

YEMEN

CCPR A/45/40 (1990) 9/

39. The Committee considered the initial report of the People's Democratic Republic of Yemen (CCPR/C/50/Add.2) at its 927th and 932nd meetings, held on 25 and 30 October 1989 (CCPR/C/SR.927 and SR.932). The report was introduced by the representative of the State party, who drew attention to his Government's decision, adopted since the report's preparation, to make an overall assessment of the country's economic and political evolution since independence, with a view to the preparation of reforms that would eliminate a number of shortcomings. In that process all of the Committee's comments would be given very serious consideration. A number of measures had already been taken recently to provide sounder guarantees for the human rights of all citizens and to generalize democracy, including the promulgation of a new Electoral Act (Act 9/1989) that provided for election of both local people's councils and the People's Supreme Council by direct universal suffrage. A new Press Law, which would guarantee freedom of expression and opinion, was also receiving active consideration.

40. Members of the Committee congratulated the Government of the People's Democratic Republic of Yemen for having ratified the Covenant so soon after the dramatic events of 1986 as well as for the timely submission of the initial report. This provided a positive indication of the Government's determination to ensure that the effective enjoyment of the rights set out in the Covenant became a reality in the country. While the report contained only scant information about the actual application of the Covenant and about the difficulties encountered by the State in fulfilling its human rights obligations - and therefore did not correspond completely to the Committee's guidelines - it nonetheless provided a useful basis for dialogue.

41. In connection with article 2 of the Covenant, members of the Committee wished to receive additional information concerning the status of the Covenant under domestic law, asking in particular whether it took precedence over other laws; whether it had been incorporated into national legislation; and whether it could be directly invoked by individuals before the courts and, if so, whether it had actually been so invoked and with what results. It was also asked whether the authorities had taken any measures to ensure that the text of the Covenant was disseminated broadly, not merely to the relevant bodies and officials but also among the people at large. Noting that article 35 of the Constitution did not include political or other opinion, sex, colour, property or national origin among the prohibited grounds for discrimination, as provided in article 2 of the Covenant, members wished to know whether such omissions were deliberate and whether this had led to any undesirable consequences. They also wished to receive information about the treatment and status of aliens in the country, particularly in so far as their treatment was different from that of citizens.

^{9/} As at 22 May 1990, the People's Democratic Republic of Yemen and the Yemen Arab Republic merged into a single sovereign State, the Republic of Yemen. The People's Democratic Republic of Yemen had acceded to the International Covenant on Civil and Political

Rights on 9 May 1987. The Yemen Arab Republic was not a party to the Covenant.

42. Members of the Committee also asked whether, pursuant to article 49 of the Constitution, victims of human rights violations, including those persons whose rights were violated during the grave disturbances in January 1986, were able, as a practical matter, to apply to the courts for compensation and the restoration of their rights. Referring to articles 221 and 222 of the Penal Code, it was also questioned whether the penalty of dismissal from office, stipulated therein for abuse of power by a public official, was sufficient punishment in cases where serious offences had been committed.

43. With reference to article 3 of the Covenant, members of the Committee noted that the report dealt only briefly with the question of the equality of the sexes and wished to receive information concerning specific legislative and practical measures that had been taken to ensure such equality in practice.

44. Regarding article 4 of the Covenant, members of the Committee wished to receive additional information on the legislative aspects of a declaration of general mobilization, particularly any legislation that had been adopted by the People's Supreme Council to regulate such a declaration and to ensure that any derogations from obligations under the Covenant were in strict conformity with the provisions of article 4 thereof.

45. In connection with article 6 of the Covenant, members of the Committee wished to know what measures had been taken to prevent the security forces from arbitrarily killing persons; what facilities and procedures had been established to investigate any such acts thoroughly; whether any members of the security forces, the army, or the police had actually been implicated in unlawful homicides and, if so, whether any such instances had been investigated and the perpetrators brought to justice; and whether the Military Penal Code and the Military Code of Penal Procedure had been published. Concerning the death penalty, members were of the view that the number of crimes subject to capital punishment, particularly offences against public property or the national economy, was too high to be consistent with article 6, paragraph 2 of the Covenant. Clarification was also requested of such vaguely defined crimes for which the death penalty could be imposed as offences against "peace, humanity or human rights" or war crimes "motivated by hostility towards the Republic". Specific questions were asked as to whether the death penalty was also applicable to minors under 18 year of age; and whether it was true that the 35 death sentenced imposed during the trials following the events of 1986 had been ratified by the Presidential Council prior to the expiration of the legal period for appeal and that the 11 persons who were actually executed following these trials had not been given an opportunity to see their families or lawyers before the executions took place.

