

CEDAW, A/63/38 (2008)

Part two

Report of the Committee on the Elimination of Discrimination against Women on its forty-first session

[...]

Chapter IV

Consideration of reports submitted by States parties under article 18 of the Convention

A. Introduction

13. At its forty-first session, the Committee considered the reports of eight States parties submitted under article 18 of the Convention: the combined second, third and fourth periodic report of one State party; the combined third and fourth periodic report of one State party; the combined fourth, fifth and sixth periodic report of one State party, the fifth and sixth periodic reports of three State parties; and the sixth periodic reports of two State parties.

14. The Committee prepared concluding observations on each of the States parties' reports considered. The Committee's concluding observations are set out below.

[...]

5. Sixth periodic report

[...]

Yemen

350. The Committee considered the sixth periodic report of Yemen (CEDAW/C/YEM/6) at its 832nd and 833rd meetings, on 1 July 2008 (see CEDAW/C/SR.832 and 833). The Committee's list of issues and questions is contained in document CEDAW/C/YEM/Q/6 and the responses of the Government of Yemen are contained in document CEDAW/C/YEM/Q/6/Add.1.

Introduction

351. The Committee commends the State party for the submission of its sixth periodic report but, while noting that the report partially follows the guidelines of the Committee (HRI/GEN/2/Rev.1/Add.2), regrets that it does not provide any information on the implementation of each recommendation made in the previous concluding observations of the Committee. The Committee acknowledges the State party's written replies to the list of issues and questions raised by the pre-session working group, but regrets the absence of clear and precise responses to several issues.

352. The Committee expresses its appreciation to the State party for its delegation, which was headed by the Permanent Representative of Yemen to the United Nations and included four representatives of the Women's National

Committee. The Committee commends the State party for the frank and constructive dialogue held between the delegation and the members of the Committee, which provided clear insights into the situation of women in Yemen and on the implementation of the Convention.

Positive aspects

353. The Committee expresses its satisfaction at the work of the Women's National Committee on its promotion of women's rights in its role as a consultative body within the Government. It commends its recommendations to the Government, although not yet adopted by the Parliament, to amend the many remaining discriminatory laws, such as the Personal Status Law, the Crime and Penalty Law, the Election and Referendum Law, the Nationality Law, the Labour Code and the Prison Law.

354. The Committee notes with appreciation the ratification of the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography in December 2004 and on the involvement of children in armed conflict in March 2007, in particular as these international instruments cover the human rights of the girl child.

355. The Committee also notes with satisfaction the adoption of Law No. 26 of 2003 amending the prisons regulations with regard to pregnant women in custody and Law No. 25 of 2003 on the obligation for public and private institutions that employ 50 or more female workers to provide a nursery for their children.

356. The Committee expresses its satisfaction at the State party's signature of several memorandums of understanding with the Office of the United Nations High Commissioner for Refugees in 2005, 2007 and 2008, with regard to HIV/AIDS, and its commitment to prepare a refugee law and promote it as well as to open permanent registration centre for Somali refugees.

357. The Committee takes note of the Government's commitment to adopt temporary special measures in the form of programmes to narrow the gap between men and women in political and public life, and especially the recent tentative acceptance of a quota system which would be instituted for the next elections for the Parliament, through an amendment of the electoral law in order that women hold at least 15 per cent of parliamentary seats.

Principal areas of concern and recommendations

358. The Committee recalls the obligation of the State party systematically and continuously to implement all the provisions of the Convention, and requests the State party to give priority attention to the concerns and recommendations identified in the present concluding observations between now and the submission of its next periodic report. The Committee urges the State party to focus on those areas in its implementation activities and to report on action taken and results achieved in its next periodic report. The Committee calls upon the State party to submit the present concluding observations to all relevant ministries, the Parliament and the judiciary, so as to ensure their full implementation.

Principle of equality, incorporation of the Convention and its visibility

359. The Committee remains concerned that, although the Constitution guarantees that citizens are all equal in rights and duties, it does not enshrine the principle of equality between women and men in all spheres. It is also concerned that the State party's legislation does not contain an explicit definition of the principle of equality between women and men or of discrimination on the basis of sex.

