



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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COMMITTEE AGAINST TORTURE

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

**Comments by the Government of Yemen to the conclusions and
recommendations of the Committee against Torture**

[Original: Arabic]
[22 August 2005]

Foreword

1. The Government of the Republic of Yemen has received the concluding observations adopted by the Committee against Torture following its consideration at its 583rd and 586th meetings, held at Geneva on 17 and 18 November 2003, of the initial report of Yemen on the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in which the Republic of Yemen outlined the legislative, judicial and administrative measures that it has taken in implementation of the Convention.

2. The Government of Yemen welcomes the distinguished Committee's positive comments about the spirit of constructive cooperation and collaboration which characterized the meetings and interventions made by both sides, together with its acknowledgement of the significant progress which Yemen has made towards strengthening human rights and raising human rights standards.

3. Yemen has the honour to present the distinguished Committee with some clarifications regarding the recommendations contained in paragraph 7 (d) and (f) of the concluding observations issued in accordance with article 19 of Convention.

4. The Government of the Republic of Yemen should like to stress that it is difficult for Yemen, as for many countries, to find a perfect solution to any problem relating to the full enjoyment of human rights. Yemen's laws and legislation on the protection of fundamental human rights are still in the early phases of implementation and, while there is no lack of political support for the promotion and protection of human rights, there are still many real difficulties and obstacles which prevent the Government from achieving a number of human rights goals. These difficulties can be ascribed to economic, cultural and social factors. Yemen is ranked among the least developed countries, owing to the scarcity of economic resources and opportunities at its disposal. The country has furthermore inherited a number of cultural and social problems which only hard work, patience and perseverance can overcome. We look forward, therefore, to increasing our cooperation with you and with the international community in this domain.

5. Finally, the Government of the Republic of Yemen should like to express its profound gratitude to the distinguished members of the Committee for their continuing efforts to improve human rights in all countries in the world.

A. Paragraph 7 (d) of the concluding observations recommending that Yemen: "Take all appropriate measures to abolish de facto incommunicado detention"

Clarification

6. Yemeni law defines imprisonment as: "The act of restricting a convicted person's right to liberty for a specific period of time by placing that person in a penal institution for the duration of his sentence" (article 39 of the Penal Code). The Yemeni legislature vests the competent courts with the power to impose a prison sentence on any person who is convicted of an offence. No one may be imprisoned other than pursuant to a binding court judgement which, by law, must be enforced by the Department of Public Prosecutions.

7. Yemeni law has amalgamated the various penalties of deprivation of liberty into the single penalty of imprisonment in order to protect prisoners against torture and degrading and inhuman treatment and to achieve the main objective of the penalty, which is to reform and rehabilitate the offender.

8. A number of principles and norms have been incorporated into the Constitution and the law in order to guarantee prisoners humane and decent treatment. For example, article 48 (b) of the Constitution stipulates: “The dignity of anyone who is deprived of his liberty shall be safeguarded. The infliction of physical or mental torture is prohibited by law, as is the use of force to extract a confession during questioning.” The Prisons Act No. 48 of 1991 and its implementing regulation No. 221 of 1991 vest the authorities with responsibility for reforming, re-educating, rehabilitating and reintegrating prisoners into society, using a full range of educational methods and approaches, and for creating in prisoners a desire to lead an honest life as upstanding members of society (article 3 of the Prisons Act).

9. According to article 4 of the Prisons Act, the Department of Prisons is responsible for re-educating prisoners and for inculcating in them a love of work and a law-abiding spirit. It is not permissible to cause physical or mental harm to prisoners serving their sentences. Article 32 of the Act stipulates that prisons must set aside a designated area, known as the reception centre, to receive prisoners arriving at the prison and to sort them into categories in accordance with the following principles:

- (a) Prisoners entering prison for the first time must be kept separate from those with prior convictions;
- (b) Prisoners who have committed serious crimes must be kept in separate quarters;
- (c) Foreign prisoners must be kept separate from Yemeni prisoners;
- (d) Juveniles must be kept separate from adults;
- (e) Female prisoners must be kept separate from male prisoners.

10. In accordance with this system of categorization, article 4 of the implementing regulation stipulates that prison governors must ensure that prisoners are properly protected and must sort them into categories in accordance with the law.