46. With reference to articles 7 and 10 of the Covenant, members of the Committee wished to know whether torture was prohibited by law in all circumstances and not merely "during interrogation"; what procedures had been established for investigating allegations of ill-treatment or the death of detainees; what remedies were available to detainees who were subjected to maltreatment; whether it was true that political prisoners were sometimes maltreated or tortured in certain prisons and

detention centres and had even died as a consequence of such ill-treatment and, if so, whether measures had been taken to prevent such abuses and to bring the perpetrators to justice; and whether it was correct; as alleged by some human rights groups, that the bodies of certain detainees who had died in prison had not been returned to their families and, if so, what the reasons were for the failure to release these bodies to the families.

47. Regarding article 9 of the Covenant, members of the Committee wondered, in view of the provisions contained in article 276, paragraph 1, of the Code of Penal Procedure, whether, contrary to article 9 paragraph 3 of the Covenant, pre-trial detention was not the rule in the People's Democratic Republic of Yemen rather than the exception; and whether resort to lengthy pre-trial detention, extending for as long as six months, was compatible with that same provision of the Covenant. Members also wished to know whether legal proceedings had ever been instituted against public officials for having made arbitrary and illegal arrests; and whether the same provisions of criminal law and criminal procedure were applicable to political and non-political detainees and were applied, in fact, in the same way.

48. In connection with articles 12 and 13 of the Covenant, members of the Committee wished to receive additional information concerning the laws regulating the right to enter and leave the country and the right to emigrate and concerning any restrictions thereon; and about the present situation in respect of travel between the two Yemens.

49. With regard to article 14 of the Covenant, members of the Committee wished to receive additional information concerning legal provisions guaranteeing the independence of the judiciary and of lawyers; the relationship between the Supreme Court and the People's Supreme Council; laws regulating the provision of free legal assistance; and about the powers of the judiciary in cases where arrests had been made on the orders of the Ministry of Interior or the Ministry of Defence. Members also wished to know at what stage of the procedure a detainee was entitled to see a lawyer; how judges were appointed and whether membership in the single party was a prerequisite for appointment; whether the presidents of courts of first instance were elected by local people's councils, as stipulated by the Constitution, or were in fact appointed; whether any judges had been dismissed following the events of 1986 for "betrayal of trust"; and whether the removal of judges was common practice; how the Office of the Public Prosecutor was organized and whether it contained any specific unit charged with investigating human rights violations and initiating proceedings against public officials accused of abusing their power; whether there was any office or public institution with which citizens could lodge complaints alleging the infringement of their rights by the public authorities; and whether the principle of the presumption of innocence was respected and its observance guaranteed in practice.

50. Concerning article 17 of the Covenant, members of the Committee wished to receive additional information about the protection of the right to privacy, from both the legal and practical standpoint, and requested clarification of reports that people's homes were sometimes confiscated.

51. With reference to article 18 of the Covenant, members of the Committee wished to know what religions, other than Islam, were practised in Democratic Yemen; what legislative or other measures

had been adopted to ensure non-discrimination as between Islam and such other religions; what criteria and procedures had been established for the recognition and registration of such other religions; whether non-Muslims or non-believers in any religion had access to the civil service and public office without discrimination; and whether any difficulties were being encountered in applying, on a day-to-day basis, the modern legislation that had been adopted by the State party, which in some respects might differ from the provisions of Islamic law.

