



**International covenant
on civil and
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HUMAN RIGHTS COMMITTEE

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SUMMARY RECORD OF THE 2282nd MEETING

Held at the Palais Wilson, Geneva,
on Monday, 11 July 2005, at 3 p.m.

Chairperson: Ms. CHANET

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The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 40 OF THE COVENANT AND OF COUNTRY SITUATIONS
(agenda item 6)

Fourth periodic report of Yemen (CCPR/C/YEM/2004/4; CCPR/C/84/L/YEM;
HRI/CORE/1/Add.115)

1. At the invitation of the Chairperson, the members of the delegation of Yemen took places at the Committee table.

2. Mr. KAHTAN (Yemen), introducing the fourth periodic report of Yemen (CCPR/C/YEM/2004/4), said that the unification of his country in 1990 and the concurrent introduction of human rights-based legislation had been major turning points in the promotion and protection of human rights in Yemen. The most important political development since then had been the holding of the first municipal elections in 2001, which had enhanced public participation in policy-making at the local level. Women played an active role in political life and had accounted for 42 per cent of voters in the 2003 parliamentary elections.

3. His Government also promoted plurality in the media; each political party had its own publication. Amendments to the Press and Publications Act were currently under review. In accordance with those amendments, journalists would no longer be liable to imprisonment for expressing their opinion. Legislation was also being vetted with a view to eliminating provisions that discriminated against women and thus ensuring their full participation in all areas of activity. In that regard, the Council of Ministers was currently discussing amendments to a large number of legal provisions in order to bring national legislation into line with the relevant international instruments.

4. With the support of the international community, the Government had implemented a series of educational and awareness programmes with the aim of promoting a human rights culture. Furthermore, a human rights databank had been set up, and efforts were being made to strengthen links with civil society and to develop further human rights-related programmes and activities.

5. Although considerable progress had been made in the field of human rights, inadequate local capacities and resources represented a considerable obstacle, and the support of the international community was crucial. Support for development, for example in the areas of health and education, would contribute to laying a solid foundation for the enjoyment of all human rights. The comments and recommendations of the Human Rights Committee were also important tools for furthering human rights in Yemen.

6. The CHAIRPERSON invited the delegation to reply to questions 1 to 13 of the list of issues.

7. Mr. KAHTAN (Yemen) said that the preparation of the written replies to the Committee's list of issues had been problematic since only the English-language version of the document had been received. Local translation capacities were limited and his Government would appreciate it if, in future, an Arabic version of the list could be provided.
8. Human rights protection in Yemen was ensured at various levels. The provisions of the international instruments to which the country was a party were incorporated in national legislation. The rights to freedom of expression and freedom of association were enshrined in the Constitution. Remedies for any violations of those rights were available through the courts.
9. Several bodies within parliament were entrusted with the promotion and protection of human rights. The Public Freedoms and Human Rights Committee was mandated, inter alia, to ensure the harmonization of national legislation with Yemen's obligations under international instruments. It also investigated cases of human rights abuse and monitored respect for human rights within government institutions. The Petitions and Complaints Committee was competent to receive complaints of human rights violations, prepare reports on such incidents for submission to parliament, and ensure the follow-up and implementation of ensuing recommendations. The Consultative Council Public Rights and Freedoms Committee played an advisory role and was responsible for safeguarding the rights and freedoms of the media and civil-society organizations and for investigating alleged human rights violations. It was further entrusted with monitoring regional and international developments in the field of human rights and preparing reports. Those activities aimed at strengthening links between local and international organizations with a view to engaging in an exchange of relevant experience. Particular efforts were made to enhance the role of women, and a number of governmental institutions focused on promoting and protecting their rights.
10. With the establishment of the Committee on Political and Civil Human Rights in 1997, the Government had acquired its own human rights protection mechanism. In 1998, the Committee had been replaced by the Higher National Human Rights Committee, which was mandated to ensure the incorporation of the provisions of international instruments into domestic legislation and oversee their implementation. It also prepared reports to United Nations treaty-monitoring bodies. The Committee comprised representatives of the ministries concerned and received advice from representatives of various judicial organs. In 2001, the Government had established the Ministry of Human Rights.
11. Civil society played an important role in the promotion and protection of human rights, and its involvement was actively encouraged. Civil-society organizations fulfilled advisory functions vis-à-vis the Ministry of Human Rights and cooperated with the competent government bodies. Of the 4,000 or so NGOs operating in Yemen, over 50 worked in the field of human rights. NGOs organized workshops on issues such as the rights of women and children and the situation of prisoners.
12. Mr. ALYOUSOUFI (Yemen) said that the Ministry of Human Rights played a major role in investigating complaints of human rights violations submitted by citizens, organizations and institutions. Issues raised by organizations such as Amnesty International, which had in the past remained unanswered, were now formally addressed with the aim of formulating an adequate response.

