of the Ministry. Pledge and Accord Document, III, The Security and Military Aspect, para. 8, Amman Al-Ra'y, February 19, 1994, cited in FBIS-NES(Jordan)-94-035, February 22, 1994, p. 33.

⁹⁹ICRC "Special Appeal for the ICRC's operation in Yemen" (Geneva: June 23, 1994), p. 3.

¹⁰⁰The ICRC had been providing the same notification service for the estimated 5,700 detainees it visited in seventeen places of detention from 1993-April 1994. *Ibid.*, p. 2.

a 1963 YAR law,¹⁰¹ and it was approved by the compliant quorum in Parliament for an initial thirty days and two additional thirty-day periods before the Minister of Interior suspended it on July 27, a week before its scheduled expiration.¹⁰²

However, the provisions of the 1963 legislation or of the State of Emergency itself were little known: even among members of the judiciary, officials of the Ministry of Interior, and police officers there was confusion as to if and where the declaration of State of Emergency had been published, and as to its provisions.¹⁰³

The murky legal basis of the State of Emergency was exacerbated by the uncodified northern penal codes, the absence of any federal State of Emergency legislation applicable in the former PDRY even after unity,¹⁰⁴ and the customary impunity of police and especially political security forces.

Those arrested during the State of Emergency had no legal protection whatsoever, no access to counsel or their families, and were not charged with any crime before a judge. Under Article 4 (3) ICCPR, acceded to on February 9, 1987, Yemen has the duty to "immediately inform" other states parties of its derogation from (or suspension of) any of the rights in that Covenant. It must provide notice by filing with the UN Secretary General. The notice must specify the provisions of the Covenant that are suspended. As of October, however, the UN Treaty Office, the place where such filings are kept, had received no notice of any derogation whatsoever from Yemen.

The government therefore was obliged to respect the ICCPR rights to due process and freedom from arbitrary arrest (Articles 9 and 14), to free speech and assembly (Articles 19 and 22) and to be free from arbitrary searches of one's home (Article 17), among other rights. In addition to civilian detainees, there were thousands of separatist combatants taken prisoner. Most were released from a camp near Sana'a by July 27, after some "political indoctrination" (*tawjih al-siyassi*).

Torture and ill-treatment of civilian and military detainees was widespread, according to Amnesty International.¹⁰⁵ These rights to physical integrity may never be suspended, even during war. Although several thousand detainees were released at the end of the conflict, perhaps hundreds remained in jail weeks after the amnesty was announced. The government since advised that they had been released.

Available evidence shows a campaign of selective political arrests against mid-and-lower-ranking socialists, their allies, associates and employees, independent regime critics, and even their male family members during the war.

Five armed guards, one guest, and two print-machine operators were arrested at the Central Committee of the YSP in Sana'a,¹⁰⁶ after being overcome by an army attack on that large building on May 5. They were not given

¹⁰¹Presidential Decree, Law 8 of 1963, governed states of emergency. Under the Yemen 1990 constitution, however, this law only applied to what was the YAR.

¹⁰²About eleven of the fifty-six YSP members of Parliament remained in Sana'a after the war broke out.

¹⁰³Anyone out after about 11:00 P.M. was liable to be stopped and searched at security checkpoints even before the war and the State of Emergency. The ban on weapons was unenforced and unenforceable, however, given widespread gun ownership. The city of Aden was different: since colonial days the law forbade handguns inside the city and even the *jambiyya*, a dagger customarily worn by Yemeni men.

¹⁰⁴Although the 1990 Constitution authorizes states of emergency, the necessary enabling legislation does not appear to have been passed by Parliament as would be necessary to fill in the broad constitutional authority.

¹⁰⁵Amnesty International, "Yemen: Human rights concerns following recent armed conflict," AI Index: MDE 31/06/94 (London: September 1, 1994), p.4.