52. In connection with article 19 of the Covenant, members of the Committee expressed concern about the compatibility of articles 108, 109, 113 and 117 of the Penal Code with article 19 of the Covenant, noting that although there was no hierarchy among the various rights set out in the Covenant, article 19 played a key role in the exercise of most of the other rights. Article 113 of the Penal Code, which prohibited citizens from having contact with foreigners except through official channels, gave rise to special expressions of concern and members wondered whether that article was actually being enforced. Members wished to know, in particular, whether citizens had the right to express views that were at variance with those of the Government and whether that right was respected in practice; what role the Ministry of Information played in controlling and censoring the media and publishing houses and what reasons could be invoked for restricting freedom of expression; and how the term "democratic legality", as contained in articles 125 and 126 of the Constitution, was interpreted and how the offence of spreading rumours about the "national democratic system" was defined. Referring to the introductory statement of the representative of the State party, members also requested additional information concerning the substance of the planned reforms relating to freedom of expression and freedom of the press and about the anticipated timing of such reforms.

53. Regarding articles 21 and 22 of the Covenant, members of the Committee wished to receive information concerning laws or regulations that governed the holding of peaceful public assemblies and demonstrations and about rules and regulations governing associations other than trade unions. As to the exercise of trade union freedoms, members wished to know, in particular, whether or not the General Federation of Trade Unions was composed of local unions that had been independently established by workers and whether trade unions outside the general federation were allowed.

54. With regard to article 23 of the Covenant, members of the Committee wished to receive additional information concerning measures that have been taken to ensure, in general, the equality of the sexes and concerning certain practices relating to the rights of women during marriage and at its dissolution.

55. With reference to article 25 of the Covenant, members of the Committee wished to know whether the special position of the Socialist Party within the political system, under article 3 of the Constitution, implied any restrictions in respect of the establishment of other political parties; whether membership of the Socialist Party was open to all citizens; and whether there were any differences between members and non-members of that party in respect of such matters as access to public office an equal opportunity for employment and advancement in the public service.

56. Noting that the report contained no information concerning the application of article 27,

members requested information concerning the situation of minorities within the country, if any.

57. Replying to questions raised by members of the Committee, the representative of the State party stated that although the lack of reference material made it impossible to reply fully to the questions that had been raised, all of the Committee's questions and observations would be duly referred to the competent authorities of Democratic Yemen and he hoped that his country's next report would be more detailed and comprehensive.

58. By way of a general response, before addressing the various questions individually, the representative stated that the effective enjoyment of human rights and fundamental freedoms largely depended on social conditions at a particular time. There was a considerable difference between a State's recognition of human rights and intention to promote them, on the one hand, and their effective enjoyment, on the other, which was primarily contingent on public awareness of such rights and freedoms and on general development. Democratic Yemen was a relatively young State, established in 1967 in a region formerly characterized by tribal relations and traditions, but lacking any genuine form of legal or judicial organization. The new regime had been confronted with a difficult situation, exacerbated by its shortage of resources and the threat of external intervention, all of which had given rise to great challenges in many areas, including law enforcement and human rights.

59. Referring to questions relating to the status of the Covenant within his country's legal system and the extent to which the Covenant offered legal protection, the representative said that the legislative authorities were well aware of the shortcomings of the Constitution in that respect and were endeavouring to give the Covenant the force of national legislation.

60. Referring to questions relating to equality and non-discrimination, the representative noted that while the formulation of the relevant provisions in article 35 of the Constitution and in other statutes such as the Civil Code and the Code of Civil Procedure differed slightly from that contained in article 2, paragraph 1 of the Covenant, there could be no doubt about the legislature's clear intention to ensure full equality and to put an end to all forms of discrimination. In particular, as far as aliens were concerned, article 25 of the Civil Code stipulated that foreign nationals and stateless persons enjoyed the same civil rights as those granted to citizens except in respect of the right to own property, which was subjected to certain conditions established by law.

61. With regard to questions relating to the death penalty, the representative of the State party drew attention to article 65 of the Penal Code, which stipulated that the death penalty was to be imposed only for the most serious crimes and was to be carried out only in exceptional cases, where the protection of society so required and where a prison sentence offered no hope of genuine reform. Death sentences required the approval of the Praesidium of the People's Supreme Council, which could grant a pardon or a commutation of the sentence, and could not be imposed on a minor under 18 years of age (who benefited from an automatic commutation under article 30 of the Penal Code to a maximum sentence of from 3 to 10 years of imprisonment) or carried out on a pregnant woman. The procedures to be followed prior to the execution of a death sentence were set up in article 22 of the Prison Code. The legislation in force at the time of the trial of persons who had been involved

in the events of 13 January 1986 did not provide a 30-day delay between the time of sentencing and approval of the sentence by the Praesidium. The five persons who were actually executed had been given an opportunity for a family visit before the death sentence was carried out.

