



**International covenant
on civil and
political rights**

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HUMAN RIGHTS COMMITTEE

Eighty-fourth session

SUMMARY RECORD OF THE 2284th MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 12 July 2005, at 3 p.m.

Chairperson: Ms. CHANET

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 40 OF THE COVENANT AND OF COUNTRY SITUATIONS (continued)

Fourth periodic report of Yemen (continued)

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The meeting was called to order at 3.35 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 40 OF THE COVENANT AND OF COUNTRY SITUATIONS
(agenda item 6) (continued)

Fourth periodic report of Yemen (continued) (CCPR/C/YEM/2004/4;
CCPR/C/84/L/YEM; HRI/CORE/1/Add.115)

1. At the invitation of the Chairperson, the members of the delegation of Yemen resumed their places at the Committee table.
2. The CHAIRPERSON expressed regret at the need to delay the beginning of the meeting, which had been due to the late request for Arabic interpreters.
3. Mr. KHALIL welcomed the information provided by the delegation on the case of a senior law enforcement officer who had been sentenced to 10 years' imprisonment for torture. The statistics provided in paragraph 178 of the fourth periodic report (CCPR/C/YEM/2004/4) were, however, of great concern. Given the high number of cases of torture, he would appreciate additional information on other convictions. It would be useful to learn whether such sanctions had deterred law enforcement officers from using torture or other cruel, inhuman or degrading treatment on suspects.
4. He reiterated that no exceptional circumstances could be invoked as a justification for the serious negative effects of the campaign against terrorism on the human rights situation in Yemen, which concerned both Yemeni nationals and foreigners. The Yemeni authorities were doubtless aware that the implementation of Security Council resolution 1373 (2001) did not absolve States parties from fully respecting their obligations under the Covenant. It would be useful to have a full account of the composition of the parliamentary committee established to monitor the situation of persons detained on terrorism charges, and the results of its work.
5. The reporting State should also comment on recent reports that about 1,500 members of an organization called the "Young Believers" had been arrested, and that their detention was expected to exceed the maximum period stipulated by Yemeni law.
6. The Committee had been relieved to learn of the release from detention of Layla Radman A'esh. The Committee's information on her case had come from a report of the Special Rapporteur on violence against women, its causes and consequences (E/CN.4/2003/75/Add.2, para. 234).
7. He emphasized the Committee's concern at the continuing use of corporal punishment, as outlined in the concluding observations on Yemen's third periodic report (CCPR/CO/75/YEM). Punishments such as amputation were not in accordance with the provisions of the Covenant.
8. Further details on the rules of the law of ancestors should be provided, particularly regarding their impact on women's rights, and on the exact status of customary laws in the modern legal system.

9. Mr. KÄLIN commended the State party for allowing full ordinary appeals and further appeals to the Supreme Court in cases involving terrorist activities.
10. While significant progress had been made regarding children's rights, a report in the Yemen Observer newspaper allegedly quoted the Attorney-General as saying that the detention of juveniles in adult prisons was a problem. It would be interesting to hear the delegation's response to that report.
11. With reference to the killing by security forces of demonstrators against the war in Iraq on 21 March 2003, an 11-year-old boy had reportedly been among the victims. Additional information should be provided on whether an investigation into that death had been concluded, and if so, what the results had been.
12. While the reform of the Press and Publications Act was to be commended, a Yemeni journalists' union had expressed concern about the draft legislation, which allegedly contained many restrictions on media freedom. The reporting State should be more specific about the content of the draft legislation, and indicate whether that law would introduce new obstacles to freedom of the press.
13. Mr. BHAGWATI requested additional information on the current status of the judicial reform that had begun in 1997. It would be useful to learn how judges were appointed, what steps the Government had taken to establish more courts, and what provision had been made for training judges in human rights.
14. The reporting State should indicate how many cases of misconduct by members of the judiciary had been investigated under the Judicial Authority Act, which authority conducted those investigations, and what their outcome had been. It was unclear why 108 judges had been forced to retire. Additional information should be given on the provisions concerning security of tenure for judges, particularly in the light of the alleged dismissal of 20 judges under a judicial accountability provision. The State party should clarify whether members of the armed forces held positions in the court system.
15. Mr. GLÈLÈ AHANHANZO asked how the Government ensured that legal aid was provided to Yemenis, given that many people lived in poverty and were illiterate.
16. He requested additional information on the religious composition of the population. The State party should indicate what steps had been taken to implement the right to change religion since 2002. It would be useful to learn how agnostics were treated. He asked why the people belonging to the "Young Believers" had been arrested, whether their arrest had been in accordance with article 18 of the Covenant, and whether there was true freedom to practise one's religion in Yemen.
17. Mr. SOLARI YRIGOYEN commended the reporting State for the progress it had made in implementing the rights enshrined in the Covenant since consideration of its third periodic report in 2002. Areas that were still of particular concern included religious freedom, the apparent attempts to justify polygamy in the fourth periodic report, the fact that polygamy had not been abolished, and the lack of gender equality. In relation to article 18 of the Covenant on

the right to freedom of thought, conscience and religion, he wished to know whether Yemeni citizens had the right to become conscientious objectors, given that military service was obligatory. If so, information on the regulation of conscientious objection would be welcome.

