



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

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Thirty-first session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 583rd MEETING

Held at the Palais des Nations, Geneva,
on Monday, 17 November 2003, at 10 a.m.

Chairman: Mr. BURNS

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.583/Add.1.

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 19 OF THE CONVENTION (continued)

Initial report of Yemen (CAT/C/16/Add.10; HRI/CORE/1/Add.115)

1. At the invitation of the Chairman, Mr. Alduraibi, Mr. Al Fisail Alfil, Mr. Hajar and Mr. Tabrizi (Yemen) took places at the Committee table.
2. Mr. AL FISAIL ALFIL (Yemen) said that Yemen had acceded to the Convention in 1991, at which time it had reviewed its legislation with a view to bringing it into line with the Convention against Torture. His Government's commitment to human rights and fundamental freedoms was illustrated by the establishment in early 2003 of a Ministry for Human Rights tasked with revitalizing national mechanisms to promote and protect human rights, examining alleged violations of human rights and bringing them to the attention of the appropriate authorities.
3. Under the Constitution and laws of Yemen, all forms of torture and cruelty were prohibited and classed as extremely serious offences. The law punished not just torturers themselves, but also their accomplices and anyone who gave orders for torture to be carried out. Prosecutions for torture were not time-barred, and any confession obtained through torture was null and void in the eyes of the law. The right to fair compensation for torture victims was guaranteed under all circumstances.
4. The Yemeni Government took all allegations of torture seriously and was fully committed to conducting investigations, pressing charges and trying alleged torturers. No interference in the work of the judiciary in respect of such matters was tolerated. Together with international organizations and donor States, the authorities were endeavouring to enhance legal awareness of human rights and fundamental freedoms. A major effort had been made to incorporate human rights education into the curriculum in schools, universities and police and military academies. Annual seminars and workshops had been organized for public officials responsible for ensuring the enjoyment of human rights and fundamental freedoms.
5. Legal reform and capacity-building were being actively pursued as the best guarantee of the protection of human rights. The Department of Public Prosecutions and ministerial committees organized regular visits to monitor conditions of detention in prisons, review the cases of prisoners eligible for parole and consider the possibility of using public funds to secure the release of imprisoned debtors.
6. The Government was keen to stress that it was open to all suggestions and recommendations regarding human rights issues submitted to it by political parties, civil society and regional and international organizations. Yemen's human rights record was certainly not perfect, but any violations that did occur were in the nature of isolated occurrences rather than a systematic pattern, and no one could expect to commit torture with impunity in Yemen.

7. The CHAIRMAN, speaking as Country Rapporteur, said that he had been struck by the range and depth of the legislative changes that had taken place in Yemen in recent years, notwithstanding the difficult international political context. The Ministry for Human Rights was a unique governmental structure, and the existence of the Higher National Committee for Human Rights was an indication of how seriously the Yemeni Government took its human rights obligations. He also noted with satisfaction the recent mass release of 91 prisoners held by the Central Political Security Agency and expressed the hope that other persons detained by that authority would also be set free in the near future. That said, the initial report had been submitted 10 years late and its presentation did not fully conform to the Committee's reporting guidelines. In particular, the Government had been content to quote the relevant statutory provisions rather than providing analysis and narrative supported by examples.

8. The report was strong on the de jure situation in the country, but rather weak on matters pertaining to the de facto implementation of the Convention. In any democratic society, the role of the judiciary was clearly pivotal. Unfortunately, the report had failed to make clear who appointed judges, how they were appointed and removed, and what their term of tenure was. Additional information was required also on the prison structure in Yemen: were there separate ordinary, military and political security prisons, or were various categories of prisoners segregated within prisons? Did Yemen have any security courts, and if so, what was their jurisdiction? It would also be useful to know whether there existed in Yemen a writ analogous to habeas corpus.

9. With reference to article 1 of the Convention, the Committee had noted that torture was prohibited in Yemen, but it had looked in vain for the definition of torture applied in Yemeni law. He wished to know whether the Convention against Torture was self-executing in Yemen, and he sought clarification as to whether international treaties required specific legislative introduction into domestic law. The Committee had noted the range of penalties applied in Yemen, including the Shariah punishments of flogging and amputation. It appeared that stoning, while technically still a penalty, was never applied in practice, although the delegation might care to confirm that. Yemen continued to apply capital punishment in the form of execution by public firing squad. He asked the State party to explain why public executions did not constitute a breach of article 16 of the Convention.