62. With reference to article 14 of the Covenant, the representative stated that the legislation in force contained a number of guarantees for the independence of the judiciary, including the prohibition of interference in its work and its obligation to be guided solely by the law. Judges were elected for a term of five years; at the governorate level they were elected by the local councils. This was one of the areas being examined under the current review with a view to introducing eventual reforms. Legal aid was guaranteed under the Constitution to all persons who could not afford the services of a lawyer. A person in such a situation who faced criminal charges could select his own lawyer, whose fees would be paid by the State.

63. The Constitution did not provide for the possibility of setting up special courts. Since 1978 there had been a unified legal system centred on the Supreme Court of the Republic. The Supreme Court consisted of three sections, namely a civil section, a criminal section and a military section, that supervised courts with jurisdiction over military bodies. Each section applied a distinct body of laws, but a consolidated Penal Code to be finalized in 1990 would eventually cover all three areas.

64. Regarding articles 12 and 13 of the Covenant, the representative noted that entry into and departure from Democratic Yemen were governed by Act No. 28 of 1969. Freedom of movement between Democratic Yemen and the Yemen Arab Republic was guaranteed and nationals of the two countries who wished to cross the border could do so merely by presenting their identity cards.

65. Freedom of religion and freedom of expression were both guaranteed under the Constitution. The State did not interfere in religious affairs and internal legislation was not influenced by Islamic law. Consideration was being given currently to broadening the scope of the right to freedom of expression and to the enactment of new legislation in connection with the proposed establishment of some additional newspapers.

66. In reply to questions raised by members of the Committee concerning article 25 of the Covenant, the representative of the State party noted the stipulation, under article 3 of the Constitution, that the Party was to lead the State and society.

General observations

67. Members of the Committee thanked the delegation of the State party for its clear and frank responses to the questions that had been raised and expressed satisfaction with the fact that a constructive dialogue between the Government of Democratic Yemen and the Committee had been initiated. The Government's willingness to co-operate with the Committee was evident as was its desire to move forward with the adoption of policies and practices that promoted the enjoyment of human rights.

68. While the delegation's replies had given the Committee a better understanding of the situation

and provided a clearer picture of the problems, members of the Committee considered that many significant problems, both of law and of practice, remained to be addressed. They made extensive comments and suggestions in this regard, noting, *inter alia*, that questions remained concerning the status of the Covenant under domestic law in situations in which it conflicted with the Constitution or ordinary law; non-discrimination, especially in respect of political opinion; the actual application of the principle of equality of rights between men and women; the right to life and the application of the death penalty; the conditions of arrest and detention; torture and ill-treatment of political prisoners; the independence of the judiciary; the probable inconsistency between certain articles of the Penal Code and articles of the Covenant, notably articles 18 and 19; the prohibition of contacts with foreigners; freedom of assembly and association; and the status of minorities. They welcomed the assurance that the Committee's comments would be transmitted to the Government of the People's Democratic Republic of Yemen and expressed the hope that in its next report the State party would be in a position to inform the Committee that its comments had been taken into account and acted upon and that the enjoyment of human rights by the people of Democratic Yemen had been enhanced.

69. The representative of the State party reiterated that all the comments made by members of the Committee would be conveyed to the competent bodies. The next report would no doubt be fuller and would not only contain information on administrative, legislative and other aspects, but also statistics and other information with respect to the enjoyment of human rights in practice. He thanked all members of the Committee for their comments and kind words about his country and wished them every success in their task.

70. The Chairman once again expressed the Committee's appreciation for the State party's commitment to the enjoyment of human rights by the people of Democratic Yemen. Development and human rights went hand in hand and could not be separated. The problem of under-development could not be advanced as an excuse for inadequate enjoyment of human rights, and no development was worthy of the name unless it was accompanied by the protection and promotion of human rights. It had also emerged from questions raised by members of the Committee that there was a great need for dissemination of information concerning the Covenant and the obligations undertaken by the country, not only among officials and decision-making organs but also among the people, who were entitled to know their rights.