¹⁰⁶They included Taha Hizam al-Maqtari, Muhsin al-Miswari, Yahya al-Miswari (guards) Naji Daifallah al-Maghrabi (guest), Jamal

an opportunity to surrender but were fired upon by tanks and other weapons.¹⁰⁷

Nine persons were captured at the home of Mujahid al-Quhali¹⁰⁸ following an army attack on those premises on May 5. Like those detained at YSP headquarters, they remained in custody under the auspices of Military Intelligence¹⁰⁹ well after the end of the State of Emergency and long after the announced general amnesty. With one exception, they were held incommunicado and without charges until the end of the State of Emergency;¹¹⁰ those arrested at the al-Quhali home, were released on August 25, not having seen the sun in sixty-two days.¹¹¹

Tahir Shamsan was a journalist with *al-Shoura*, a weekly newspaper belonging to a small liberal-Islamist party that had openly criticized both the YSP and the Sana'a government before the war.¹¹² At the end of May he was seized by two soldiers in broad daylight and taken to the ground floor of Political Security prison, where he was held with forty common prisoners ("criminals and crazy people," he called them) who had food brought by their families. He was interrogated by Military Intelligence about his finances, personal life, and associates; accused of being a separatist, a Saudi agent, and a critic of the ulema (religious scholars); and released after three days.

'Ali Maqnun, YSP member and an employee of the Central Bank, was arrested at his home at 10:00 P.M. on Thursday, May 5, and taken first to the North Sana'a district security station, then to Central Security. The next day he and about 300 others were gathered at Political Security. He spent three days in a cell with about fifty other persons, both fellow YSP members and "youths from the streets," before being released with over thirty others.¹¹³ His telephones remained out of order on July 31. The telephone in his family home in Hodeida was still disconnected on August 31.

Muhammad Ghalib al-Khulaifi, a primary school teacher and YSP member, was imprisoned in solitary confinement by military police at the beginning of the war on charges of "storing weapons," although he said a late-night search of his home at the time of his arrest produced no evidence to support this charge. When he was released in early June, he discovered that his son also had been detained.

The Minister of Interior, Yahya al-Mutawakkil, said that many were given arms by the separatists. According to al-Mutawakkil, the authorities detained those who possessed "weapons stockpiles."¹¹⁴ Yemeni citizens

'Abd al-Rahman Sallam and Shaqib 'Abd al-Hayya al-Mujahid (press workers).

¹⁰⁷ See Amnesty International, "Human rights concerns following recent armed conflict," p. 9.

¹⁰⁸ They included Yahya Mujahid al-Quhali (a sick, elderly man), Muhammad Yahya Mujahid al-Quhali, Kamal Yahya al-Quhali (student), Amin Yahya Jahazar, Hussain Salih Jahazar, 'Abd al-Wasit 'Abdallah al-Quhali, Ahmad Ahmar al-'Amar, Naji Mansur al-Quhali, and Yahya Nasr al-Quhali (student).

¹⁰⁹ Probably in Dar al-Bashari prison, headed by 'Ali al-Sayyani.

¹¹⁰ The exception to the incommunicado detention was a twenty-five-year-old man taken from YSP headquarters, Jamal 'Abd al-Rahman Sallam, whose parents discovered his whereabouts from a soldier. On their third visit they said their son appeared to be "paralyzed" or at least immobilized, and his panic-stricken parents began visiting any Yemeni or foreign institution with the potential to help him. Interview, Sana'a, Yemen, July 27, 1994.

¹¹¹ Telephone interview with Muhajid al-Quhali, August 27, 1994.

¹¹² The paper belonged to the Federation of Popular Forces party. At the height of the mud-slinging in early 1994, *Sawt al-Ommal* and two Socialist organs published a list of the thirty-three top officers in Salih's army, all from his own tribe, Sinhan, under the title "Yemen's new royal family." The GPC's *22 May* retaliated with names of southern officers from the districts of Radfan and Dala'. Then *al-Shoura* printed both lists side by side, on March 6, 1994, p.9.

¹¹³ He had been tortured in security detention in the north in 1982 and said his treatment this time was much better.

¹¹⁴ Interview, Aden, Yemen, July 20, 1994. His deputy in Aden, 'Abd al-Rahman al-Shahadi, explained that they eventually hope to

fully exercise a right to bear arms: Yemeni politicians throughout the country customarily are accompanied by five or six armed guards each. Men often carry AK-47 Kalishnikov semi-automatic rifles at all times, except in Aden.