10. On the matter of flogging, the Committee had been apprised that the purpose of the punishment was not so much to inflict pain as to humiliate the victim. How exactly was a sentence of flogging carried out? If the purpose was to inflict pain, the punishment would seem to violate article 1, and if the object was simply to humiliate the victim, it appeared to constitute a violation of article 16. Likewise, with regard to amputation, he wished to know how exactly was the sentence carried out, and why such a punishment did not constitute a breach of article 16. Lastly, it would be helpful to have more information about the number of public executions, floggings and amputations.

11. Regarding article 2, the Committee was concerned by some aspects of State policy developed in response to the terrorist threat of recent years. It was important to remember that the use of torture was prohibited in absolutely all circumstances, yet the Committee had received reports that certain officers of the Central Political Security Agency had committed torture when interrogating detainees and had subsequently justified their conduct by reference to the war on terrorism.

12. Under Yemen's very modern legislation, the police could not detain anyone for longer than 24 hours before bringing them before a judge. However, all the information received by the Committee from non-governmental organizations (NGOs) indicated that that legislation was often breached, particularly by political security officers. It was alleged that many persons arrested in connection with the terrorist attack on the USS Cole in 2000 had been unable to contact a lawyer or their next of kin; moreover, they were reported to have been held in detention for more than two years and subjected to brutality by security officers during that time. He wondered whether it had been possible to conduct a police inquiry into those allegations and, if so, what the outcome had been.

13. More generally, he wondered how the State party reconciled its legal regime with actual practice, bearing in mind its obligations under the Convention. Of particular concern were the reports of prisoners suspected of political offences being held incommunicado, a situation that increased the likelihood of torture. Accordingly, there was a need for a formal registry detailing the exact whereabouts of detainees so that any available legal remedies could be pursued.

14. He sought clarification of the administrative and judicial procedures that existed to ensure compliance with the provisions of article 3, particularly with regard to refoulement. There was ample information from NGOs indicating that guarantees of non-refoulement where there was a danger of torture were not provided. He wished to know how many extradition treaties Yemen had concluded and wondered whether it had such a treaty with the United States of America, given that many Yemeni nationals were being held at Guantanamo Bay. The information on extradition treaties was relevant also to the implementation of articles 7, 8 and 9.

15. In connection with article 4 he asked how many charges of torture had been brought against police officers and political security officers in the preceding 12 months. While NGOs asserted that a situation of impunity prevailed, the representative of Yemen in his introductory comments had described recent efforts to remedy that situation. Article 5 obliged States parties to assume universal jurisdiction over persons who had committed torture, irrespective of their nationality. Did Yemeni courts have such jurisdiction, and had Yemen ratified the Rome Statute of the International Criminal Court?

16. It appeared that women prisoners were in a particularly vulnerable position, since after completing their sentence they could only leave prison with a male relative. However, many women prisoners were shunned by their male relatives and thus remained in prison well beyond the end of their sentence. He wondered what action the Government was taking in that regard. He also sought clarification as to the type of control exerted by the national authorities over prisons run by some tribal chiefs.

17. There were many NGO reports of kidnapping and hostage-taking, which had historical antecedents in Yemen. Apparently the relatives of prisoners were often held hostage as a means of putting pressure on the Government to release prisoners. Similarly, the police allegedly kidnapped the relatives of persons they wished to arrest. He would welcome further information on those allegations and wished to know how the authorities intended to deal with the problem.

18. Mr. MAVROMMATIS, Alternate Country Rapporteur, referring to the statement by the representative of Yemen that his country's record was not perfect, stressed that the purpose of dialogue with the Committee was precisely to assist the State party in improving its compliance with the Convention. The Committee was obliged to ask so many questions because the initial report did not provide the necessary information on the practical implementation of relevant legislation. He nonetheless commended the State party on the considerable strides it had made in the area of human rights in the last 15 years, including the incorporation of the Convention into its domestic law. He was aware that the State party had had to deal with difficulties such as the 1994 secession attempt and, more recently, the threat of terrorism; however, the litmus test for democracy in a State was strict compliance with its international obligations, even in difficult times.

19. The core document for Yemen (HRI/CORE/1/Add.115) was more informative. He welcomed the technical cooperation agreement the country had concluded with the Office of the United Nations High Commissioner for Human Rights, but wondered whether the State party had taken advantage of the assistance the Office could provide in the preparation of periodic reports. Also welcome was the news that representatives of the International Rehabilitation Council for Torture Victims (IRCT) had been able to visit prisons where political security officers were held, although the fact that those officers had separate prison facilities warranted clarification. He hoped that more such visits would be allowed. He was impressed by the fact that national and international NGOs enjoyed full freedom to operate in Yemeni territory.

20. With regard to article 9, he observed that there seemed to be two regimes covering mutual legal assistance: one governed by a convention concluded between the members of the League of Arab States and another applicable to countries not members of the League. He would welcome some practical examples of the type of cooperation enjoyed under those two regimes.