71. In conclusion, the Chairman expressed the Committee's good wishes to the Government and people of Democratic Yemen and thanked the delegation for assisting the Committee in performing its duty under the Covenant.

CCPR A/50/40 (1995)

242. The Committee considered the second periodic report of Yemen (CCPR/C/82/Add.1) at its 1372nd and 1373rd meetings, on 26 October 1994, and at its 1403rd and 1404th meetings, on 30 March 1995, and subsequently adopted 14/ the following comments:

1. Introduction

243. The Committee welcomes the second periodic report submitted by the State party and welcomes the delegation's willingness to resume its dialogue with the Committee. The Committee regrets, however, that although the report provides information on general legislative norms in Yemen, it fails to deal with the actual state of implementation of the Covenant in practice and the difficulties encountered in the course of implementation. The Committee appreciated the presence of a competent delegation which provided helpful information to the Committee in addressing some of its questions. Nevertheless, the Committee has obtained only a partial picture of the human rights situation in the country.

244. The Committee welcomes in this connection the intention expressed by the delegation to send additional information as requested by the Committee, particularly information on the difficulties encountered in the implementation of the Covenant, statistics relating to specific articles and the texts of the Civil Code, Code of Criminal Procedure, the amendments to the Constitution, and other relevant laws and regulations.

2. Factors and difficulties affecting the implementation of the Covenant

245. The Committee notes that the civil war has left much of the infrastructure destroyed and created severe economic difficulties, which have served to restrict the resources allocated to the protection of human rights. The Committee also notes that national reconstruction and reconciliation remains handicapped by internal disorder.

246. The Committee notes the existence in the State party of customs and traditions, particularly in the area of equality between men and women, which may tend to impede the proper observance of international standards of human rights.

3. Positive aspects

247. The Committee welcomes the succession of Yemen to the Covenant, which was previously acceded to by the Democratic Republic of Yemen in 1986.

248. The Committee welcomes the Government's efforts to raise awareness of human rights issues by disseminating the texts of human rights treaties, including the Covenant, and by holding seminars in this field. It further welcomes the Government's assertion that newspapers are free to publish the

14/ At its 1414th meeting, (fifty-third session), on 6 April 1995. reports submitted by the Government and other information released by human rights groups and international organizations.

249. The Committee welcomes the delegation's indication of the Government's willingness to investigate specific cases of human rights violations brought to its attention. In this regard, the Committee notes the assurances of the delegation that the courts are receiving cases of human rights violations which took place during the civil war.

4. Principal subjects of concern

250. The Committee is concerned that some aspects of the legal provisions in the State party do not conform entirely with the Covenant.

251. The Committee calls attention to the contradictions between the Covenant and the Constitution, which affords a lower level of human rights protection than does the Covenant. The Committee expresses concern that victims of human rights violations, despite the direct applicability of the Covenant, may be denied effective remedy if the courts adhere to the standards set forth in the Constitution.

252. The Committee notes with concern the general amnesty granted to civilian and military personnel for human rights violations they may have committed against civilians during the civil war. The Committee notes in this regard that some amnesty laws may prevent appropriate investigation and punishment of perpetrators of past human rights violations, undermine efforts to establish respect of human rights, contribute to an atmosphere of impunity among perpetrators of human rights violations, and constitute impediments to efforts undertaken to consolidate democracy and promote respect for human rights.

253. The Committee notes with concern that the role and the competencies of the political security forces have not been clarified.

254. The Committee expresses its deep concern at allegations of arbitrary deprivation of life, acts of torture or other cruel, inhuman or degrading treatment, arbitrary arrest and detention, abusive treatment of persons deprived of their liberty, and violations of the rights to a fair trial. It is deeply concerned that those violations were not followed by inquiries or investigations, that the perpetrators of such acts were not punished, and that the victims were not compensated. Ill-treatment of prisoners and overcrowding of prisons continue to be of concern.