13. His Government was also exploring the possibility of establishing an independent national human rights committee composed of representatives of civil society and the Government in conformity with the provisions of the Paris Principles relating to the status of national institutions for the promotion and protection of human rights.

14. Replying to question 3 of the list of issues, he said that several domestic legislative provisions enshrined the prohibition of discrimination based on sex. In particular, the Constitution stipulated that all citizens were equal before the law. Several other laws governing economic, social and cultural rights, employment rights, and the right to vote provided that women enjoyed the same rights as men. The Government was in the process of revising all legislation with the aim of removing any remaining obstacles to women's participation in political life.

15. Female genital mutilation occurred only in border areas of the country. The Government had made every effort to prevent that practice and had received no information on new cases. In order to ensure application of the current legislation, a proposal to amend the relevant law would be considered by parliament in August 2005.

16. Domestic legislation on polygamy was in conformity with the Covenant. It was based on Islamic sharia law and, as stipulated in article 5 of the 1993 Vienna Declaration and Programme of Action, the religious background of a State must be borne in mind.

17. The right of women to own property was enshrined in article 7 of the Constitution, which stipulated that economic activity should benefit all citizens. Several legislative provisions guaranteed the right of women and men to own property, including Act No. 14 of 2002, which specified that the owner of any property or article had the right of usufruct, regardless of gender.

18. Mr. MAHDI (Yemen), having thanked the civil-society representatives who were attending the meeting, emphasized that the aim of governmental and non-governmental organizations alike was to promote and protect human rights in Yemen. In response to question 7 of the list of issues, he reaffirmed that the principle of non-discrimination between men and women was enshrined in several domestic laws. The Government had implemented strategies and policies to improve the condition of women, to ensure their active participation in society, to enhance the level of education attained by women and girls, and to promote women's rights at all levels. Moreover, a decision adopted by the Council of Ministers in 2004 highlighted the right of women to be appointed to the office of judge.

19. In answer to question 8 on the value of witness statements, he said those statements were taken and assessed in accordance with sharia law, a practice that was largely in line with the provisions of the Covenant.

20. The national strategy to achieve gender equality in the public service was based on all the domestic legislation governing gender equality, to which reference had already been made. Any violations of that legislation were sanctioned. The National Women's Committee had proposed amendments to 26 laws, with the aim of increasing women's rights and achieving true gender equality.

21. The court that dealt with crimes of terrorism was a court of first instance. The public prosecutor was responsible for overseeing all prosecutions in that court. The crimes tried by the court included kidnapping of foreigners, piracy, wilful damage to oil pipelines and installations, theft of public property by armed organizations or individuals, wilful damage of public property and hostage-taking. The court tried both the perpetrators of such crimes and those who aided and abetted the perpetrators. Due process was ensured in accordance with the guarantees applied in other domestic courts.

22. Mr. KAHTAN (Yemen), responding to question 11 of the list of issues, said that the Supreme Court had sent that case back to the court of first instance in Aden, demanding that the evidence should be re-examined. In practice, sentences to death by stoning for adultery were rarely executed, given that four witnesses to the adultery were required. If a woman admitted her crime, the sentence was retracted. Sentences to death by stoning for adultery, while seldom applied, were in accordance with the provisions of sharia law.

23. His delegation could not comment on the case described in question 12 unless the Committee could clarify the identity of the individual who had been sentenced to death.

24. Yemen had not acceded to the second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. In accordance with the resolution of the Economic and Social Council on safeguards guaranteeing protection of the rights of those facing the death penalty (resolution 1984/50), there were many such safeguards in place in Yemen.

25. The CHAIRPERSON said that, while the list of issues had been issued in English, French and Spanish (the working languages of the Committee) in the first instance, the Arabic translation had been available as a public document since May 2005.