21. In the context of article 10 he sought more detailed information on how training manuals and specialized courses for police, security and prison officers dealt with the subjects of torture, cruel treatment and punishment. He wondered, for instance, whether they referred to the non-admissibility of evidence obtained by force, given that many convictions in Yemen seemed to be based on confessions. Was mention made of a requirement that the orders of a superior must be obeyed? He also wished to know whether doctors were trained to recognize the signs of torture.

22. Referring to article 11, he enquired whether there was a manual on acceptable interrogation techniques and, if so, whether it specifically referred to the provisions of the Convention. He would also like to know at what point detainees were guaranteed access to a lawyer, doctor or family member, and whether any unannounced inspections were made of pre-trial detention facilities.

23. Article 12 provided for the investigation of presumed acts of torture, even if a formal complaint had not been lodged, while article 13 imposed an obligation to have such cases promptly and impartially examined by the competent authorities. He therefore noted with satisfaction that the Department of Public Prosecutions participated in such investigations.

However, the reporting State should provide some facts and figures about actual investigations. In particular, he would like to know whether any steps had been taken to investigate the allegations of torture made by those accused of the terrorist attack against the USS Cole. He also wished to know whether persons who lodged a complaint against a member of the police or security forces were protected by a witness protection scheme.

24. More specific information should be provided about the compensation procedures in place, including examples of any compensation that had been granted to torture victims. Given that no compensation per se was reportedly provided in respect of torture or cruel treatment, it would be interesting to know the category under which such claims had been made. He specifically wished to know what was meant by article 97 of the Code of Criminal Procedure, which stipulated that a complaint in which the complainant did not claim his civil rights would be regarded as a communication and would not give rise to civil proceedings. Clarification should also be provided as to the meaning of article 43 of the Code, which stipulated that anyone who had suffered harm as a result of a crime was entitled to bring a civil action, regardless of the amount involved, before a criminal court and to claim compensation for damage arising from the crime.

25. He welcomed the fact that, under the Code of Criminal Procedure, any statements established to have been made as a result of torture were null and void. He would like to know the extent to which that provision was implemented in practice, and whether any evidence resulting from such a statement was considered admissible. He would also like to know where the burden of proof lay: was it the responsibility of the accused to prove that he or she had been tortured, or was it the responsibility of the prosecution to prove that the statement had been made freely and voluntarily?

26. The Committee had been informed that prisons in Yemen were overcrowded and that prison conditions were generally very poor. He would be interested in knowing what sort of administrative punishments prison officers were allowed to impose on inmates and, in particular, the length of time a prisoner could be kept in solitary confinement and the grounds for such confinement. He would also like to know whether certain prisoners had in fact been denied the right to inform their families of their whereabouts.

27. It was difficult to determine the exact position of the Convention in the hierarchy of national legislation, and the delegation should clarify the matter. He specifically wished to know whether the provisions of the Convention could be invoked by the courts. Examples should also be provided of cases in which the courts had been guided by the Convention or by the jurisdiction of human rights treaty bodies.

28. Although he welcomed the establishment of the Higher Committee for Human Rights and other efforts by the State party to entrench democracy and human rights, he urged the Government to consider establishing a body composed entirely of non-governmental experts.

29. He would like to know what steps were being taken to disseminate information on the provisions of the Convention to the police and security forces and to the general public. It would also be interesting to know to what extent NGOs had been involved in the preparation of the State party's initial report. Lastly, the Government should indicate whether it intended to make its report and the Committee's conclusions and recommendations available to the public.

30. Mr. RASMUSSEN said that in 1998 he had participated in a week-long training seminar for prison guards and governors organized jointly by Penal Reform International and the Human Rights Information and Training Centre in Yemen. That experience had allowed him to witness first-hand the commendable efforts being made by the authorities in Yemen to engage in a dialogue with national and international NGOs and to provide training for penitentiary staff.

31. It was regrettable that so little information had been provided in the report in connection with article 11 of the Convention. The reporting State should be more specific about the arrangements made for the custody and treatment of persons subjected to arrest, detention or imprisonment with a view to preventing torture. As he had only visited, rather than inspected, the prison facilities in Sana`a, he did not have a clear idea of the situation and had been forced to rely heavily on information on prison conditions provided by NGOs. He would therefore be interested in knowing how many persons were currently being held in prisons in Yemen and the total prison capacity. He would also like to know the average length of pre-trial detention and whether persons who were acquitted were compensated for the time they had been detained.

