



April 2015

## UNHCR POSITION ON RETURNS TO YEMEN

### *Introduction*

1. In November 2011, Yemen embarked on a fragile process of political transition after nationwide anti-government protests resulted in the resignation of President Ali Abdullah Saleh, the hand-over of power to his deputy, Abdrabbuh Mansour Hadi, and the formation of a Unity government under a political roadmap formulated through the Gulf Cooperation Council initiative. However, the situation in the country steadily deteriorated as a result of political instability and increased fighting between different groups, including government forces, Houthi forces (also known as Ansar Allah), armed forces allied with former President Saleh, Al-Qa'eda in the Arabian Peninsula (AQAP), local tribesmen and Southern separatist groups.<sup>1</sup>
2. The political transition began to unravel when Houthi forces took over the capital, Sana'a, in September 2014. In the months that followed, the Houthi forces reportedly expanded and consolidated their control over Sana'a as an agreement to put in place a new power-sharing government failed to take hold.<sup>2</sup> On 22 January 2015, the internationally-recognized government of President Hadi stepped down after Houthi forces seized the presidential palace and placed the president and his government under house arrest.<sup>3</sup> On 6 February 2015, the Houthis dissolved the parliament to pave the way for a transitional assembly and a five-member presidential council.<sup>4</sup> On 21 February 2015, internationally recognized President Hadi fled from house arrest to the southern city of Aden and reasserted his authority as president.<sup>5</sup> Since 23 March 2015, the conflict in Yemen has escalated significantly as clashes between Houthi forces and other parties intensified mainly in the South. On 26 March 2015, air strikes began to hit Houthi targets and military installations, primarily in Sana'a and Sa'ada before expanding to other governorates. As of 7 April 2015, 14 of the country's 22 governorates were affected by air strikes or armed

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<sup>1</sup> BBC, *Yemen crisis: Who is fighting whom?*, 26 March 2015, <http://bbc.in/1xzMGq7>; UN News Centre, *'Yemen is collapsing before our eyes,' UN chief warns, urging international support to end crisis*, 9 February 2015, <http://www.un.org/apps/news/story.asp?NewsID=50068>.

<sup>2</sup> International Crisis Group, *Yemen at War*, Middle East Briefing N°45, 27 March 2015, p. 1, <http://bit.ly/1C9W7I3>.

<sup>3</sup> Ibid.

<sup>4</sup> The UN Security Council on 15 February 2015 unanimously adopted Resolution 2201, [D]eploring the unilateral actions taken by the Houthis to dissolve parliament and take over Yemen's government institutions", and demanding "that the Houthis immediately and unconditionally (...) withdraw their forces from government institutions, including in the capital Sana'a, (...), and relinquish government and security institutions"; UN Security Council, *Security Council resolution 2201 (2015) [on the situation in Yemen]*, 15 February 2015, S/RES/2201 (2015), <http://www.refworld.org/docid/54eb58a84.html>.

<sup>5</sup> The house arrest of the Prime Minister, Foreign Minister and other Cabinet members was lifted in mid-March 2015; UN News Centre, *UN envoy welcomes lifting of house arrest of Yemeni leaders*, 17 March 2015, <http://www.un.org/apps/news/story.asp?NewsID=50349>.

conflict.<sup>6</sup> United Nations Secretary-General Ban Ki-moon called on all parties to ensure the protection of civilians and emphasized the need for political negotiations to resolve the crisis. He also reiterated earlier calls to all parties and Member States to refrain from taking any actions that undermine the unity, sovereignty, independence and territorial integrity of Yemen.<sup>7</sup>

3. In parallel to the deepening crisis, Al-Qaeda in the Arabian Peninsula (AQAP) and other extremist groups, which oppose both the government and the Houthi forces, maintain the ability to stage numerous deadly attacks.<sup>8</sup> These extremist groups reportedly seek to take advantage of the escalation of violence and instability to claim influence and territory.<sup>9</sup> Meanwhile, in the South, which was an independent state prior to its 1990 union with the North, the situation remains volatile with Southerners demanding increased autonomy or separation.<sup>10</sup> According to observers, Yemen stands on the brink of civil war with the conflict having taken on “*worrying sectarian tones and deepening north-south divisions.*”<sup>11</sup> At the time of writing, the political and security situation remains highly fluid.

