



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

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COMMITTEE AGAINST TORTURE
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**List of issues to be considered during the examination of
the second periodic report of YEMEN (CAT/C/YEM/2)**

Articles 1 and 4

1. Please inform the Committee of any steps taken by the State party to adopt a comprehensive definition of torture which covers all elements as contained in article 1 of the Convention, and to amend domestic penal law accordingly, as recommended by the Committee in its previous concluding observations (CAT/C/CR/31/4, para. 6(a)).
2. Please provide detailed information on current criminal provisions concerning offences such as attempted acts of torture, instigation or consent of torture or the order to commit torture by a person in authority and the exact penalties imposed for any of these offences. Please provide information on the number and the nature of the cases, including geographical location of the offences prosecuted, in which those legal provisions were applied as well as on the penalties imposed or the reasons for acquittal.

Article 2

3. The report includes information on the main legal guarantees for persons in detention (para. 199). Please describe further how the basic legal safeguards for detained persons (including prompt access to defence counsel and medical examination and the right to inform a relative), are implemented in the State party from the outset of their detention. Please provide information on any restrictions that may be imposed on these rights, including in the context of the fight against terrorism. The report states that “persons in pre-trial detention may meet with their relatives and lawyers, provided they obtain written authorization from the body/entity that issued the detention order”. What are the requirements to obtain such a written authorization and under which conditions could such authorization be refused?
4. According to paragraphs 100-120 of the report, a legal analysis of Yemen’s criminal justice system was carried out in 2007-2008 and an analytical paper was produced describing the existing situation with respect to the observance of human rights under its criminal law, including in connection with the Convention. Has the committee established by Prime

Ministerial order No. 69 of 2008 to review the recommendations of the analysis finalized its work and if so, what is the outcome of its deliberations? (para.128). Furthermore, please elaborate on steps already taken or envisaged by the State party to address the loopholes and problems identified in the analysis and to implement the recommendations.

5. Please inform the Committee of measures undertaken to address the concerns expressed in its previous concluding observations para. 6(c)) regarding reports of the frequent practice of incommunicado detention by Political Security Department officials, including occurrences of mass arrests and detention for prolonged periods without judicial process. In this respect, please comment on reports before the Committee, including in conjunction with the events in the region of Saada in January 2007, indicating that many government opponents, including human rights defenders and journalists, have been subjected to arbitrary detention and arrests, that incommunicado detentions lasting anywhere from several days to several months are common and that detainees have been denied access to lawyers, as well as denied the opportunity to challenge the legality of their detention before a court.

6. Please explain the position of the Department of Political Security within the Government structure and clarify which Ministry/authority is monitoring its activities. What are the Department's powers of arrest and detention? Are persons detained by the Political Security Department systematically registered and is there a central registry of detainees in place? What steps are being taken by the State party to counter incommunicado detention in centres under the control of this Department and to ensure that detainees placed in these centres are under the protection of the law and that they can complain to an independent body?

7. Please provide more information on the content of the refugee bill that is being drafted by a special technical committee in accordance with Prime Ministerial Decision No. 46 of 2004 (para. 52(f) of the report).

8. Please provide further information on measures in place to fully ensure the independence of the judiciary in the performance of their duties in conformity with international standards, notably the Basic Principles on the Independence of the Judiciary. Please provide details on the procedure for the appointment of judges, the duration of their mandate, the constitutional or legislative rules governing their irremovability and the way in which they may be dismissed from office. Paragraph 64 of the report states that "thirty-four women judges and members of the Department of Public Prosecutions were assigned to different courts and prosecutor's offices". Please elaborate on measures undertaken to increase the number of female judges and prosecutors and explain if female judges can serve and address the same jurisdiction as male judges.

9. Please provide information on the content and implementation of the National Strategy for the modernization and development of the judiciary (2005-2015) (para. 65 of the report). In this respect, please inform the Committee if a coordination mechanism with the Ministry of Justice to contribute to the modernization and development of the judiciary (para. 74) has been established?

10. Please inform the Committee whether legislation prohibiting torture and cruel, inhuman and degrading treatment contains specific provisions regarding gender-based breaches of the

Convention, including sexual violence. Please also describe all, if any, effective measures taken to monitor the occurrence of and to prevent such acts, and please provide data, disaggregated by sex, age and ethnicity of the victims, and information on investigation, prosecution and punishment of perpetrators.