255. The Committee notes with concern reports of female genital mutilation, which appears to be a common practice in some parts of the country. It also notes with concern that the provisions of the Personal Status Act No. 20 of 1992, particularly articles 40 and 41, establish unequal obligations of wives and husbands where wives are relegated to an inferior position. The Committee is concerned that the requirements of this Act, particularly that wives must obey their husbands' orders and may not leave their homes except in limited situations, contradict articles 3 and 23 of the

Covenant. The Committee further regrets that the laws of Yemen contain no specific provisions for dealing with domestic violence.

256. The Committee is concerned about the lack of information concerning the death penalty in Yemen and, bearing in mind that article 6 of the Covenant limits the circumstances under which the death penalty may be imposed, regrets that it is unable to assess whether the State party is in conformity with article 6 due to the lack of information on the specific crimes that may result in the imposition of the death penalty and on the number of cases in which it was imposed. The Committee deplores that, according to information before it, executions of persons below the age of 18 have taken place that would be a clear violation of article 6, paragraph 5, of the Covenant. The Committee requests that the State party provide information on the cases mentioned during the dialogue. In this regard, the Committee regrets that the right to life has not been incorporated in the new Constitution. The Committee is also deeply concerned about the maintenance of corporal punishments like amputation of limbs and whipping, which is in violation of article 7 of the Covenant.

257. The Committee notes with deep concern the widespread employment of minors, especially in rural areas.

5. Suggestions and recommendations

258. The Committee recommends that a thorough review be undertaken of the legal framework for the protection of human rights in the State party to ensure full conformity with the Covenant. The Committee takes note of the indication by the delegation of the lack of technical expertise in the legal field in the State party and its appeal for assistance in this area. Accordingly, the Committee recommends that the State party avail itself of the technical cooperation services of the Centre for Human Rights and address through the Centre's programmes the question of the status of the Covenant in relation to the Constitution.

259. Regarding the application of the Covenant, the Committee requests that it be informed in future periodic reports of the State party of any instances that may arise where the Covenant was directly invoked in the courts, as well as the results of any such proceedings.

260. The Committee recommends that the State party endeavour to bring to justice perpetrators of human rights abuses, in accordance with article 2 (2) of the Covenant. It urges the State party to continue to investigate allegations of human rights violations, past and present, to act on the findings of its investigations, to bring to justice the perpetrators and to compensate the victims of such acts. To this end, the Committee recommends that an independent mechanism be instituted for receiving complaints of human rights violations and that this mechanism be given investigative authority to pursue such complaints. The Committee suggests that the Government pursue in this manner not only individual complaints but also violations reported by national and international non-governmental organizations.

261. The Committee recommends that the State party review its laws and make appropriate

amendments to ensure full legal and de facto equality for women in all aspects of society, particularly in the laws governing the status of women, women's rights and obligations in marriage. The Committee further recommends that the Government conduct a study on the practice of female genital mutilation within its territory and formulate specific plans to eradicate this practice.

262. The Committee recommends that the Government review its policy on the death penalty with a view to its eventual abolishment. Recalling that article 6 of the Covenant limits the circumstances under which the death penalty may be imposed, it recommends that the Government include in its next report a list of all of the crimes that, when tried, may result in the imposition of the death penalty. If the imposition of the death penalty in respect of some of these crimes is found to be inconsistent with article 6, the Committee recommends that the relevant laws be appropriately amended. The Committee recommends that the Government take the initiative for the total abolishment of corporal punishment.

263. The Committee recommends that the Government conduct a study on the phenomenon of working children, especially children in rural areas, and include its findings in its next periodic report to the Committee.

264. The Committee recommends that more detailed information about specific laws and more concrete and factual information about the enjoyment of rights be provided by Yemen in its next periodic report so as to enable the Committee to clearly understand the progress made in the implementation of the Covenant in the State party.

265. The Committee recommends that appropriate mechanisms be established to revise the relevant legal codes, to provide human rights training for personnel involved in the administration of justice, to draft the State party's reports to various human rights treaty bodies, and to collect and analyse data on human rights issues. In this regard, the Committee recommends that the Government draw on the assistance available through the Centre for Human Rights technical cooperation services.