### *Displacement and Civilian Casualties*

4. Over the years, internal conflicts, including tribal clashes, attacks and separatist movements have created significant displacement. By the end of 2014, more than 330,000 Yemenis were internally displaced, many of them for a protracted period. As a result of the current escalation in violence, internal displacement is reported to be rising quickly, although the extent of displacement is difficult to gauge due to limited access and the fluidity of displacement.<sup>12</sup> In recent days, UNHCR has already recorded, albeit in small numbers, some movement of people fleeing Yemen to Somalia, Djibouti and Sudan.
5. Yemen is also hosting more than 250,000 refugees, mostly from Somalia and countries from the Horn of Africa.<sup>13</sup> Some refugees may seek to move on to third countries or return to their countries of origin in order to escape the current escalation of violence in Yemen.<sup>14</sup>

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<sup>6</sup> UN OCHA, *Yemen: Escalating conflict, Flash Update 5*, 7 April 2015, p. 1, [http://reliefweb.int/sites/reliefweb.int/files/resources/Flash%20Update\\_20150407.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/Flash%20Update_20150407.pdf).

<sup>7</sup> UN News Centre, *Ban notes Saudi Arabia's military operations in Yemen, urges protection of civilians*, 26 March 2015, <http://www.un.org/apps/news/story.asp?NewsID=50432>.

<sup>8</sup> For example, on 20 March 2015, suicide bombers targeted two mosques mainly frequented by supporters of the Houthi movement in the capital during Friday prayers, killing at least 137 people and wounding scores of others. A Yemen-affiliate of the jihadist group “Islamic State of Iraq and Al-Sham” (ISIS) reportedly claimed responsibility for the attacks; BBC, *Yemen crisis: Islamic State claims Sanaa mosque attacks*, 21 March 2015, <http://bbc.in/1xI3INr>; UN News Centre, *At Security Council, UN envoy says Yemen on 'rapid downward spiral' as tensions rise*, 22 March 2015, <http://www.un.org/apps/news/story.asp?NewsID=5040>. See also UN News Centre, *'Yemen is collapsing before our eyes,' UN chief warns, urging international support to end crisis*, 9 February 2015, <http://www.un.org/apps/news/story.asp?NewsID=50068>; New York Times, *Car Bombing Kills Dozens at Yemeni Police Academy*, 7 January 2015, <http://nyti.ms/1yAhHtu>.

<sup>9</sup> Washington Post, *Al-Qaeda group is taking advantage of Yemen chaos to rebuild, officials say*, 5 April 2015, <http://wpo.st/FXrB0>; International Crisis Group, *Yemen at War*, Middle East Briefing N°45, 27 March 2015, pp. 1, 5, <http://bit.ly/1C9W7I3>.

<sup>10</sup> UN News Centre, *'Yemen is collapsing before our eyes,' UN chief warns, urging international support to end crisis*, 9 February 2015, <http://www.un.org/apps/news/story.asp?NewsID=50068>.

<sup>11</sup> UN News Centre, *At Security Council, UN envoy says Yemen on 'rapid downward spiral' as tensions rise*, 22 March 2015, <http://www.un.org/apps/news/story.asp?NewsID=5040>. According to the International Crisis Group “*Yemen is heading toward a long war and extensive fragmentation, with no viable exit*”; International Crisis Group, *Yemen at War*, Middle East Briefing N°45, 27 March 2015, p. 6, <http://bit.ly/1C9W7I3>. According to Adam Baron, Yemen expert and visiting fellow at the European Council on Foreign Relations “[T]his is the closest Yemen has been to a full on civil war in some time. Fighting is currently taking place on multiple fronts, while tensions between rival governments in Aden and Sana’a has never been higher”; IRIN, *As Yemen crumbles, civilians brace for the worst*, 24 March 2015, <http://www.irinnews.org/report/101269/as-yemen-crumbles-civilians-brace-for-the-worst>.

<sup>12</sup> Based on unverified reports from local partners, some 14,500 families (101,500 people) may have been displaced by recent violence, including 9,000 families (63,000 people) in Al-Dhale’e. Almost all IDPs are reportedly staying with relatives near their areas of origin; UN OCHA, *Yemen: Escalating conflict - Situation Report No. 1 (as of 31 March 2015)*, pp. 1, 2, 3, <http://bit.ly/19CoDf7>.