11. The Penal Code defines solitary confinement as a measure used for the disciplining of prisoners. The Code authorizes prison governors to discipline any prisoner who breaches prison rules and regulations that were issued in accordance with the Code and its implementing regulation. Disciplinary measures include solitary confinement for a period of up to two weeks (article 34 of the Prisons Act). However, the prisoner retains the right not to be subjected to the punishment until he has had a chance to defend himself and until evidence that he committed the infraction has been produced. The punishment must be recorded in the official register of punishments (article 76 of the implementing regulation).

12. For their part, oversight bodies conduct regular and surprise inspections of prisons and remand and detention centres and do whatever is necessary to bring anyone who infringes the law to justice and to hold them legally responsible for their actions.

13. The Department of Public Prosecutions has overall responsibility for overseeing and inspecting prisons in order to verify that the penal process is used only against persons who have actually been convicted of an offence and that no one is being held in prison illegally. Article 192 of the Code of Criminal Procedures stipulates that each officer of the Department of Public Prosecutions must visit the penal institutions within his jurisdiction and must make sure that no one is being detained there illegally. The officers may examine prison logbooks and arrest and detention orders and take copies of them. They may talk to any prisoner and listen to any complaints that he may have. The governors of such institutions must provide officers with every assistance in procuring the information which they require.

14. The Government of the Republic of Yemen, out of a desire to protect prisoners' rights, including against illegal incommunicado detention, promulgated Decree No. 91 of 1995, providing for the establishment of a central prosecutor's office for prisons in every governorate, to carry out the tasks and functions required of it by law. These tasks include, in particular:

- (a) Overseeing and monitoring prisons to ensure that the judgements, decisions and orders issued by the courts and the Department of Public Prosecutions with regard to prisoners are properly enforced;
- (b) Putting a halt to infringements committed by prison authorities, or by any other bodies, under the Prisons Act and its implementing regulations;
- (c) Listening to and receiving prisoners' complaints; investigating complaints of a serious nature; and taking decisions thereon in accordance with the law.

15. The law grants anyone whose rights are violated in prison the right to file a complaint about his or her treatment. This is guaranteed under article 193 of the Code of Criminal Procedures, which states that anyone who is deprived of his liberty is entitled to complain at any time, either in writing or orally, to the governor of the penal institution and to ask him to refer the complaint to the Department of Public Prosecutions. The person receiving the complaint must accept it and pass it on immediately to the Department of Public Prosecutions, after registering it in the register of complaints.

16. One of the most significant steps which the Government has taken in this domain was the adoption of a presidential decree establishing a special committee to oversee conditions in prison in general and to carry out field visits to prisons throughout the country in order to examine the state of prisons and prisoners at first hand and to recommend effective ways of improving conditions in prisons, a task requiring a huge injection of cash. Of equal importance was the President's decision to establish a higher committee for mental health. In accordance with the committee's mandate, existing psychiatric wards in prisons were closed down and work was begun on the construction of psychiatric clinics operating independently of prisons. In that connection, the Government and a number of international and local organizations have run

several training courses for prison officials in a number of governorates in order to raise their awareness of human rights and improve the way that prisons are run.

17. The Ministry of Human Rights regularly organizes scheduled visits to prisons in the governorates in order to see at first-hand the environment in which prisoners are held, to gain a better understanding of their living conditions, and to examine the state of the prisons and prisoners. Senior Ministry officials and the competent team visit correctional facilities and reformatories and social welfare homes in order to check up on the health and living conditions of inmates, to make sure that no one is being held there illegally, to prepare the ground for the reform of conditions in such institutions, and to offer legal remedies to any prisoner who is placed in solitary confinement illegally or who is kept in solitary confinement beyond the maximum period permitted by law.

18. This year and last, the Ministry conducted a number of field visits to prisons in various parts of the country in order to:

- (a) Examine the state of prisons and prisoners in the governorates of Amran, Hadramaut, Dhamar and Baida’;
- (b) Examine the state of prisons and prisoners in the governorates of Sana`a, Aden, Ta`izz, Hadida, Dhamar, Ibb, Lahj, Abyan and Dali`;
- (c) Examine the state of prisons and prisoners in the districts surrounding the capital; and to
- (d) Visit the municipal offenders’ home. The following are some of the results produced by these visits:
 - (i) A detailed report on prison conditions, prisoners and cases requiring assistance was compiled and submitted to the Council of Ministers, which issued a decree ordering the competent authorities to implement the recommendations that the team had made on ways of improving the poor conditions which it had found;
 - (ii) The results were communicated to the Department of Prisons, the Ministry of the Interior, the Office of the Public Prosecutor, the Ministry of Justice, the Ministry of Technical and Vocational Education, the Ministry of Public Health and Housing, and the Ministry of Foreign Affairs for action in accordance with their respective areas of competence.