360. In order to implement the Convention fully, the Committee urges the State party to incorporate the principle of equality between women and men in its Constitution, or other appropriate legislation, in line with article 2 (a) of the Convention, and reflect fully the definition of discrimination contained in article 1 of the Convention in its national legislation. It calls upon the State party to enact and implement a comprehensive law on gender equality that is binding on both public and private sectors and inform women of their rights under such legislation.

361. The Committee is concerned at the lack of clarity of the status of international instruments, including the Convention, in the national legal system. It is also concerned that the Convention is not adequately disseminated among all stakeholders and that the relevant bodies of the administration and the judiciary are not effectively trained on its provisions.

362. The Committee recommends that the State party clearly establish the status of international conventions within its domestic legal framework, ensuring precedence of international instruments, including the Convention, over national laws, and conformity of this legislation with these instruments. The Committee also recommends that the State party disseminate the Convention and the Committee's general recommendations widely among all stakeholders, including Government ministries, parliamentarians, the judiciary, political parties, NGOs, the private sector and the general public.

Negative cultural practices and stereotypical attitudes

363. The Committee expresses concern that traditional discriminatory practices and strong stereotypical attitudes about the roles and responsibilities of women and men in family and society persist. These stereotypes present a significant impediment to the implementation of the Convention and are the root cause of the disadvantaged position of women in all areas, including in political and public life, in the labour market and negatively affecting women's enjoyment of their rights and impeding the full implementation of the Convention.

364. The Committee encourages the State party to address stereotypical attitudes about the roles and responsibilities of women and men that perpetuate direct and indirect discrimination against women and girls in all areas of their lives. It calls upon the State party to increase its efforts to design and implement comprehensive awareness-raising programmes to foster a better understanding of equality between women and men at all levels of society with a view to transforming stereotypical attitudes and negative cultural norms about the responsibilities and roles of women and men in the family and society, in accordance with article 5 (a) of the Convention. The Committee also recommends that the State party encourage religious authorities to promote positive images of women and the equal status and responsibilities of women and men in society.

Violence against women

365. While welcoming the first measures adopted to combat and prevent domestic violence and violence against women, such as the first National Conference on Combating Violence against Women, held in Sana'a in March 2004, and the study on domestic violence and family health survey devoted to the phenomenon of domestic violence carried out by the Women's National Committee, as well as the establishment of the Yemeni network for fighting violence against women in 2003, the Committee remains deeply concerned that there is no specific or dedicated legislation on violence against women and girls, including domestic and sexual violence. The Committee is also concerned with the difficulties women have in filing complaints and seeking redress with regard to violence against them.

366. The Committee urges the State party to enact without delay, in accordance with the Committee's general recommendation No. 19, legislation on violence against women and girls, including domestic violence, to ensure that all violence against women constitutes a criminal offence, that women and girls who are victims of violence have access to immediate means of protection, including shelters, and redress and that perpetrators are prosecuted and punished adequately. The Committee calls upon the State party to amend, without delay, the Penal Code to ensure that marital rape is criminalized. The Committee recommends that the State party establish clear procedures for filing complaints on violence against women and establish female sections in police stations to deal with such complaints and investigations. The Committee calls upon the State party to conduct detailed studies on the causes and extent of violence against women and girls, including sexual and domestic violence, collect disaggregated data on all forms of violence against women and provide information in its next periodic report on the laws and policies in place dealing with such violence and the impact of the measures taken.

Discriminatory provisions

367. The Committee remains concerned that several provisions of the Penal Code discriminate against women. It is particularly concerned at articles 273 and 275 identifying and criminalizing acts violating "public decency", under which women are systematically prosecuted, as well as article 232 providing that a man, or any other male relative, who kills his wife, or a female member of the family suspected of adultery, is not prosecuted with murder.

368. The Committee urges the State party to repeal any discriminatory penal provisions of the Penal Code, including articles 273, 275 and, in particular, 232, as already proposed by the Women's National Committee several years ago, to ensure that homicides committed against women by their husbands or male relatives are prosecuted and punished in the same way as any other murders.