<sup>13</sup> The vast majority of refugees originate from Somalia (244,204), who are granted *prima facie* refugee status by the Yemeni government, followed by Ethiopia (5,934), Iraq (3,391) and “Other” (2,872). Refugees are located in Al-Kharaz refugee camp in the South as well as in urban areas, mostly Aden and Sana’a; UNHCR, *Yemen – Monthly Fact Sheet*, January 2015, <http://www.unhcr.org/4c907a4a9.pdf>. Since August 2014, the Government granted temporary protection to Syrians. By the end

6. Deepening insecurity and violence have taken a toll on civilian lives. In 2014, more than 1,500 Yemenis have reportedly been killed as a result of conflict, the highest number since the 2011 events, which saw the deaths of 2,000 people.<sup>15</sup> Due to the ongoing escalation in violence and the launch of airstrikes, civilian casualties are reported to be mounting.<sup>16</sup> Casualties and renewed displacement among internally displaced persons (IDPs) have been caused by air strikes that hit two IDP camps and surrounding civilian infrastructure on 30 March and 1 April 2015, respectively.<sup>17</sup>

### **Humanitarian and Protection Situation**

7. The current escalation in violence comes on top of an acute humanitarian crisis caused by years of conflict, drought, and chronic poverty.<sup>18</sup> Prior to the current conflict, Yemenis already suffered from widespread food insecurity and severe acute malnutrition,<sup>19</sup> with almost two-thirds of the population in need of humanitarian assistance.<sup>20</sup> The current escalation in violence adds further strain on poor services and weak infrastructure and exacerbates the already precarious humanitarian situation, especially for children.<sup>21</sup> Recent violence has also had an impact on civilian infrastructure, with homes, hospitals, education facilities, local markets and essential infrastructure in several locations reported to be damaged or destroyed.<sup>22</sup> The already weak health

of December 2014, 2,217 Syrians had registered in Sana'a and Aden, although the total number of Syrians in Yemen is estimated to be considerably higher; UNHCR, January 2015.

<sup>14</sup> Reports indicate that refugees find themselves in an increasingly vulnerable situation in Yemen, including as a result of their areas being directly affected by conflict, loss of employment and difficulties to access services, as well as potential recruitment by armed groups; UNHCR, 2 April 2015; UN OCHA, *Yemen: Escalating conflict - Situation Report No. 1 (as of 31 March 2015)*, p. 4, <http://bit.ly/19CoDf7>. In spite of the serious security situation in Yemen, mixed flows of refugees and migrants reportedly continued to arrive on Yemen's shores up to the end of March 2015. Between 26 and 29 March 2015, seven boats with 1,610 passengers, mostly Ethiopians, arrived at the Gulf of Aden coast; UNHCR, 1 April 2015. In the first two months of 2015, a total of 18,315 boat arrivals have been recorded; UNHCR, 2 April 2015.

<sup>15</sup> According to the Yemeni Minister of Human Rights, more than 2,000 protesters and military defectors have been killed during one year of political turmoil that led to the resignation of president Ali Abdullah Saleh; Associated Press, *Government Admits Massive Death Toll In Uprising*, 10 March 2012, <http://huff.to/ymfwyA>. In 2013, the annual death toll reportedly dropped to about 1,100 and nearly halved again in 2013 to fewer than 600, based on records included in the CrisisWatch Database of the International Crisis Group; IRIN, *Yemen: What next?*, 22 December 2014, <http://www.irinnews.org/report/100965/yemen-what-next>; International Crisis Group, *CrisisWatch Database*, <http://www.crisisgroup.org/en/publication-type/crisiswatch/crisiswatch-database.aspx?CountryIDs={9D2149C0-C350-40FC-BE12-7693FB454AEE}>.

<sup>16</sup> According to the latest estimates from the World Health Organization (WHO), 560 people have been killed and 1,768 injured by violence between 19 March and 4 April 2015. This includes at least 210 civilian deaths and 500 civilian injuries, many of which occurred in bombings against two mosques in Sana'a on 20 March 2015. The casualties include at least 74 children killed and 44 injured between 26 March and 6 April; UN OCHA, *Yemen: Escalating conflict, Flash Update 5*, 7 April 2015, [http://reliefweb.int/sites/reliefweb.int/files/resources/Flash%20Update\\_20150407.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/Flash%20Update_20150407.pdf).