Torture and ill treatment were committed by both sides during this conflict, according to Amnesty International. For instance, captured military personnel were said to have been tortured to force them to reveal military information. One such victim, Col. Muhammad Saleh al-Najjar, was said to have vomited blood and suffered acute kidney pains after being tortured by government Political Security forces in Ta'iz. Civilians also suffered abuse: Yahya Ahmed Ahmed al-Jahari, a YSP member, was arrested at his job in Sana'a during June 1994. He was detained in an underground cell, beaten, and kept in shackles for eighteen days.¹¹⁵ Despite protests that shackling violates U.N. Standard Minimum Rules for the Treatment of Prisoners,¹¹⁶ Yemen authorities admit that they still engage in this practice.¹¹⁷

In conclusion, the government violated due process and physical integrity rights of detainees throughout the conflict.

DETENTIONS BY SEPARATIST FORCES

At least several hundred civilians were arrested and held in detention by the separatists in Aden during the war, without charges against them or access to families or legal counsel. Those considered more important were transferred to Mukalla Prison. ICRC delegates visited 161 detainees in Mukalla and Sayun in early July, thirty-four of whom had been seen earlier in Aden.¹¹⁸ Captured combatants were also held: government sources said 762 members of their Central Security (amn al-Markasi) were detained after their early military defeat in Aden, transferred to a prison camp in Mukalla, and released when Mukalla fell.¹¹⁹ According to an eyewitness, the separatists held some 1,300 to 1,400 northerners, mostly common laborers, in army camps in and around Mukalla by the end of the war.¹²⁰

Scores of suspected Islamist activists had already been arrested in the south during 1993 and 1994 and remained in detention. Some were accused of assassinations or attempted assassinations of socialists, their political allies, and their families.¹²¹

Because a separatist movement is not yet a state, it cannot ratify and is not bound by the ICCPR. The southern separatists are required as a Yemeni rebel force to comply with Protocol II's provisions forbidding

implement a gun-registration policy modeled on American laws: those who do not come forth will be charged with possessing unregistered weapons. These are ambitious plans, in light of custom.

¹¹⁵Amnesty International, "Yemen: Human rights concerns following recent armed conflict," pp. 6-7.

¹¹⁶Rule 33. "Instruments of restraint such as handcuffs, chains, irons and strait-jackets, shall never be applied as a punishment. Furthermore, chains or irons shall not be used as restraints."

¹¹⁷Interview, Minister 'Abd al-Karim al-Iriyani, Sana'a, Yemen, July 18, 1994.

¹¹⁸ICRC, "Update No. 4 on ICRC Activities in Yemen" (Geneva: July 7, 1994).

¹¹⁹Interview, Colonel al-Radhi, Tariq camp, Aden, Yemen, July 20, 1994.

¹²⁰Phone interview, August 26, 1994, with a person who left Mukalla just before government forces re-gained control of the city and wishes to remain anonymous.

¹²¹The YSP claimed that there were 150 political assassinations or attempted assassinations of its members, allies and their families since unity, and that the government failed to investigate these cases. The YSP did not document or even list 150 cases. The government investigated ten cases, including attacks on GPC officials. Some attacks which are a matter of public notice (including attacks on the relatives of the Vice President) were not investigated.

mistreatment of prisoners (Article 4 (2)) and requiring due process during any trial (Article 6).¹²²

Some forty Somalis were arrested by the southern separatist authorities early in the war in Aden. As with the other detainees, no charges were brought against them. They were released from the notorious al-Fatih security prison after about forty days, after the intervention of the Somali Consul in Aden, and warned that next time they would be charged, sentenced, and perhaps executed. It appeared they were suspected of sympathy to unity and/or to radical Islamist movements. One Somali detainee reportedly was transferred to Mukalla Prison.

One Somali said he was taken from his home on June 27 and brought to al-Fatih security prison in Aden where he was incarcerated with about 700 other men (mostly Yemenis) in one large cell. Soldiers on guard warned them not to converse among themselves. About 425 prisoners were moved from the cell, some to Mukalla. Others were arrested and there were no less than 400 in one cell.

The cell had neither running water nor a toilet, but detainees were permitted to wash for prayer and pray in a courtyard. They were not permitted any personal visitors.