32. During his 1998 visit he had been shocked to learn that juvenile offenders were kept in a single dormitory with no access to outdoor recreation facilities and were given no opportunities to engage in any meaningful activity. His concerns reflected those expressed in the concluding observations of the Committee on the Rights of the Child (CRC/C/15/Add.102) following its consideration in 1999 of Yemen's second periodic report. That Committee had considered that the age of criminal responsibility in Yemen, which was set at 7 years, was too low. It had expressed particular concern about the lack of detention centres for female juvenile offenders; the use of detention other than as a measure of last resort; the poor living conditions in detention centres; the use of physical punishment, including flogging, and torture in detention centres; the lack of rehabilitation measures and educational facilities for juvenile offenders; and the placement of "potential delinquents" in detention centres rather than in care institutions for their rehabilitation.

33. He was also concerned by the fact that women could be kept in prison indefinitely if they had no relatives to collect them on their release. There was a risk that such women might resort to a life of crime in order to support themselves; however, keeping them in prison beyond their sentences was not the right solution.

34. Ms. GAER said that as the Committee's rapporteur on gender issues she would focus largely on the status of women and their treatment in Yemen. She recalled that when the country had been reunified in 1990, there had been two very different patterns of treatment of women. In one area of the country women had enjoyed extensive legal rights with regard to the family and education but fewer civil and political or electoral rights. In the other, women had enjoyed substantial electoral rights but fewer educational and vocational opportunities. She would therefore be interested in knowing whether any regional patterns could be observed in the number of female prisoners, their type of detention and the offences for which they were being held. She enquired whether women could be sentenced to corporal punishment, and, more specifically, whether any women had been subjected to flogging or amputation.

35. She would like to hear more about the cooperative programmes between the Government of Yemen and the Office of the United Nations High Commissioner for Human Rights. She was particularly interested in a programme that involved the recruitment of female police officers; it would be interesting to know whether the treatment of juveniles and women in conflict with the law had improved as a result.

36. The delegation should clarify whether all women had to be accompanied by relatives when travelling in the country or whether that rule applied exclusively to women being released from custody.

37. As there were no detention facilities in Yemen specifically designed for female juvenile offenders, she wondered where such offenders were detained and what protection they received. She would like to know the delegation's response to the allegations that conditions were particularly poor for female prisoners and that prison guards routinely abused female prisoners. Women were commonly held in Yemeni prisons on "morals charges", a term that should be clarified.

38. Further information should be provided about the complaints procedure available to detainees and whether a monitoring mechanism was in place. She would particularly like to know the percentage of complaints lodged by women and girls. She would also like to know whether the complainants or the accused persons in such cases were transferred to another facility.

39. She had read reports that the bodies of executed persons were sometimes placed on public display. She wished to know whether that was a common practice and what the Government's position was in that regard.

40. She requested updated information about the case of Sabah Seif Salem, who had reportedly died in prison in 2000 as a result of being raped and beaten. The delegation should indicate whether an investigation had been carried out and whether anyone had been held responsible for the crime. She would also like to learn more about the fate of Fahd `Abdullah Jassim Al-Malki, who had been forcibly returned to Qatar in 1999. She would be particularly interested in knowing whether the State authorities had followed any special procedures prior to handing him over to Qatar and whether they had monitored his situation subsequent to his return.

41. Mr. MARIÑO MENÉNDEZ, referring to paragraph 5 of the report, noted that the State party had put in place mechanisms and measures relating to the Convention, such as the Code of Conduct for Law Enforcement Officials and other instruments adopted by the General Assembly. He asked what legal status those instruments had been given and, in particular, what norms governed the use of firearms by the police during demonstrations and in maintaining law and order.

42. The Committee had received information concerning the collective expulsion of foreigners from Yemen. As the State party had not ratified the 1951 Convention relating to the Status of Refugees, he wondered what procedure was applied in such cases. Was there a judicial procedure or a case-by-case review? Or was the deciding factor a politically motivated decision that a certain group of foreigners should be deported?

43. He asked whether rules had been established to ensure that if Yemen declared a state of emergency, the prohibition against torture would not be suspended or derogated from under any circumstances.

44. Mr. YU Mengjia enquired about attitudes to terrorism in Yemen, especially among law enforcement personnel. In that connection, he wished to know whether training courses for such personnel emphasized the primacy of human rights, as required by article 10 of the Convention, even under the difficult circumstances created by terrorist activity.

45. Mr. GROSSMAN said that he would welcome details of practical experience, case law and any difficulties encountered in applying the legislation recently enacted in Yemen to give effect to the Convention.

46. With regard to article 3, he asked for information regarding the principle of non-refoulement. He also asked whether the State party was contemplating the introduction of any specific provisions in that regard, or whether it felt that the question was already covered by existing legislation.

The public part of the meeting rose at 12.10 p.m.