<sup>17</sup> According to initial reports from the World Health Organization, these strikes killed at least 29 people and injured 41 – all of whom appear to be civilians, including women and children. Casualty figures are likely to rise as bodies are retrieved from the camp and additional injury reports are verified; UN OCHA / UN Humanitarian Coordinator in Yemen, *Statement of the Yemen Humanitarian Coordinator, Mr. Johannes van Der Klaauw*, 31 March 2015, <http://shar.es/1gu68R>. Less than 30 percent of the IDPs reportedly remain in the Mazraq camps since the air strikes; UN OCHA, *Yemen: Escalating Conflict, Flash Update 3*, 5 April 2015, p. 1, [http://reliefweb.int/sites/reliefweb.int/files/resources/Flash%20Update\\_20150405.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/Flash%20Update_20150405.pdf).

<sup>18</sup> Yemen is the poorest country in the Middle East and is ranked 154 (out of 187) on the 2014 Human Development Report; UNDP, *Human Development Report 2014 - Human Development Indicators – Yemen*, accessed 1 April 2015, <http://hdr.undp.org/en/countries/profiles/YEM>.

<sup>19</sup> Some 10.6 million Yemenis are unable to meet their food needs, including five million who are severely food insecure. Yemen's malnutrition levels are among the world's highest. An estimated 1.6 million people are suffering from acute malnutrition in late 2014, including 850,000 children, of whom 160,000 are severely acutely malnourished; UN OCHA, *2015 Humanitarian Needs Overview Yemen*, December 2014, p. 11, [http://www.humanitarianresponse.info/system/files/documents/files/2015\\_HNO\\_Yemen\\_Final\\_0.pdf](http://www.humanitarianresponse.info/system/files/documents/files/2015_HNO_Yemen_Final_0.pdf).

<sup>20</sup> According to the 2015 Humanitarian Needs Overview, 15.9 million people in Yemen (61 percent of the population) require some form of humanitarian assistance in 2015. This represents an eight percent increase compared to 2014; UN OCHA, *2015 Humanitarian Needs Overview Yemen*, December 2014, p. 1, [http://www.humanitarianresponse.info/system/files/documents/files/2015\\_HNO\\_Yemen\\_Final\\_0.pdf](http://www.humanitarianresponse.info/system/files/documents/files/2015_HNO_Yemen_Final_0.pdf).

<sup>21</sup> UNICEF, *Protect children from escalating violence in Yemen, UNICEF appeals*, 31 March 2015, [http://www.unicef.org/media/media\\_81408.html](http://www.unicef.org/media/media_81408.html); ICRC, *Yemen: ICRC calls for unimpeded delivery of medical supplies as heavy conflict persists*, 31 March 2015, <https://www.icrc.org/en/document/yemen-icrc-calls-unimpeded-delivery-medical-supplies-heavy-conflict-persists>; UN OCHA, *Yemen: Humanitarian concerns grow*, 27 March 2015, <http://bit.ly/1CzZT1b>.

<sup>22</sup> UN OCHA, *Yemen: Escalating conflict Situation Report No. 2 (as of 3 April 2015)*, p. 2, [http://reliefweb.int/sites/reliefweb.int/files/resources/OCHA%20Yemen%20Situation%20Report\\_20150403.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/OCHA%20Yemen%20Situation%20Report_20150403.pdf); UN News

services are reportedly struggling to cope with the influx of casualties, including people who have been shot or are suffering from severe burns.<sup>23</sup> According to the Humanitarian Coordinator for Yemen, the “[C]ontinued fighting could have disastrous consequences for the well-being and survival of millions of people who are already deprived of access to basic healthcare, safe drinking water, food, nutrition and protection.” Aid agencies report that humanitarian access has been severely constrained by ongoing clashes and air strikes and the closure of air and sea ports.<sup>24</sup>

8. Conflict and weak rule of law leave many Yemenis in need of protection from rights violations, exploitation and other forms of abuse. Human rights abuses, gender-based violence and violations of child rights are reported to be widespread, particularly in conflict-affected areas.<sup>25</sup> The recent escalation of conflict has further exacerbated protection challenges, including increasing lawlessness, rising levels of trafficking and smuggling, as well as under-age recruitment and participation in hostilities.<sup>26</sup> The UN and ICRC called on all parties to the conflict to observe their obligations under international humanitarian law to protect civilians.<sup>27</sup>

### ***Access to Territory and UNHCR Position on Returns***

9. As the situation in Yemen remains highly fluid and uncertain, UNHCR calls on all countries to allow civilians fleeing Yemen access to their territories. UNHCR further recommends that States suspend forcible returns of nationals or habitual residents of Yemen to the country. The suspension of forcible returns of nationals and habitual residents to Yemen serves as a minimum standard and should not replace international protection for persons found to meet the criteria for refugee status under the 1951 Convention or the broader refugee criteria as contained in relevant regional instruments,<sup>28</sup> or complementary forms of protection.<sup>29</sup> Depending on the individual profile and circumstances of the case, exclusion considerations may need to be looked into.<sup>30</sup> UNHCR’s position will be reviewed as the situation evolves and will be updated as necessary.