From their appearance and behavior, the Somali detainee guessed that about 250 of the 400 Yemeni prisoners were civilian members of Islah, and the remainder Socialists.¹²³ Officers and soldiers from the al-'Amalaqah and Second Armored brigades, military police, and Republican Guard also were detained.¹²⁴

Sources in Sana'a claimed that their forces released as many as 17,000 prisoners in Aden and Mukalla after the war. Although this number seems exaggerated, it appears that in the confusion following the defeat of separatist forces, all prisoners in the south--political detainees, captured combatants, and common criminals--were released or escaped.¹²⁵

PRESS FREEDOM AND THE POSTWAR DETENTION OF JOURNALISTS AND SCHOLARS

Freedom of the press was severely tested in 1992 when at least twelve newspapers and various journalists were tried for various violations of the press law, including quoting the president from unofficial sources. Some cases were dismissed, some resulted in acquittals, and some were never resolved.

During the war, most of the two dozen Arabic language newspapers regularly on the newsstands closed down,¹²⁶ some were published on printing presses, such as the YSP press, which were looted and/or destroyed early

¹²²Had the Yemeni government properly derogated from its due process obligations under the ICCPR, it would still have been subjected to the less defined standards of Protocol II; the Protocol, however, is silent on the protection against arbitrary arrest.

¹²³He concluded that those who prayed regularly were mostly Islah and those who "put their heads in their hands and wept secretly" were socialists. None were in military uniform.

¹²⁴As a symbolic gesture of condemnation of the torture that had occurred in al-Fatih prison under the YSP, Presidential Council President Ali Abdallah Salih drove a demolition vehicle through the cells and announced that the prison would be converted into a public garden and playground. "Demolishes 'Torture' Prison," Sana'a Yemeni Republic Radio Network in Arabic, August 3, 1994, translated in FBIS-NES-94-150 (August 4, 1994), p. 22.

¹²⁵The prison guards at Mansoura Prison near Aden, which before the conflict housed from 200-400 prisoners and pre-trial detainees, said that the prison was shelled once during the fighting. When the government forces entered, they detained the prison director at a checkpoint. The prison guards were afraid they would all be arrested so they decided to go into hiding in Aden. Before they left, however, they released the prisoners rather than leave them locked up with no food or water -- the water to Aden still being cut. Interview, Mansoura Prison, Aden, Yemen, July 25, 1994.

¹²⁶These included *al-Ayyam*, *Sawt al-Ommal*, *al-Raay*, *al-Haq*, *al-Shoura*, *al-Tashih*, *al-Tajamma'*. Some of these were formerly printed on the YSP press, and others closed after offices were looted or editors arrested.

in the conflict. After the war was over, several of the newspapers that were not aligned with the governing General People's Congress or its ally the Islah Party opened up under new, government-appointed editors who were stalwarts of the GPC or Islah.¹²⁷

The arrest without charges of at least fifteen journalists and other professionals in Sana'a on July 17 was another ominous post-war development. The government nevertheless continued to claim there was "freedom of the press."¹²⁸ These men were beaten up, accused of being against the government, and refused access to family and legal counsel before being released from two to six days after their detention. No charges were ever brought against them. At the time of the arrests Yemen was then being visited by delegations from two international human rights groups, Human Rights Watch and Amnesty International.

Some independent newspapers nevertheless struggled to stay in print. The *al-Ayyam* paper, owned by a socialist, published twice after the war but was harshly criticized by the official and GPC papers. *Al-Shoura*, the organ of the Confederation of Popular Forces party, critical of both leaderships in the pre-war period, produced a few issues. The *Yemen Times* continued to print. But by October the government instructed all the printing presses still printing (Arabic-language newspaper) to cease doing so, and these independent voices were silenced. In October the government, through the press prosecutor's office, commenced criminal proceeding in Sana'a under the Press Law against *al-Shoura* and its editors.

This censorship of the opposition press was foreshadowed by the July 17 crackdown on over fifteen journalists and others. Those arrested had participated in a seminar sponsored by the English-language independent weekly paper *Yemen Times* at the Sheraton Hotel in Sana'a on July 14, 1994. The paper's editor and organizer of the seminar, Dr. 'Abd al-'Aziz al-Saqqaf, an economist, had been briefly detained early in the war for publishing allegedly inflated casualty figures. He subsequently praised the restoration of unity in the *Yemen Times*. He invited journalists from all three major parties and a number of smaller parties, plus a few independents, as was often the practice in pre-war Yemen, to present papers on the "The Future of Yemen," at the July 14 seminar. After agreeing to participate, the GPC and Islah presenters did not attend, but the audience included other members of the press, Gulf diplomats, foreign researchers, and Yemeni scholars.