Trafficking

369. The Committee is concerned about the lack of information on trafficking and smuggling provided by the State party, especially of women and girls, as well as on the concrete measures adopted to prevent such phenomena.

370. The Committee urges the State party to adopt comprehensive and effective measures to prevent and combat trafficking and smuggling in persons, especially women and girls, and investigate thoroughly such

cases, in accordance with article 6 of the Convention and the Committee's general recommendation No. 19. It calls upon the State party to increase international cooperation efforts to prevent trafficking, to prosecute and punish traffickers in proportion to the gravity of their crime, and to ensure the protection of the human rights of women and girls who are victims of trafficking. The Committee also calls upon the State party to ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. It further calls upon the State party to provide to the Committee, in its next periodic report, statistical data related to trafficking and smuggling, concrete interventions and their results.

Participation in political and public life

371. The Committee is concerned about the very low rate of representation of women in decision-making positions in all spheres, in particular in Parliament (0.3 per cent), the Government (1.82 per cent of commissioned ministers) and the judiciary (1.65 per cent), as well as in the public and private sectors, including in the public administration, the foreign service and academia.

372. The Committee urges that the State party take effective and sustained legal measures, including temporary special measures, in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation No. 25, to increase the representation of women at all levels and spheres of politics, especially in decision-making positions. In this regard and in order to accelerate the representation of women, the Committee calls upon the State party to establish legal quotas for women for the coming elections to Parliament. It urges the State party to undertake awareness-raising campaigns about the importance of women's participation in decision-making for society as a whole, including in the public and private sectors.

Education

373. While noting the State party's several strategy plans on education, the Committee notes with concern the continuing high level of illiteracy of women and girls, in particular in rural areas, which manifests patterns of indirect discrimination under article 10 of the Convention. It is also concerned about the high dropout rate of girls from schools.

374. The Committee reiterates its recommendation that the State party implement measures to ensure access to girls and women to all levels of education, including access to proper and dedicated toilets facilities, which have a direct impact on the realization of their right to education, especially in rural areas. The Committee also recommends that the State party adopt temporary special measures in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation No. 25, to ensure the access and retention of girls in school. The Committee calls upon the State party to strengthen its efforts to improve the literacy level of girls and women through the adoption of comprehensive programmes of formal and non-formal education and training, and to increase training and employment of female teachers, the development of gender-sensitive educational materials and the monitoring and evaluation of progress achieved towards time-bound targets. The Committee urges the State party to raise general awareness of the

importance of education as a human right and as a basis for the empowerment of women, and to take steps to overcome traditional attitudes that perpetuate discrimination.

Employment

375. While noting the National Strategy for Working Women (2001-2011), the Committee is concerned about the very low number of women employed which amounts to less than 23 per cent of the total labour force, and the limited opportunities they have in the private and public labour market, their concentration in the agricultural sector where they are not paid and the strong occupational segregation in the public sector, where women represent only 17 per cent of the workforce, indicating an important gender gap in this sector.

376. The Committee recommends that the State party implement targeted policies and programmes, including temporary special measures in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation No. 25, in order to increase the number of women in the formal workforce, especially in the public sector. The Committee also recommends that the State party take measures to change stereotypical attitudes and negative cultural norms about the responsibilities and roles of women and men, promoting the reconciliation of family and work responsibilities between women and men, and to design and implement awareness-raising programmes directed at all levels of society.

Health

377. While noting the existing health policies and programmes, including the Strategy for Development Women's Health (2006-2010) and the National Strategy for Reproductive Health (2003-2005) and its updated strategy for 2006-2010, the Committee is concerned about the high rate of infant, child and maternal mortality in Yemen, and the limited access to health-care services and family planning, especially in rural areas.

378. The Committee calls upon the State party to increase women's access to primary health-care services, especially in rural areas, including reproductive health care and means of family planning. In the light of its general recommendation No. 24, the Committee also recommends that the State party increase awareness campaigns on the importance of health care, including information on the spread of sexually transmitted diseases and HIV/AIDS as well as on the prevention of unwanted pregnancies through family planning and sex education.