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Centre, *Senior UN officials deeply concerned over civilian casualties in wake of recent fighting in Yemen*, 31 March 2015, <http://www.un.org/apps/news/story.asp?NewsID=50464>.

<sup>23</sup> UN OCHA, *Yemen: Escalating conflict - Situation Report No. 1 (as of 31 March 2015)*, p. 3, <http://bit.ly/19CoDf7>; ICRC, *Yemen: ICRC calls for unimpeded delivery of medical supplies as heavy conflict persists*, 31 March 2015, <https://www.icrc.org/en/document/yemen-icrc-calls-unimpeded-delivery-medical-supplies-heavy-conflict-persists>.

<sup>24</sup> UN OCHA, *Yemen: Escalating Conflict, Flash Update 3*, 5 April 2015, p. 1, [http://reliefweb.int/sites/reliefweb.int/files/resources/Flash%20Update\\_20150405.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/Flash%20Update_20150405.pdf); WHO, *Yemen conflict Situation report #1*, 1 April 2015, [http://www.emro.who.int/images/stories/yemen/documents/WHO\\_Yemen\\_sitrep\\_1\\_April\\_2015\\_final.pdf](http://www.emro.who.int/images/stories/yemen/documents/WHO_Yemen_sitrep_1_April_2015_final.pdf); IRIN, *Yemen at War: Lifesaving aid blocked by airstrikes*, 27 March 2015, <http://www.irinnews.org/report/101292/yemen-at-war-lifesaving-aid-blocked-by-airstrikes>.

<sup>25</sup> UN News Centre, *Yemen: closely monitoring ‘critical situation,’ UN rights office urges meaningful dialogue*, 27 February 2015, <http://www.un.org/apps/news/story.asp?NewsID=50199>; UN OCHA, *2015 Humanitarian Needs Overview Yemen*, December 2014, pp. 1, 15-17, [http://www.humanitarianresponse.info/system/files/documents/files/2015\\_HNO\\_Yemen\\_Final\\_0.pdf](http://www.humanitarianresponse.info/system/files/documents/files/2015_HNO_Yemen_Final_0.pdf).

<sup>26</sup> UN OCHA, *Yemen: Escalating conflict - Situation Report No. 1 (as of 31 March 2015)*, pp. 1, 2, 4, <http://bit.ly/19CoDf7>; Office of the Special Representative of the Secretary-General for Children and Armed Conflict, *UN Special Representative for Children and Armed Conflict Condemns Rising Number of Child Casualties*, 31 March 2015, <http://bit.ly/1C7zN1J>.

<sup>27</sup> UN OCHA, *Statement from the Humanitarian Coordinator, Mr. Johannes Van Der Klaauw*, 1 April 2015, <http://shar.es/1gtk4D>; Office of the High Commissioner for Human Rights, *Zeid warns of total collapse in Yemen, calls for urgent protection of civilians*, 31 March 2015, <http://shar.es/1gtxnO>; ICRC, *Yemen: ICRC concerned at civilian casualties amid escalating violence*, 26 March 2015, <https://www.icrc.org/en/document/yemen-icrc-concerned-civilian-casualties-amid-escalating-violence>.

<sup>28</sup> Depending on where persons originating from Yemen seek international protection, regional refugee protection frameworks apply; see *Convention Governing the Specific Aspects of Refugee Problems in Africa* (“OAU Convention”), 10 September 1969, 1001 U.N.T.S. 45, <http://www.unhcr.org/refworld/docid/3ae6b36018.html>, *Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama*, 22 November 1984, <http://www.refworld.org/docid/3ae6b36ec.html>. Unlike the OAU Convention, the Cartagena Declaration is not a binding legal instrument; its provisions acquire the force of law only through incorporation in national legislation.

<sup>29</sup> European Union, *Directive 2011/95/EU of the European Parliament and of the Council on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast)* (“Qualification Directive”), 13 December 2011, <http://www.refworld.org/docid/4f06fa5e2.html>.

<sup>30</sup> UNHCR, *Guidelines on International Protection No. 5: Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees*, 4 September 2003, CR/GIP/03/05, <http://www.unhcr.org/refworld/docid/3f5857684.html>.