Formal presentations of papers were followed by a lively discussion. A Gulf diplomat who attended said he heard "nothing mildly treasonous" and "a lot of generalities."

On July 17, over fifteen seminar participants were taken into custody for up to six days. Professor al-Saqqaf and Ahmad al-Saufi were taken from their homes late at night, held in solitary confinement, handcuffed, beaten, kicked, and bruised, and released the next evening. Al-Saufi, a well-known Socialist journalist, worked at the Prime Minister's office, was recording secretary to the Dialogue Committee, is a member of the Writers' Guild and the journalist syndicate, and has published a book on political violence in Yemen.

Others arrested in their homes included *al-Shoura* editor 'Abdallah Sa'ad and Ezzidin Said of the Writers' Guild, the Sana'a Amnesty International group, and *al-Jumhuriyya* newspaper of Taiz. Two others who were captured on the street in daytime were Numan Qaid Saif, editor of *al-Watan* magazine and contributor to the newspaper of the Tajamma' party, and Abd al-Rahman Saif of the YSP paper *al-Mustaqbal* and the staff of the Ministry of Local Administration.

Dr. Muhammad al-Mikhlaifi, a pro-unity northern socialist researcher at the Yemen Center for Research and Studies, was "kidnapped," he said, by men in civilian clothes while leaving his office to buy a cold drink. Trained as an attorney, he asked for a warrant of arrest but was given none. He was confined, like his colleagues, in a one and a half by two meter solitary cell underground in the Political Security complex on Jibuti Street, where he was fed

¹²⁷Most notably, the former YSP-edited daily, 14 October, began publishing after the war under a newly appointed government editor.

¹²⁸26 September, July 28, 1994, p. 1 and p. 7, where "freedom of the press" is balanced against "responsibility of the press."

"prison bread" (*quddam*), water, and some grease. He was the last released, at 9:30 P.M. on July 22, blindfolded. The Ministry of Interior initially denied to his wife that al-Mikhlafla was being held, but on the third day of his disappearance she received a confirmation of his detention from the President's Office.¹²⁹

The security forces appear to be continuing operations independently of the rest of the criminal justice system. These arrests prompted condemnation from Judge Hamud al-Hitar a member of the GPC who denounced them in interviews with Voice of America and Human Rights Watch. Attorney General Muhammad al-Badri, who said he had no prior notice of the arrests, assured Human Rights Watch that with the end of the State of Emergency such extra-judicial detention would be absolutely prohibited.¹³⁰ Supreme Court Chief Justice Muhammad al-Hajji, also disclaiming prior knowledge of the seminar arrests, stated unequivocally that there were and would be no special courts and all detainees would be brought to trial under the constitution and the law.¹³¹

A week after Al-Saqqaf published a first-person account of his detention on the front page of the *Yemen Times*, security officers again raided, but did not close, his offices.¹³² Unlike the *Yemen Times*, most other independent, small party, and socialist newspapers had stopped publishing. Several lost their print facilities after destruction of the YSP presses in Sana'a May 5 and in Aden around July 10,¹³³ but others were discouraged by the arrest of the *al-Shoura* reporter in May, the fire-bombing of the Aden offices of *Sawt al-Ommal* in late June, and other forms of intimidation.¹³⁴

Several faculty members, journalists, and writers interviewed said they felt the need to exercise self-censorship because some who have conspicuously abstained from praising the government but have taken no other action, have been labeled "secessionists."¹³⁵ Homes and individuals have been placed under surveillance. Phone lines are selectively cut.

DETENTIONS BY ARMED MILITIAS

Several people suggested that armed militia belonging to the Islah party had stepped into the vacuum of authority in post-war Aden and other places in south Yemen, having occupied police stations and begun to perform police functions according to their own vision of what the law should be.

Omar al-Jawi, a leader of the independent Al-Tajammu' Party in Aden, and member of the Organization for the Defense of Democratic Rights and Liberties, was among many in Aden who watched Islah members take over Aden police stations in the early days after the government's victory. Salem Muralaz, a teacher and Islah party leader in Aden, among others, donned a uniform and ejected the few regular police still in the Crater police station after

¹²⁹Interview, Sana'a, Yemen, July 27, 1994.

¹³⁰Interview, Sana'a, Yemen, July 28, 1994. The State of Emergency ended the day before this interview.