Early marriages

379. The Committee is extremely concerned at the amendment to Personal Status Law No. 20 of 1992 by Law No. 24 of 1999 and its negative consequences, which legalized the marriage of girl children below 15 years of age, with the consent of their guardian, which is a clear setback for women's rights and the implementation of the provisions of the Convention in Yemen and a serious violation of the State party's obligations under the Convention. The Committee remains deeply concerned at the "legality" of such early marriages of girl children, some as young as eight years of age, which amounts to violence against them, creates a serious health risk for those girls and also prevents them from completing their education.

380. **The Committee urges the State party, reiterating its previous recommendations, to take urgent legislative measures to raise the minimum age of marriage for girls, in line with article 1 of the Convention on the Rights of the Child, which defines a child as being below the age of 18, and the provision on child marriage in article 16, paragraph 2, of the Convention, and stipulate that child marriages have no legal effect. The Committee urges the State party to enforce the requirement to register all marriages in order to monitor their legality and the strict prohibition of early marriages as well as to prosecute the perpetrators violating such provisions. The Committee recommends that the State party develop awareness-raising campaigns, with the support of civil society organizations and religious authorities, on the negative effects of early marriage on the well-being, health and education of girls. The Committee urges the State party to adopt, without delay, the Safe Motherhood Law recently presented to Parliament, which includes provisions prohibiting any practice that endangers women's health, such as early marriages and female genital mutilation, in addition to ensuring the provision of contraceptives in all health centres. In this respect, the State party should ensure that such contraceptives are free or affordable.**

Temporary marriages

381. The Committee is concerned with so-called "tourist marriages" or "temporary marriages" of young Yemeni girls, usually from poor families, to non-Yemenis, usually rich men from neighbouring countries, which have become more common in the past few years with the development of tourism.

382. **The Committee urges the State party to adopt all necessary measures to prevent these negative phenomena and combat this form of sex tourism. The State party should actively consider the recommendations of the Parliamentary Committee of Islamic jurisprudence legislators on this issue, such as amending the Personal Status Law, and prosecute the perpetrators of such acts. The Committee recommends that the State party develop awareness-raising campaigns, with the support of religious authorities and civil society organizations, on the negative implications of "temporary marriages" for the girls and their families.**

Female genital mutilation

383. While welcoming the 2001 decree of the Ministry of Health banning the practice of female genital mutilation in all private and public health facilities or by public health servants, the Committee is concerned that female genital mutilation remains legal and, as expressed in its previous concluding observations, about its high incidence, especially in the coastal and rural areas, as well as with the State party's reluctance to adopt measures aiming at eradicating this persistent harmful practice. The Committee notes with concern the serious health complications for girls and women arising out of this practice, which in some cases may lead to death, as well as with the impunity of perpetrators.

384. **In the light of its general recommendations Nos. 14 and 19, as an act of violence against women inflicting physical, mental or sexual harm or suffering, the Committee reiterates the recommendation that the State party adopt urgently legislation criminalizing female genital mutilation, and recommends that the State party enforce its prohibition through the prosecution and adequate punishment of offenders. It also recommends**

that the State party strengthen its awareness-raising and education efforts, targeted at both men and women, with the support of civil society organizations and religious authorities, in order to completely eliminate this practice and its underlying cultural justifications. The Committee encourages the State party to seek technical assistance from relevant United Nations agencies and bodies.

Rural women

385. In view of the fact that rural women constitute the majority of women in the State party and the workforce in the agricultural sector, the Committee is especially concerned about their situation in general and in particular their difficulty in accessing health care, public services, education, justice, clean water and electricity, which impairs seriously the enjoyment of their social, economic and cultural rights.

386. The Committee recommends that the State party adopt temporary special measures, in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation No. 25, to ensure that rural women enjoy their political, social, economic and cultural rights without any discrimination, especially with regard to access to education, public services, justice, health care and microfinancing.

Family relations

387. The Committee is concerned that the Personal Status Law of 1992 allows polygamy and prohibits the marriage of women without any guardianship and that a woman's direct consent is not required for her guardian to conclude her marriage.