**B. Paragraph 7 (f) of the concluding observations recommending that Yemen:
“Ensure that all counter-terrorism measures taken are in full conformity with the
Convention”**

Clarification

19. The events of 11 September 2001 represented a setback for human rights. Yemen had already been the theatre of terrorist operations and several criminal incidents. These included the

blowing up of a United States destroyer and a French oil tanker, the Limburg, as well as bombings in Sana`a and Aden, which had badly damaged stability, security and public order and had harmed the country's reputation and development, as well as overall investment in tourism.

Counter-terrorism measures

20. The clear policy on counter-terrorism which the Republic of Yemen pursues in cooperation with the international community has been a marked success. Mobilization of the nation in the fight against this dangerous phenomenon has been absolutely vital to ensuring that everyone places the higher national interest above any other consideration and helps the Government to fight terrorism. The Republic of Yemen, in its capacity as a partner in the fight against terrorism, has taken a number of steps to eradicate terrorism, while having due regard for the implementation of Yemen's laws, since the Government understands that the fight against terrorism cannot be allowed to ride roughshod over the law and the human rights which the law guarantees. These measures include:

- (a) The launching of the idea of holding ideological discussions with persons who have been led into error and the release of those who give an undertaking to abide by the law

21. A committee was formed to organize ideological discussions with persons imprisoned on account of their involvement in terrorist offences or those who mistakenly believe that the commission of terrorist offences is a form of *Jihad*. Some of the participants had been found in possession of plans for terrorist operations which were aborted before they could be carried out. Four rounds of discussions have been held; the first in early 2002. The committee succeeded in persuading 353 young men who had returned from Afghanistan that they were in error and that they had misunderstood the precepts of Islam. A number of those who gave an undertaking to abide by the law were set at liberty. They had not committed any offences or acts which are punishable by law. This process was launched at the behest of the President of the Republic and based on the results obtained by the committee of Islamic law scholars in their discussions with prisoners who had been led astray by extremist ideas.

Results of the work done by the committee responsible for organizing ideological discussions

22. The persons concerned have repudiated all forms of violence, extremism and terrorism, have submitted to the authorities and have pledged to abide by the Constitution and prevailing laws, including the Political Parties and Organizations Act;

23. They have also pledged to: uphold security and stability; to refrain from doing anything that undermines Yemen's security and independence; to respect the rights of others, including their physical integrity, property and honour; to do nothing to attack or harm the interests of States with which the Republic of Yemen has concluded treaties, for so long as the treaties remain in force; and to consider the fact that the Yemeni authorities authorize a person to enter the country as a commitment to protecting that person's safety until such time as authorization is

revoked by legal order of the competent authorities, since a person whose safety is guaranteed by the State cannot be harmed;

24. A door has been opened to these young men and others. They have been given a chance to live in safety, to enjoy all their rights and freedoms, and to rectify the misconceptions which some had about Islam, misconceptions which pose a threat to Islam and to Muslims that is every bit as dangerous as the schemes and plots which some of these young people hatch;

25. The bloody conflict between these young men and the security authorities has -been defused, security and stability have prevailed, and a large number of those who took part in the discussions have been set at liberty.

The prosecution of all persons involved in terrorist cases

26. All persons involved in terrorist cases have been brought to justice and have received a fair trial affording all the guarantees set out in the Constitution and laws of Yemen. These guarantees include:

- (a) Giving prisoners the opportunity to receive visits from family and relatives. The International Committee of the Red Cross was permitted to visit and talk to the prisoners;
- (b) Holding trials only in the presence of counsel and according defendants full guarantees during the examination and trial stages;
- (c) Granting persons who are set at liberty the right to file a complaint about any ill-treatment that occurred during their time in prison.

27. The competent criminal court began trying the defendants in the terrorism cases and bombings which had occurred in various parts of Yemen.

28. On 29 September 2004, the court convicted six persons of blowing up a United States destroyer (the USS Cole) docked in the port of Aden and of forming an armed group for the purpose of disrupting security. It also ordered the confiscation of the material seized in the case and gave the defence half of one month to appeal. On 29 August 2004, the same court had convicted 10 persons of conspiracy to blow up a French vessel (the Limburg) and of committing other terrorist offences.