¹³¹Interview, Sana'a, Yemen, July 27, 1994.

¹³²Several Yemeni observers suggested that the English language *Yemen Times*, read by the ex-patriate and diplomatic community, is tolerated -- just barely -- because it gives foreigners the illusion that freedom of the press continues; the *Yemen Times* of course is inaccessible to the general public.

¹³³Several papers too small to own their own presses used the YSP press; the GPC/government presses also printed some independent papers.

¹³⁴Asked why they halted production, four publishers, interviewed separately, all gave the same response: "Do you really think we can publish in this atmosphere?" On cases brought by the Press Prosecutor under the 1990 Press Law before the war, see Sheila Carapico, "Freedom of the Press in Yemen," *Yemen Times*, October 24, 1993.

¹³⁵All requested anonymity.

removing their weapons.¹³⁶ Amnesty International received reports that this militia held detainees in secret places of detention.¹³⁷ Yemen has a long history of "private jails," primarily run under loose tribal authority; none of these private jails are legal but the central state authorities have not had total success in their attempts to monopolize the function of incarceration. The Hashid shaykh, al-Ahmar, who is also head of the Islah Party, has long had private prisons in the north.

Yemen's prison system has been the focus of intense public debate since unity, with press and human rights organizations' exposes of ill treatment leading to public demands for reform.

The tendency noted after the war, however, of additional private parties such as the Islah militia exercising police and jail functions is a step backward for the police as well as the prison system.

As of August, apparently no measures have been taken by the government to stop these activities and prevent nongovernment groups from exercising functions which are in the exclusive jurisdiction of the police.¹³⁸

DEATH PENALTY

On July 29, 1994, five convicted criminals were executed after their death sentences were confirmed by the Presidential Council, the ultimate appellate authority in such cases. At the same time it confirmed the death sentences of another nine men.

All fourteen had been convicted of common crimes in the YAR before unity in the 1980s. At the time of these convictions, the use of false testimony and statements extracted under torture was a widespread practice and therefore there was a likelihood of miscarriage of justice in these cases,¹³⁹ especially since the death penalty is an irreversible punishment. There are perhaps 1,000 other persons who were condemned to death in the YAR during the same period, whose punishment awaits confirmation by Salih.

Among those under death sentence is Mansur Rajih, a NDF member convicted of murder¹⁴⁰ believed by Amnesty International to be a prisoner of conscience detained solely for the non-violent expression of his political beliefs.¹⁴¹

A group of over sixty NDF members were detained during the 1980s; many were convicted after trials in which they were denied access to legal counsel either during pre-trial detention or during trial. Even when counsel was available to some, the defendants were denied the right to call witnesses on their behalf or to cross examine prosecution witnesses. Many were convicted based solely on "confessions" extracted under torture or duress. Some

¹³⁶**Salem Muralaz was personally known to Omar al-Jawi; Morales had been arrested by the Aden separatist authorities during the war. Al-Jawi intervened on behalf of him and others and they were released from jail. Interview, Aden, Yemen, July 19, 1994.**

¹³⁷**Amnesty International, "Human rights concerns following recent armed conflict," p. 6.**

¹³⁸ *Ibid.*

¹³⁹ *Ibid.*, pp. 12-13. Judge Hammud al-Hitar of the Criminal Court and Judge Naguib Shamiry of the Supreme Court discussed the absence of a criminal code (there is a 1979 draft that reflects customary law) and exceptions in the application of the criminal procedures law with Ms. Carapico on several occasions.

¹⁴⁰**According to attorney Ahmad al-Wada'i and Judge Naguib Shamiry, both familiar with the case, interviewed in Sana'a, August 1993.**

¹⁴¹**Amnesty International, "Yemen: Unlawful detention and unfair trials of members of the former National Democratic Front," *AI Index: MDE 31/04/93* (London: August 26, 1993).**

who were in custody were nevertheless tried without appearing before a court, including at least five detainees who were sentenced to death in their absence.¹⁴² Their detention continued despite an amnesty given by the President to those accused of collaboration with the NDF uprising on January 30, 1982.

