

# YEMEN

## CAT CAT/C/CR/31/4 (2003)

1. The Committee considered the initial report of Yemen (CAT/C/16/Add.10) at its 583rd and 586th meetings, held on 17 and 18 November 2003 (CAT/C/SR.583 and 586), and adopted the following conclusions and recommendations.

### A. Introduction

2. The Committee welcomes the initial report of Yemen and the opportunity to initiate a dialogue with the State party. It regrets, however, that the report, due on 4 December 1992, was submitted almost 10 years late.

3. The report, which provides extensive information on legal provisions but fails to address in detail the practical implementation of the Convention or difficulties encountered in this regard, does not fully comply with the reporting guidelines of the Committee. The Committee welcomes the readiness of the delegation to engage in a frank and open dialogue.

### B. Positive aspects

4. The Committee welcomes the ongoing efforts of the State party to reform its legal system, revise its legislation and uphold democratic values, in particular:

(a) The establishment of the Human Rights Ministry in 2003 aimed at promoting and ensuring respect for human rights, including consideration of individual complaints;

(b) The permission granted to many non-governmental organizations to operate freely in the country;

(c) The provisions of enacted laws protecting human rights, for example, article 149 of the Constitution; article 6 of the Code of Criminal Procedure No. 3 of 1994; article 21 of the Code of Military Crimes and Penalties, 1998; article 9 of the Police Corps Act No. 15/2000; article 35 of the Penal Code; and the ratification by Act No. 36 of 1983 of the Arab Convention on Judicial Cooperation;

(d) The stated intention of the State party to ratify the Rome Statute of the International Criminal Court and steps taken at the national level in this respect;

(e) The ratification of the major human rights instruments and the incorporation of the provisions of these international treaties into the domestic legal order;

(f) The human rights education and training activities and the State party's openness to international cooperation, as reflected in the agreement concluded with the Office of the High Commissioner for Human Rights;

(g) The assurances received from the delegation that it intends to establish special institutions ("half-way houses") to receive vulnerable women leaving prison;

(h) The access accorded to the International Committee of the Red Cross to persons held by the Political Security Department.

### C. Factors and difficulties impeding the implementation of the Convention

5. The Committee, while aware of the difficulties that the State party faces in its prolonged fight against terrorism, recalls that no exceptional circumstances whatsoever can be invoked as a justification for torture. It stresses in particular that the reactions of the State party to such threats must be compatible with article 2, paragraph 2, of the Convention and within the limits of Security Council resolution 1373 (2001).

### D. Subjects of concern

6. The Committee expresses concern about the following:

(a) The lack of a comprehensive definition of torture in the domestic law as set out in article 1 of the Convention;

(b) The nature of some criminal sanctions, in particular flogging and amputation of limbs, which may be in breach of the Convention;

(c) 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;

(d) The failure in practice to enable detained persons to obtain access to a lawyer, a doctor of their choice or relatives from the outset of their detention;

(e) The apparent failure to investigate promptly, impartially and fully the numerous allegations of torture and breaches of article 16 of the Convention and to prosecute alleged offenders;

(f) Reported cases of deportation of foreigners without the opportunity for them to legally challenge those measures which, if found to be the case, may be in breach of the obligations imposed by article 3 of the Convention;

(g) The failure of the State party to provide detailed information relating to modalities of compensation and rehabilitation of victims of ill-treatment by the State;

(h) The situation of women who have served their prison sentences but who remain in prison for prolonged periods;

(i) The Committee is concerned at the low minimum age of criminal responsibility and at the

detention of child offenders as young as 7 years in specialized hospitals or social protection institutions.

#### E. Recommendations

7. The Committee recommends that the State party:

(a) Adopt a definition of torture which covers all elements of that contained in article 1 of the Convention, and amend domestic penal law accordingly;

(b) Take all appropriate measures to ensure that criminal sanctions are in full conformity with the Convention;

(c) Ensure that all detained persons have immediate access to a doctor and a lawyer, as well as contact with their families, at all stages of detention and that detainees held by the Political Security Department are given prompt access to judges;

(d) Take all appropriate measures to abolish de facto incommunicado detention;

(e) Take immediate steps to ensure that arrests and detentions are carried out under independent and impartial judicial supervision;

(f) Ensure that all counter-terrorism measures taken are in full conformity with the Convention;

(g) Ensure that the expulsion, refoulement or extradition of a person to another State is in compliance with article 3 of the Convention;

(h) Take measures to establish an effective, reliable and independent complaints system to undertake prompt and impartial investigations into allegations of ill-treatment or torture by police and other public officials, and punish the offenders;

(i) Strengthen efforts to reduce any occurrences of torture or other ill-treatment by police and other public officials, and collect data that monitors such acts;

(j) Ensure the right of torture victims to fair and adequate compensation from the State and set up programmes for the physical and psychological rehabilitation of victims;

(k) Continue and expand efforts to establish "half-way homes" for women in order to avoid their remaining in prison beyond the expiration of their sentence;

(l) Review the minimum age of criminal responsibility and ensure that all protective institutions and other places of detention meet international juvenile justice standards, including those of the Convention;

(m) Consider making the declarations under articles 21 and 22 of the Convention and ratifying the

Optional Protocol to the Convention;

(n) Consult closely with the Office of the High Commissioner for Human Rights, the United Nations independent human rights mechanisms and country-based programmes to develop appropriate education and training programmes on, inter alia, the United Nations human rights treaty body reporting processes and programmes aimed at enforcing the prohibition of torture and ill-treatment.

8. The Committee recommends that the next State party report should comply with the reporting guidelines of the Committee and include, inter alia:

(a) Detailed information on the practical implementation of its legislation and the recommendations of the Committee;

(b) Detailed statistical data, disaggregated by crime, geographical location, ethnicity and gender, on complaints relating to torture and ill-treatment allegedly committed by law enforcement officials, as well as related investigations, prosecutions, and penal and disciplinary sentences.

9. The Committee recommends that the State party widely disseminate the reports submitted by Yemen to the Committee and the Committee's conclusions and recommendations, in appropriate languages, through official web sites, the media and non-governmental organizations.

10. The Committee invites the delegation to submit complementary written information regarding the questions raised during the dialogue that remain unanswered.

11. The Committee requests the State party to provide, within one year, information on its response to the Committee's recommendations contained in paragraphs 7 (d) and (f) above.