CCPR A/57/40 vol. I (2002)

(83) Yemen

(1) The Committee considered the third periodic report of Yemen (CCPR/C/YEM/2001/3) at its 2027th and 2028th meetings (CCPR/C/SR.2027 and CCPR/C/SR.2028) on 17 and 18 July 2002 and adopted the following concluding observations at its 2036th meeting (CCPR/C/SR.2036) on 24 July 2002.

Introduction

(2) The Committee welcomes the timely submission by the State party of a report containing important information on domestic legislation on the implementation of the Covenant. It notes with appreciation that the report contains useful information on some legal and institutional developments since the consideration of the second periodic report. It nonetheless regrets the lack of information on the jurisprudence and the practical aspects of the implementation of the Covenant. The Committee does note, however, the partial responses given in answer to the questions raised and the concerns expressed during the consideration of the report. It also welcomes the Yemeni delegation's expressed readiness to cooperate.

Positive aspects

(3) The Committee welcomes the importance attached in article 6 of the Yemeni Constitution to the Universal Declaration of Human Rights. It also welcomes some human rights initiatives undertaken by the State party in recent years, in particular the appointment of a Minister of State for Human Rights in 2001, and conclusion of a technical cooperation agreement with the Office of the United Nations High Commissioner for Human Rights (in keeping with the recommendation in the Committee's concluding observations of 3 October 1995, paras. 258 and 265) and with the International Labour Office to eradicate child labour and set up aid centres for disadvantaged children. It also notes the growing number of non-governmental organizations, particularly for the rights of women.

Principal subjects of concern and recommendations

(4) The Committee regrets the lack of clarity about the question of the juridical value of the Covenant in domestic law and the consequences thereof.

The State party should ensure that its legislation gives full effect to the rights acknowledged in the Covenant and that remedies are available for the exercise of those rights.

(5) The Committee, while it takes note of the composition and functions of the Yemeni National Committee for Human Rights, which is a government commission, notes the absence of a human rights commission that is independent of the authorities and the lack of any plans in this connection.

The State party should consider the establishment of an independent institution for the protection of human rights, with a mandate to receive complaints, to initiate inquiries and to institute proceedings where appropriate with complete independence.

- (6) The Committee notes with concern the continued practice of female genital mutilation (articles 3, 6 and 7 of the Covenant). It is also concerned at the persistence of domestic violence despite the legislation passed by the State party (articles 3 and 7 of the Covenant).

The State party must pursue its efforts to eradicate such practices. It should in particular ensure that proceedings are instituted against the perpetrators and promote a human rights culture within society along with greater awareness of the rights of women, especially the right to physical integrity. It must also take more effective action to prevent and punish domestic violence and aid the victims.

- (7) The Committee notes with concern the situation of discrimination against women in matters of personal status, particularly in matters of marriage and divorce and the rights and duties of spouses.

The State party should review its legislation to ensure that, in all fields in the life of society, women enjoy complete equality with men, both in law and in fact, so as to comply with its obligations under the Covenant (articles 3, 7, 8, 17 and 26 of the Covenant).

- (8) The Committee notes with concern that married women may not, at least by law, leave their homes without the authorization of their husbands (articles 3, 12 and 26 of the Covenant).

The State party should take appropriate measures to combat this practice and make sure, in fact and in law, that women's rights under articles 3, 12 and 26 of the Covenant are observed.

- (9) The Committee notes the persistence of the practice of polygamy, which is detrimental to human dignity and discriminatory within the meaning of the Covenant (articles 3 and 26 of the Covenant).

The State party is strongly encouraged to abolish polygamy and combat it socially by effective means.

- (10) The Committee expresses its concern about the practice of early marriage of young girls and the inequality between men and women as regards marriageable age (articles 3 and 26 of the Covenant).

The State party should protect girls from early marriage and do away with discrimination against women as regards marriageable age.

- (11) The Committee notes the discriminatory situation affecting women as regards the acquisition

and transmission of nationality (articles 3 and 26 of the Covenant).

The State party must eliminate from its legislation all discrimination between men and women as regards acquisition and transmission of nationality.

(12) The Committee is concerned at the continued detention of women who have served their prison sentences and are held in detention because of social and family attitudes of rejection towards them (articles 3, 9 and 26 of the Covenant).