Adoption of laws and ratification of counter-terrorism conventions

29. In addition to the measures which the Government of the Republic of Yemen has taken to combat terrorism and to meet the direct and indirect challenges which the phenomenon poses, the Government has taken or will take the following measures:

- (a) It sponsored the Suppression of Money-Laundering Act No. 35 of 2003, comprising 24 articles set out in eight separate chapters;

- (b) It has submitted a new bill on the possession of firearms for adoption by the Chamber of Deputies.

30. In addition to the foregoing, our country, like many other Arab States, has taken steps to implement the decisions and conventions which Arab Governments have adopted on the subject of counter-terrorism, including:

- (a) Decision No. 275 concerning the standards of conduct of States members of the Council of Arab Ministers of the Interior, adopted at Tunis in 1996;
- (b) The Arab Counter-Terrorism Strategy adopted at Tunis in 1997;
- (c) The Arab Convention for the Suppression of Terrorism adopted by the Council of Arab Ministers of the Interior and of Justice at Cairo in April 1998.

31. Yemen has also ratified a number of international counter-terrorism treaties and conventions, which are listed in the following table:

| Item | Convention | Date of Yemen's accession |
|------|--|---------------------------|
| 1 | International Convention for the Suppression of Terrorist Bombing | 23 April 2001 |
| 2 | International Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation | 30 June 2002 |
| 3 | Protocol for the Suppression of Unlawful Acts against the Safety of Platforms Located on the Continental Shelf | 30 June 2002 |
| 4 | International Convention against the Taking of Hostages | 14 July 2000 |
| 5 | International Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons | 9 February 1987 |
| 6 | International Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal Convention) | 29 September 1986 |
| 7 | International Convention for the Suppression of Unlawful Seizure of Aircraft | 29 September 1986 |
| 8 | Convention on Offences and Certain Other Acts Committed On Board Aircraft (Tokyo Convention) | 26 September 1986 |

Disseminating a culture of tolerance and dealing with the root causes of extremism

32. The Government has conducted a review of media, cultural and religious discourse as found in the press and in information and educational sources. At the beginning of the 2001/02 academic year, the Ministry of Education amalgamated basic and secondary education,

incorporating religious instruction, which used to be provided by Islamic schools operating in parallel with general education institutions and enjoying administrative and financial independence from the Ministry of Education. This step will help to consolidate efforts and resources and will make for better investment of available resources.

Human rights in the context of the fight against terrorism

33. There is no doubt that the Government's counter-terrorism campaign does create many problems and difficulties which have a direct and an indirect impact on human rights. Yemen does not claim that human rights are always fully respected, nor that the human rights situation has not changed since the events of 11 September, not just in Yemen, but throughout the world, even in States where great progress had been made on the human rights front. On the contrary, institutional, economic and social conditions in Yemen to some extent make it more difficult to ensure the proper implementation of human rights and human freedoms. Yemen is perfectly aware of this and works through State institutions, the three powers of government, civil society institutions and the international community to find solutions to particular social and institutional difficulties with a view to disseminating a culture of human rights and strengthening the role of oversight and judicial institutions to enable them to play their role in the proper implementation of laws and regulations which protect and safeguard human rights.

34. There can be no better testament to the seriousness with which the State oversight authorities take the realization of human rights than the fact that a parliamentary committee has been set up to monitor treatment of prisoners involved in terrorist cases and has produced an impartial and independent report on its findings.

35. With a view to guaranteeing transparency in its dealings with persons being held for terrorist offences, the State has opened its doors to the local and international organizations concerned with such cases, including the International Committee of the Red Cross and Amnesty International and has given them an opportunity to meet senior State and security officials and to enter detention facilities in order to interview detainees. It has taken other steps which underscore the Government's commitment to working effectively with the international community, in order to consolidate and disseminate human rights values and principles on a wide scale, and to working with, and drawing on the experience and expertise of, all local and international human rights organizations in order to achieve the goal of promoting human rights.

36. Overall, we can say that the State's security efforts to combat terrorism have not inflicted any direct or serious damage on the human rights situation in Yemen in terms of prompting systematic or ongoing violations of human rights. Action is taken on any human rights violations or infringements that do occur and the perpetrators are brought to justice.