11. Please provide more information on the activities and achievements of the Human Rights Ministry, as well as the human and financial resources allocated to its effective functioning. According to paragraph 155 of the report, the Ministry received a number of complaints and communications in 2007 and 2008 concerning acts of torture committed by law enforcement officers and took steps to deal with them. Please explain how these complaints were dealt with and provide more information on investigations, prosecutions as well as criminal and/or administrative punishments of the perpetrators.

12. Further to the recommendations of the Human Rights Committee (CCPR/CO/84/YEM, para. 7), the Committee on the Elimination of Discrimination against Women (CEDAW/C/YEM/CO/6, para. 49) and the Committee on the Rights of the Child (CRC/C/15/Add.267, para. 21), please indicate if the State party is considering and/or has taken steps towards the establishment of an independent national human rights institution, with a broad mandate to promote and protect human rights, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (General Assembly resolution 48/134 of 20 December 1993, annex). .

13. The State party's follow-up replies refer to institutional, economic and social conditions in Yemen and that such conditions make it more difficult to ensure the proper implementation of human rights and human freedoms (CAT/C/CR/31/4/Add.1, para. 33). Please elaborate on this and explain what steps the State party has taken to address these challenges in order to safeguard and protect human rights.

Article 3

14. In respect of the provisions implementing article 3 of the Convention into domestic law, please clarify who are the competent authorities, what are the existing legal safeguards and the procedures for appeal, including whether these have suspensive effect, regarding the expulsion, return and extradition of persons to another State? Please provide detailed information on all decisions taken in this respect and other return cases relevant to article 3 of the Convention as well as on the criteria for such decisions, including the number of cases, the countries to which persons were returned, and whether there were any cases where return/extradition was refused because of a risk of torture, and if so, to which countries.

15. Please comment on reports of numerous cases of forced return of foreign nationals, including to Egypt and Eritrea, without the individuals concerned being able to oppose it by means of an effective remedy. Please provide information on measures taken by the State party to ensure that these foreign nationals did not run a real risk of being subjected to torture or inhuman or degrading treatment or punishment in the country of destination, or that they would not subsequently be deported to any other country where they might run a real risk of being

subjected to such torture or ill-treatment. Please also inform the Committee of any follow-up measures taken by the State party in respect of these cases.

16. According to information before the Committee, several dozen Yemeni nationals are currently detained at the US base in Guantanamo Bay and bound to be released before the closure of the detention facility. What measures are envisaged with regard to such Guantanamo detainees upon their arrival in the country? Please elaborate on the findings and recommendations of the committee established to begin a dialogue with prisoners who had been detained for involvement in terrorist acts or who had been led to believe that by committing such acts they would be engaging in a form of jihad (para. 206 of the report). What role, if any, is envisaged for this committee in respect of the Guantanamo detainees?

17. Please provide detailed information on whether the State party has engaged or participated in any form in the so-called extraordinary renditions; include in your answer whether any investigation on this issue has taken place by branches of the Government or State agencies. Are there pending cases on this issue? If so, please provide details.

Article 5

18. Please indicate any legislative or other measures taken to implement each provision of article 5 of the Convention. Under the legislation in force, are acts of torture considered universal crimes under national law, wherever they occur and whatever the nationality of the perpetrator or victim? Please provide any relevant examples of any such prosecutions.

Article 10

19. The report provides detailed information on training and awareness-raising programmes for law enforcement personnel (paras. 17-32). However, the report also acknowledges that “the existing training programmes for senior police officers and prison staff on the human rights enshrined in international treaties in general and the Convention against Torture in particular are inadequate” (para. 166(c)). Please explain how the State party intends to ensure adequate and systematic training for law enforcement and other public officials, including on the treatment of detainees and vulnerable groups, and on the measures for the prevention of torture and cruel, inhuman or degrading treatment or punishment. How and by whom are such training and instruction programmes monitored and evaluated? Please clarify to the Committee if gender-sensitive training is conducted?

20. Please provide detailed information on training programmes for judges, prosecutors, forensic doctors and medical personnel dealing with detained persons, to detect and document physical and psychological *sequelae* of torture. Do such programmes include specific training with regard to the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol)?

Article 11

21. Please describe the procedures in place for ensuring compliance with article 11 of the Convention and provide information on any new rules, instructions, methods and practices or

arrangements for custody that may have been introduced. Please also indicate the frequency with which these are reviewed. Please inform the Committee of any rules that would prohibit investigations, visits by international bodies or mechanisms, or other forms of human rights scrutiny?

22. Please provide updated information, including statistics, disaggregated by sex, age and ethnicity, on the number of imprisoned persons and the occupancy rates for the detention facilities for the period 2003-2009.