388. In accordance with article 16 of the Convention and in the light of the Committee's general recommendation No. 21, the Committee urges the State party to amend the Personal Status Law to prohibit polygamy and to abolish the institution of guardianship, as they contravene women's right to equality with men. It also urges the State party to repeal any other discriminatory provision against women in this Law.

389. The Committee notes with concern other discriminatory provisions in the Personal Status Law of 1992 and in the Citizenship Law of 1990 which affects women's equal rights in matters relating to marriage, divorce, testimony, property, nationality, child custody and inheritance.

390. The Committee calls upon the State party to ensure equal rights between women and men with regard to personal status, especially in marriage, divorce, testimony, property, nationality, child custody and inheritance. The Committee recommends that the State party amend all other discriminatory provisions, including the right of a child born to a Yemeni mother to acquire his or her mother's nationality in the same circumstances he or she would acquire it from a Yemeni father. It also recommends that the State party grant the same five-year residency rights a non-Yemeni wife of a Yemeni husband has to a non-Yemeni husband of a Yemeni wife.

Women in detention

391. While welcoming the adoption of a decree on the occasion of Women's Day in 2006 to release 71 female prisoners who had served their sentences but could not afford to post bail, the Committee is concerned that, according to the findings of several visits to female prisons and detention facilities, including the Public Freedoms Committee of the Parliament, prison conditions are not adapted for women, there are no female guards in female prisons with the exception of the Hajah detention centre, nor is there specific health care for women prisoners, including for pregnant women, or for their children. Women in detention are frequently harassed, humiliated and ill-treated by male guards, and female inmates frequently overstay their sentence due to the refusal of their guardian or family to receive them home after their sentences have been complete or they are unable to pay the blood money that has been assessed as payable. The Committee is concerned that the majority of women in prison have been sentenced for prostitution, adultery, alcoholism and unlawful or indecent behaviour, in a private or public setting.

392. The Committee calls upon the State party to ensure equal rights between women and men in the justice and penitentiary systems and to eliminate all discriminatory measures against women in those sectors. The State party should ensure that women in detention are segregated from men and under the exclusive supervision of female guards, including during pre-trial detention, and that they have access to adequate health facilities and rehabilitation programmes to reintegrate them into the community, notwithstanding the refusal of the guardian or family to receive them. Special attention should also be given to children detained with their mother with regard to food, medicine and education.

Poverty

393. While noting the ranking of the State party in the Human Development Index and Yemen's National Strategy for Poverty Reduction (2006-2010), with its gender perspective on education, health, nutrition and family planning, the Committee is still concerned that poverty is prevalent among women.

394. The Committee recommends that the State party take measures through its mainstreaming efforts and poverty reduction strategy to address the specific vulnerability of women in poverty, including efforts to ensure women's representation in the participatory approaches taken in the management of poverty reduction programmes. The Committee urges the State party to utilize temporary special measures under article 4, paragraph 1, and the Committee's general recommendation No. 25, to this effect.

Capacity to implement the Convention and the Committee's general recommendations

395. The Committee is especially concerned that, although Yemen ratified the Convention more than 24 years ago without reservations, the incorporation of most of the provisions of the Convention into its domestic legal order is still to be completed, substantial parts of its legal system remains in contradiction to the Convention, discrimination against women remains rampant, the development and advancement of women have not significantly improved and have even deteriorated with regard to certain issues, and the State party does not consider the implementation of the Committee's recommendations fully. This raises the question of the capacity of the State party to implement its obligation under the Convention.

396. The Committee recommends that the State party consider carefully all recommendations made by the Committee and ensure that its obligations under the Convention, its religious principles and its cultural and social values are made compatible, in order to promote and protect fully the human rights and fundamental freedoms of Yemen's women. It recommends that the State party avail itself of the technical cooperation and assistance from relevant United Nations agencies and bodies, such as the United Nations Development Fund for Women, the United Nations Population Fund, the Office of the United Nations High Commissioner for Human Rights and the World Health Organization, in order to implement de facto and de jure the provisions of the Convention and the Committee's recommendations.

National machinery for the advancement of women

397. The Committee recommends that the State party transform the Women's National Committee into a ministry within the Government in order for it to participate in the decision-making process, directly supporting its legislative proposal to the Parliament and mainstream women's rights through the Government and the public administration, with sufficient budget allocation in order for it to carry out its mandate.