18. Mr. O'FLAHERTY asked for statistics on the incidence of corporal punishment and on the forms that corporal punishment might take. He also requested disaggregated statistics on the application of corporal punishment in the case of juveniles. According to a translation he had received, article 243 of the Penal Code read: "A punishment identical to the crime itself shall be inflicted on anyone who commits an assault of any kind against another person, causing him to suffer permanent physical disability by breaking one of his joints, plucking out an eye, amputating an ear, or inflicting a measurable bodily wound." On the understanding that the translation was accurate, he would welcome information on the practical application of that provision of the Code.

19. Sir Nigel RODLEY said he failed to understand how the delegation had not known to which case question 17 of the list of issues referred. The name of the woman, who had been the subject of an appeal by the Special Rapporteur on violence against women and the Special Rapporteur on extrajudicial, summary or arbitrary executions, was Naji Hizam Abdullah.

20. He reiterated the Committee's concern at the apparent lack of guarantees in the legal system for people detained by the Political Security forces. The interrelationship between the circumvention of normal legal procedure and the possible abuses in political cases had been illustrated in the case of Fuad Ali Mohsin Al-Shahari, who had been sentenced to death. He had been convicted of murdering a Political Security officer on the basis of a confession allegedly made under torture while being held incommunicado for one month. The reporting State should indicate the current status of that case, and comment on the apparent ability of the Political Security forces to detain people at will and with impunity.

21. He asked what guarantees the State party obtained when sending people back to countries that had a record of using torture, and what measures had been put in place to ensure that those guarantees were honoured.

22. Mr. AMOR enquired whether there was an independent body responsible for investigating human rights abuses by the police or security forces, and whether an institution akin to an ombudsman's office existed to handle complaints of human rights abuses at all levels of administration.

23. The CHAIRPERSON invited the delegation to reply to the Committee's questions.

24. Mr. ALYOUSOUFI (Yemen) stressed that, in accordance with article 149 of the Constitution, the judiciary was completely independent and it was illegal for any individual or body, including the Government, to interfere in the judicial process. The judicial system was self-disciplining and regulated pursuant to the Judicial Authority Act and the Judicial Administration Act. There was also a military court system, where military judges heard cases involving military personnel.

25. Victims of human rights abuses were free to file complaints with an investigating magistrate, who was fully empowered to investigate them. In cases involving the police, possible sanctions against police officers who abused their authority ranged from administrative sanctions such as demotion to trial in the regular court system. Complaints could also be made against judges and against agents of the Government and the administration. Complaints against the administration were handled by the Ministry of Justice at the level of the court of first instance.

26. With regard to the case of Fuad Ali Mohsin Al-Sahani, he confirmed that that individual's death sentence had been upheld by the Supreme Court but had not been carried out, pending review by the President. As to the 20 judges who had been required to retire, he said that they had been removed from their positions by the Supreme Judicial Accountability Council for unacceptable behaviour; they had therefore been disciplined by their peers. The 10 retired judges who had been referred to by the Committee had simply reached the mandatory retirement age of 65.

27. In response to questions about the independence of the judiciary and judges' security of tenure, he reiterated that the judiciary was self-disciplining and no outside interference was allowed in the judicial process. Judges need fear no sort of punishment or sanction by the administration if their decisions were not to the latter's liking. In any case, court decisions could be appealed by both the defendant and the prosecution. Judges studied for three years at the Higher Institute of Judicial Administration, following which they could choose to be appointed either assistant magistrates or assistant prosecutors; they were trained in sharia and ordinary law.

28. With regard to juvenile detention centres, he said that there was no real problem in the area of the capital, where there were five centres. Juveniles who were simply in pre-trial detention pending questioning were held separately and considered innocent until proven guilty. No one could be held or charged unless they were believed to have committed an offence punishable under the law. He stressed his Government's commitment to continuing to take due account of the Committee's concerns with a view to improving the situation, within the limits of its resources.