23. Paragraph 197 of the report refers to the issuance of Decree No. 91 of 1995 which establishes prosecutor's offices in central prisons in the different governorates and that these offices carry out a range of legal tasks and functions, in particular monitoring and overseeing the administration of prisons, eliminating any abuses by prison managers or other parties and listening to, receiving and investigating prisoners' complaints. Please inform the Committee of the total number of such offices and whether they are established in a systematic or ad hoc manner and please provide examples of their activities.

24. Please provide statistics on the number of children in detention, disaggregated by sex, age and ethnicity. In addition, please provide information on the measures taken by the State party to address the concerns expressed by the Committee in its previous concluding observations (para. 6(i)) and by the Committee on the Rights of the Child (paras. 75-77) at the very low minimum age of criminal responsibility (seven years) and at other shortcomings in the juvenile justice system. While noting that age determination is provided for in Yemeni law, please explain how and by whom such determination is conducted? Please also indicate what the situation is at present with regard to the strict separation of persons below 18 years of age from adults in places of detention.

Articles 12 and 13

25. Please provide information on steps taken to address the concerns expressed by the Human Rights Committee regarding reported cases of extrajudicial killings, enforced disappearances, arbitrary arrests, indefinite detention without charge or trial, torture and ill-treatment (para. 13). Please also comment on reports that torture and other ill-treatment in police custody are common and that such violations include beatings whilst blindfolded, long periods with handcuffs squeezed tight, no access to water or food, death threats, etc.

26. Please describe the procedure to be followed in cases of complaints against police and military misconduct. In particular, please describe the steps taken by the State party to ensure that the investigation of complaints is independent, prompt and effective. Does the State party consider establishing an independent police complaints and accountability body? Please provide information, including statistics, on the number of complaints of torture and ill-treatment and results of all the proceedings, both at the penal and disciplinary levels, and their outcomes. This information should be disaggregated by sex, age and ethnicity of the individual bringing the complaint and indicate which authority undertook the investigation.

27. Paragraph 124 of the report refers to a survey carried out by the Ministry of the Interior as part of an integrated security sector development programme designed to reform the police sector and establish a code of conduct for law enforcement officers. Please provide information on the results of this survey and indicate if such a code of conduct has already been adopted and elaborate on its content. If not, please provide an anticipated timeline for its adoption.

28. The report includes a section on “Improving security and stability” (paras. 96-99). Please elaborate on the statement that “...overall, by contrast with previous years, 2005 saw a marked increase in the number of recorded crimes and of cases referred to prosecutor’s offices and courts of first instance; the number of reported crimes rose by over 94 per cent”. Please elaborate on this statement and clarify both the legislation in place and the types of crimes referred to. Furthermore, please provide information on investigations, prosecutions and punishments of the perpetrators.

Article 14

29. Please provide information, if available, on redress and compensation measures ordered by the courts and provided to victims of torture, or their families, since the examination of the last periodic report in 2003. This information should include the number of requests made, the number granted, and the amounts ordered and actually provided in each case. Please indicate how many victims have been compensated despite the perpetrator not being identified. Do investigations into such cases continue until the perpetrator(s) is/are identified and brought to justice?

30. With reference to the Committee’s previous concluding observations (para. 6(g)), please provide information on any existing rehabilitation programmes for victims of torture and provide information on any other steps taken by the State party to ensure medical and psychosocial rehabilitation of the victims.

Article 16

31. In its previous concluding observations (para. 6(b)), the Committee against Torture expressed its concern about the nature of some criminal sanctions, in particular flogging and amputation of limbs. Please comment on reports that courts across the country are imposing sentences of flogging almost daily for alcohol and sexual offences and that such floggings are carried out immediately in public without appeal. Does the State party still apply amputation of limbs as a *hadd* penalty? (paras. 178-189 of the report)

32. Please comment on the new draft legislation in respect of the imposition of the death penalty which, according to information before the Committee, expands the scope of application of the death penalty and weakens the few safeguards currently provided for in the Penal Code, including the opening of the possibility that children between 15 and 18 could be sentenced to death. Please provide precise numbers of persons executed since the consideration of the State party's report in 2003 and indicate for what offence this penalty has been imposed. Have any children been sentenced to death and executed? Please also indicate the current number of persons on death row, disaggregated by sex, age and ethnicity.