National human rights institution

398. The Committee recommends that the State party consider the establishment of an independent national human rights institution, with a broad mandate to promote and protect human rights, in accordance with the Paris Principles (General Assembly resolution 48/134, annex).

Cooperation with the Office of the United Nations High Commissioner for Refugees

399. The Committee calls upon the State party to continue to strengthen its cooperation with the Office of the United Nations High Commissioner for Refugees (UNHCR) and adopt the draft refugee law, in compliance with the Convention relating to the Status of Refugees and its Protocol. The Committee also calls upon the State party to grant full access to UNHCR to detention centres for refugees, not to deport refugees without previous UNHCR verification of their status and to ensure refugees their right to security, especially for women and children due to their exposure to violence, including sexual violence.

Data collection and analysis

400. The Committee calls upon the State party to improve the collection and analysis of statistical data, and to include in its next periodic report statistical data and analysis on the situation of women, disaggregated by age, rural and urban areas, ethnicity and region, thus providing a clear picture of the situation of women in the State party. It also calls upon the State party to indicate the impact of measures taken and the results achieved in the practical realization of women's substantive equality.

Optional Protocol

401. The Committee calls upon the State party to sign and ratify the Optional Protocol to the Convention and also invites the State party to

accept the amendment to article 20, paragraph 1, of the Convention, concerning the meeting time of the Committee.

Parliament

402. While reaffirming that the Government has the primary responsibility and is accountable in particular for the full implementation of the State party's obligations under the Convention, the Committee stresses that the Convention is binding on all branches of Government and it invites the State party to encourage its national parliament, in line with its procedures, where appropriate, to take the necessary steps with regard to the implementation of the present concluding observations and the Government's next reporting process under the Convention.

Preparation of next report

403. The Committee requests the State party to ensure the wide participation of all ministries and public bodies in the preparation of its next periodic report, as well as to consult with non-governmental organizations during that phase.

Beijing Declaration and Platform for Action

404. The Committee urges the State party to utilize fully in the implementation of its obligations under the Convention, the Beijing Declaration and Platform for Action, which reinforce the provisions of the Convention, and requests the State party to include information thereon in its next periodic report.

Millennium Development Goals

405. The Committee emphasizes that full and effective implementation of the Convention is indispensable for achieving the Millennium Development Goals. The Committee calls for the integration of a gender perspective and explicit reflection of the provisions of the Convention in all efforts aimed at the achievement of the Millennium Development Goals and requests the State party to include information thereon in its next periodic report.

Dissemination

406. The Committee requests the wide dissemination in Yemen of the present concluding observations in order to make the people of Yemen, and particularly government administrators and politicians, aware of the steps that have been taken to ensure de jure and de facto equality for women and the future steps required in that regard. It requests the State party to continue to disseminate widely, in particular to women's and human rights organizations, the Convention, its Optional Protocol, the Committee's general recommendations, the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly, entitled "Women 2000: gender equality, development and peace for the twenty-first century".

Ratification of other treaties

407. The Committee notes that States' adherence to the nine major international human rights instruments¹ enhances the enjoyment by

women of their human rights and fundamental freedoms in all aspects of life. Therefore, the Committee encourages the Government of Yemen to consider ratifying the treaties to which it is not yet a party, namely, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention on the Rights of Persons with Disabilities and the International Convention for the Protection of All Persons from Enforced Disappearance.

Follow-up to concluding observations

408. The Committee requests the State party to provide, within two years, written information on the steps undertaken to implement the recommendations contained in paragraphs 368, 380, 384 and 388 above. The Committee also requests the State party to consider seeking technical cooperation and assistance, including advisory services, if necessary and when appropriate for implementation of the above recommendations.

Date of next report

409. The Committee requests the State party to respond to the concerns expressed in the present concluding observations in its next periodic report to be submitted under article 18 of the Convention. The Committee invites the State party to submit its seventh periodic report, which is due in May 2009, and its eighth periodic report, which is due in May 2013, in a combined report in 2013.