29. The Penal Code did provide for legal aid; the Ministry of Justice had a committee which allocated funds for that purpose, the bar association was likewise required to provide legal aid services and a judge could appoint a lawyer to act as counsel for an accused. The 5-year judicial reform plan had recently been extended to 15 years. He acknowledged that some 80 per cent of the plan's objectives had not yet been achieved but efforts to improve the judicial system, such as the creation of national databanks for the use of judges, would continue. A conference of judges from all levels of the court system had recently been held to discuss judicial reform, and its recommendations would be implemented to the fullest extent possible given the resources available.

30. Mr. MAHDI (Yemen), replying to questions about the detention of members of the "Young Believers", said the figure of 1,500 was excessive. He stressed that it was State policy to act decisively in cases involving crimes such as the use or carrying of weapons. For those who had not been carrying weapons but had been disseminating unacceptable ideas or information, the policy was to talk to and counsel the individuals involved and then release them on condition that they did not repeat those activities.

31. As to complaints concerning the draft press law, he pointed out that that law was still in the drafting stage and it was too early to be alarmist; its provisions were under discussion and journalists, the public and other experts were being consulted. Once finalized, the draft would be reviewed by members of parliament from all parties and then by the Council of Ministers before being submitted to the lower house of parliament.

32. Mr. KAHTAN (Yemen) said his Government was endeavouring to limit human rights abuses in the context of the fight against terrorism and to achieve a balance between human rights and the need to combat terror; human rights organizations played a useful watchdog role in that context. Parliament and parliamentary committees, in cooperation with NGOs, were making progress towards strengthening human rights protection by ensuring that human rights complaints were referred to the appropriate authorities and improving conditions of detention. Rehabilitation programmes in prisons were being strengthened and financial assistance was being provided to victims and NGOs.

33. There might be some confusion about the report concerning two women convicted of adultery and sentenced to flogging and death by stoning. He believed that the two sentences concerned one woman only. As to the newspaper article which quoted the Attorney-General on the need for increased resources for detention centres for juveniles, that article should be viewed as a sign of transparency on the part of the Government. If abuses occurred, to some extent they were the result of limited resources; he stressed that the Attorney-General was committed to protecting human rights and ensuring decent conditions of detention for all.

34. It was regrettable that four civilians, including a child, had been killed during the demonstrations against the Iraq war; the killing of the child had of course been an accident. All such incidents were investigated and, in the case of wrongdoing, those responsible were held accountable and subject to disciplinary measures or even criminal proceedings. Ownership of weapons was very common in Yemen and at times the police, in order to protect society, had to act decisively, although their actions must of course be appropriate and proportional.

35. With regard to freedom of religion, he stressed that, in accordance with the sharia, the Yemeni authorities respected the rights of others and ensured freedom of religion. Problems arose only when a Muslim attempted to convert to another religion, which was forbidden by the Constitution. It was regrettable that his Government had not made a reservation to the Covenant in that regard at the time of ratification. In fact, the only such case he was aware of had involved a Somali who had been sent to another country, which had accepted him, and who, in the opinion of most observers, had not in any case been a truly observant Muslim.

36. Mr. ALYOUSOUFI (Yemen) informed the Committee that, according to his information, Naji Hizam Abdullah had been released and was no longer in custody.

37. The CHAIRPERSON commended the delegation for having submitted its very comprehensive report on time and for its detailed answers to the questions asked by Committee members. She regretted, however, that little progress seemed to have been made in the three years since the submission of the previous report; the Committee's concluding observations and recommendations had not been addressed and the State party persisted in trying to justify its position, based particularly on the specific character of its religion and domestic legislation.

The delegation might regret the lack of a reservation to the Covenant in that regard but the fact remained that in the absence of a reservation, even assuming that such a reservation would be compatible with the Covenant, the State party had an obligation to fully implement the Covenant.

38. The Committee still had grave concerns in many areas where there were clear violations of the Covenant. Women were denied equal treatment with men in society, including in the areas of marriage and inheritance rights, and were subjected to discriminatory practices such as polygamy, honour crimes and genital mutilation. Although attempts had been made to control the latter through domestic legislation, it was the responsibility of the State party to ensure that the legislation was enforced and that the practice was truly eliminated everywhere.

39. The large number of crimes carrying the death penalty continued to be a source of concern and she wondered how in some cases it was possible for the accused to negotiate and/or purchase a lifting of the sentence. The Covenant allowed no exceptions to freedom of religion, including the right to change religions, or to the right of freedom of expression; with regard to the latter, the draft press law must not include any disproportionate restrictive provision.

40. Mr. KAHTAN (Yemen) thanked the Committee for a most fruitful dialogue. He reaffirmed his Government's commitment to continuing collaboration with the Committee with a view to improving the human rights situation in Yemen in accordance with its international obligations.

41. The delegation of Yemen withdrew.

The discussion covered in the summary record ended at 5.05 p.m.