33. With reference to paragraph 16 of the State party's follow-up replies (CAT/C/CR/31/4/Add.1), please provide more information on the composition and mandate of the higher committee for mental health, and provide examples of its activities. The follow-up replies also indicate that existing psychiatric wards in prisons have been closed down and that work has begun on the construction of psychiatric clinics operating independently of prisons. Please provide information on the number of such prisoners moved from the former prison psychiatric wards, and their current status, the type of facility they are held in, and the conditions of their housing. Please elaborate on the possibilities of appealing decisions within the mental health-care system and provide statistics on the number of appeals made and the outcome.
34. Please inform the Committee of measures undertaken to address the concerns expressed by the Committee on the Elimination of Discrimination against Women (paras. 42 and 43), notably that prison conditions are not adapted for women, that there are no female guards in female prisons with the exception of the Hajjah detention centre or specific health care for women prisoners, including for pregnant women as well as for their children, that women in detention are frequently harassed, humiliated and ill-treated by male guards, and that female inmates frequently overstay their sentence due to the refusal of their guardian or family to receive them home after their sentences have been completed or they are unable to pay the blood money that has been assessed as payable. Further to article 143 of the Code of Criminal Procedures whereby a female may only be searched by another female and in the presence of two female witnesses (para. 202 of the report), please clarify what the situation is at present with regard to the separation of female and male detainees and the steps taken to ensure that women prisoners are guarded exclusively by female prison staff.
35. According to paragraph 132 of the report, the State party has adopted the Protection against Domestic Violence Act No. 6 of 2008. Please provide more information on the content and implementation of this Act as well as on any other measures undertaken to prevent domestic violence. Please provide statistical data on complaints, prosecutions and sentences in matters of domestic violence and indicate which measures have been adopted to sensitize and train law enforcement personnel and other relevant staff to recognize domestic violence and to ensure that they take preventive measures, as appropriate, and prosecute those responsible.
36. Please provide information on measures adopted by the State party to address the concerns expressed by the Committee on the Elimination of Discrimination against Women (para. 20) in respect of the lack of information on trafficking and smuggling, especially of women and girls, and on the concrete measures adopted to prevent such phenomena, as well as the concerns expressed by the Committee on the Rights of the Child (para. 71) and the Special Rapporteur on trafficking in persons, especially women and children (E/CN.4/2006/62/Add.1, paras. 109-115) about information on large numbers of children being trafficked from Yemen to Saudi Arabia. Please provide updated information on any new legislation and/or measures adopted to prevent and combat sexual trafficking and the so-called "tourist marriages" or "temporary marriages" as a form of sex tourism. Please also provide the relevant statistical data on this issue, especially the number of complaints, investigations, indictments, and convictions relating to trafficking. What measures have been taken to provide assistance to victims, including gender-sensitive training to sensitize law enforcement officials in contact with these victims?

37. Please inform the Committee of the content and status of the Safe Motherhood Law that includes provisions prohibiting any practice that endangers women's health, such as female genital mutilation. Has this Law been adopted and if not, is there a timeline for its adoption?

Other issues

38. The Committee notes that, to date, it has not received a response from the State party to the letter dated 21 April 2006 from the Committee's Rapporteur for follow-up on conclusions and recommendations to Yemen (CAT/C/CR/31/4 and Add.1). Please provide the requested information.

39. Please provide information on the legislative, administrative and other measures undertaken by the State party to respond to the threat of terrorist acts, and please describe if, and how, these measures have affected human rights safeguards in law and practice. In this respect, the Committee would like to recall Security Council resolutions 1456 (2003), 1535 (2004), 1566 (2004), and 1624 (2005) all of which reiterate that States must "ensure that any measure taken to combat terrorism comply with all their obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights, refugee and humanitarian law." Please describe the relevant training given to law enforcement officers, the number and types of convictions under such legislation, the legal remedies available to persons subjected to anti-terrorist measures, whether there are complaints of non-observance of international standards, and the outcome of these complaints. Please confirm that there are no secret detention facilities in the State party.

40. Is the State party considering the ratification of the Optional Protocol to the Convention against Torture? If so, does the State party plan to establish or designate a national mechanism that would conduct periodic visits to places of deprivation of liberty in order to prevent torture and other cruel, inhuman or degrading treatment or punishment?

41. Is the State party considering making the declaration under articles 21 and 22, recognizing the competence of the Committee to receive and consider communications?

42. The Committee's previous concluding observations refer to the stated intention of the State party to ratify the Rome Statute of the International Criminal Court as well as steps taken at the national level in this respect (para. 4(d)). Please indicate if the State party envisages ratifying the Rome Statute and if so, please provide an anticipated timeline for such ratification.