The State party is encouraged to find appropriate solutions to enable these women to return to society.

(13) While it welcomes the measures taken by the authorities in recent years to promote the participation of women in public life, the Committee notes the underrepresentation of women in the public and private sectors (arts. 3 and 26).

The State party is encouraged to pursue its efforts to secure better participation of women at all levels of society and of the State.

(14) The Committee notes the lack of clarity in the legal provisions permitting the declaration of a state of emergency and derogation from the obligations established in the Covenant (article 4 of the Covenant).

The State party should see to it that its legislation conforms to the provisions of the Covenant so as to ensure in particular that there are no breaches of non-derogable rights.

(15) The Committee notes with concern that the offences punishable by the death penalty under Yemeni law are not consistent with the requirements of the Covenant and that the right to seek a pardon is not guaranteed for all on an equal footing. The preponderant role of the victim's family in determining on the basis of financial compensation whether or not the penalty is carried out is also contrary to articles 6, 14 and 26 of the Covenant.

The State party should review the question of the death penalty. The Committee points out that article 6 of the Covenant limits the circumstances that may justify the death penalty and guarantees the right of every convicted person to seek a pardon. Consequently, it calls upon the State party to bring its legislation and practice into line with the provisions of the Covenant. The State party is also called upon to provide the Committee with detailed information on the number of persons sentenced to death and the number of convicted persons executed since the year 2000.

(16) The Committee is extremely troubled to find that amputation and flagellation, and corporal punishment generally, are still accepted and practised, for this is contrary to article 7 of the Covenant.

The State party must take appropriate action to end these practices and ensure that the Covenant is respected.

(17) The Committee is disturbed to note cases of torture and cruel, inhuman or degrading treatment for which law enforcement officers are responsible. It is equally concerned at the absence, in general, of investigations into such reprehensible practices and of punishment for the perpetrators. It is also concerned at the lack of an independent body to investigate such reports (articles 6 and 7 of the Covenant).

The State party should ensure that all human rights abuses are investigated and should, depending on the findings of the investigations, institute proceedings against the perpetrators of such violations. It should also set up an independent body to investigate such reports.

(18) While it understands the security requirements connected with the events of 11 September 2001, the Committee expresses its concern about the effects of this campaign on the human rights situation in Yemen, in relation to both nationals and foreigners. It is concerned, in this regard, at the attitude of the security forces, including Political Security, which arrests and detains anyone suspected of links with terrorism, in violation of the guarantees set out in the Covenant (art. 9). The Committee also expresses its concern about cases of expulsion of foreigners suspected of terrorism without an opportunity for them to legally challenge such measures. Such expulsions are, furthermore, apparently decided on without taking into account the risks to the physical integrity and lives of the persons concerned in the country of destination (arts. 6 and 7).

The State party must ensure that the measures taken in the campaign against terrorism are within the limits of Security Council resolution 1373 (2001) and fully consistent with the provisions of the Covenant. It is requested to ensure that the fear of terrorism does not become a source of abuse.

(19) The Committee notes that the independence of the judiciary does not seem to be guaranteed in all circumstances (art. 14).

The State party must free the judiciary of any interference, in accordance with the provisions of the Covenant.

(20) The Committee notes with concern the violations of freedom of religion or belief, in particular breaches of the right to change religion (article 18 of the Covenant).

The State party must ensure that its legislation and practice are in line with the provisions of the Covenant, and in particular respect people's right to change their religion if they so choose.

(21) The Committee expresses its concern about some restrictions under Yemeni legislation on freedom of the press and about the difficulties encountered by journalists in practising their profession when they criticise the authorities (article 19 of the Covenant).

The State party should ensure that the provisions of article 19 of the Covenant are respected.

(22) The State party should disseminate widely the text of its third periodic report and the present concluding observations.

(23) In accordance with article 70, paragraph 5, of the Committee's rules of procedure, the State party should within one year provide information on the implementation of the Committee's recommendations in paragraphs 6 to 13 concerning the status of women and in paragraph 15 on the number of persons sentenced to death and executed since the year 2000. The Committee requests the State party to provide in its next report, which it is scheduled to submit by 1 August 2004, information on the other recommendations made and on its implementation of the Covenant as a whole.