The death penalty is legal under Yemeni law, but these 1994 executions represent a continued acceleration of the rate of execution. Distinguished members of the Yemeni Supreme Court, moreover, have argued that since the prisoners have served long prison sentences, execution represents two punishments for the same crime, which is illegal. There were five reported executions in 1992 and over thirty in 1993, one of whom was a boy age thirteen.¹⁴³ The execution of a minor is a violation of the Convention on the Rights of the Child, which Yemen ratified in 1991.¹⁴⁴

GENERAL AMNESTY

A General Amnesty was announced in Yemen on May 23¹⁴⁵ and at the United Nations after the end of the war. Sixteen separatist leaders, including former Vice President 'Ali Salim al-Bayd, and vice-president of the declared breakaway government 'Abd al-Rahman al-Jiffri, did not receive amnesty and are wanted for treason or war crimes. These persons' homes and other property within the country reportedly have been confiscated. They, as well as many other prominent Socialists, Bakilis, and independents (including members of the National Dialogue Committee), remain abroad.

The government announced that the amnesty expired on August 15, 1994, and that 9,000 persons had returned to the country and accepted the amnesty. The government said in addition that the amnesty covered even those who committed acts constituting war crimes, such as firing Scuds.¹⁴⁶ Human Rights Watch opposes this construction of the amnesty and urges the government to try, according to due process, those combatants believed to have committed serious violations of the rules of war.

President of the Presidential Council, General 'Ali Abdallah Salih, warned rank-and-file socialists inside the country that their behavior would be "watched" to be sure that they are "loyal" to the cause of unity.¹⁴⁷

¹⁴² *Ibid.*, pp. 5-6.

¹⁴³ Amnesty International, "Human rights concerns following recent armed conflict," p. 13.

¹⁴⁴ Convention on the Rights of the Child, Article 37: States Parties shall ensure that "(a) ... Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offenses committed by persons below 18 years of age ... " Yemen's report under this Convention is overdue; it was due on May 30, 1993.

¹⁴⁵ The amnesty provides, in part:

Article 1: With the exception of the secessionist elements whose names are given in the arrest warrant issued by the public prosecutor of the republic on 23 May, a general amnesty shall be granted to all the civilian and military men who, under the hegemony of the criminal secessionist clique, acted or behaved in a manner conflicting with the Constitution and punishable under the law. According to this decree, they will enjoy their full political and civilian rights and will continue to assume their responsibilities in the various places of work and production under commitment to constitutional legitimacy.

Article 2: Everyone who abides by the constitutional legitimacy shall benefit from this amnesty.

"Salih Issues Decree Granting General Amnesty," Sanaa Yemeni Republic Radio Network in Arabic, May 24, 1994, translated in FBIS-NESA-94-100 (May 24, 1994), pp. 31-32.

¹⁴⁶ Assem Abdel-Mohsen, "Yemen Amnesty Ends After Bringing Back 9,000," Reuters, Sana'a, Yemen, August 15, 1994.

¹⁴⁷ Quoted in *al-Hayat* (London), August 8, 1994.

RECOMMENDATIONS

HRW/Middle East recommends that the government of Yemen

- lift restrictions on the press, cease arrests of journalists and editors and raids of their offices unless they are charged with a recognizable criminal offense and promptly tried in accordance with internationally recognized standards for fair trials.
- promptly release all prisoners of conscience, that is, those arrested for their ideas or expression of opinion.
- guarantee free exercise of the political and civil rights of all who were away from the country during the conflict upon their return.
- release, unless they are to be charged with a recognizable criminal offense and promptly tried in accordance with internationally recognized standards for fair trials, all political detainees.
- in view of the fact that government compensation has already been given to some, compensate, without discrimination on account of their residence or loyalties during the war, civilians injured in the conflict and the families of all civilian war dead, and those who have lost homes, jobs, businesses, livestock, or goods as a result of military activities during the conflict.
- release all those detained in connection with the conflict, pursuant to the General Amnesty of May 23, 1994, except those believed to have committed serious violations of the rules of war. In such cases, charge and try them promptly in accordance with internationally recognized standards for fair trials.
- bring to justice all members of the armed forces and any militias found to have committed human rights violations and violations of the rules of war.
- take measures to prevent armed militias from performing any law enforcement functions, and release all those detained by such armed militias.
- commute all outstanding death sentences.

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Human Rights Watch/Middle East (formerly Middle East Watch)

Human Rights Watch is a nongovernmental organization established in 1978 to monitor and promote the observance of internationally recognized human rights in Africa, the Americas, Asia, the Middle East and among the signatories

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