26. Mr. KÄLIN commended the reporting State for the early submission and detailed content of its fourth periodic report. The Committee would, however, appreciate more information in future on factors and difficulties that might affect implementation of the Covenant.

27. Turning to question 1 of the list of issues, he welcomed the State party's efforts to ensure comprehensive implementation of the Covenant. With particular regard to the role of the judiciary in ensuring domestic implementation of the Covenant, he wondered whether there had been any cases in which the Covenant had been invoked and applied by the courts since the 1998 case cited in the report (para. 24).

28. He also welcomed the establishment of institutions responsible for human rights issues, such as the Ministry of Human Rights and the National High Council on Human Rights, but stressed that, in accordance with the Paris Principles, it was essential that governmental organs be complemented by institutions such as an independent human rights commission (question 2) empowered to investigate human rights violations, including violations by State organs. He therefore requested more information on efforts to establish such an independent body and on when it could be expected to begin its work.

29. Much progress had been made in amending legislation to prohibit gender discrimination (question 3), yet according to numerous reports received, the real situation of women had not been affected. For example, there was only one woman member of parliament, fewer than 1 per cent of local council members were women, the illiteracy rate of women was over 60 per cent and the number of women in the judiciary had in fact decreased. Some laws still provided for different treatment for men and women: a foreign husband married to a Yemeni woman had to renew his residence permit every two years whereas a foreign woman married to a Yemeni man only had to renew her permit every five years; more than 80 per cent of the beneficiaries of the Social Insurance Act had been men. Serious problems therefore remained in the area of equal treatment for women. He stressed that it was important not only to amend laws but also to address factors which had a negative effect on women in society and vis-à-vis the administration. Specific measures should be adopted to prohibit sexual discrimination wherever it was found.

30. With regard to the court which dealt with crimes of terrorism (question 10), he wondered whether it was a court of first instance or an ad hoc court and whether its judges were from an existing chamber, had special status or included members of the armed forces. He also asked whether that court dealt exclusively with the crime of terrorism or membership of a terrorist group and, if so, how those crimes were defined.

31. Mr. GLÈLÈ AHANHANZO applauded the State party's efforts to modernize its legislation but questioned the degree to which those amendments had been implemented in practice. He requested further information on the prevalence of female genital mutilation (question 4) and efforts to eliminate that practice, including through education and awareness-raising activities, and on the results of such efforts. He also requested more information on how the practice of polygamy could be justified (question 5), including on religious grounds; that issue was related to the need to combat cultural and societal attitudes which promoted discrimination against women. A basic step towards improving the status of women would be to reduce illiteracy among women and ensure they had equal access to education. Finally, with regard to question 6, he requested further information on any legal guarantees of women's right to own property, and information on the number of businesswomen.

32. Mr. BHAGWATI said that although it was a positive step to have amended many laws with the aim of eliminating discrimination, the Committee needed more information on the practical implementation of those changes in order to assess the human rights situation. While progress appeared to have been made towards improving the status of women in the social, political and economic spheres, more needed to be done and the State party must devote greater attention to improving the situation of women, most of whom were illiterate and unaware of their rights and were therefore denied the opportunity to play an active role in their country. To that end, the State party had an obligation to address social and cultural attitudes which hindered progress towards equality for women, and to ensure that women received an equal and adequate education. Although women currently had the right to vote and to stand for public office, the removal of obstacles to their equal participation and improved education, including in relation to political issues, would help them take their rightful place in society.

33. He expressed concern about continuing inequality between men and women in marriage and requested information on whether men and women were equally free to enter into marriage, on whether there were different legal ages for marriage for men and women, on the divorce rate and whether a man could still divorce his wife by repeating three times publicly that he divorced her, and on whether men and women had equal inheritance rights. The State party should consider following the example of other countries, which had implemented special measures such as affirmative action to promote the status of women.

34. More information would be welcome on any steps envisaged to prohibit female genital mutilation (question 4) and when such steps might be taken, and on efforts to increase public awareness of the need to terminate that practice. He also requested information on: efforts to create an independent national human rights commission (question 2) in accordance with the Paris Principles, whether or not that process was being undertaken at the government level only, and whether the commission would be truly independent; how human rights guarantees under the Constitution and the Covenant were implemented, which authorities were responsible for them and their powers; and what remedies were available to citizens, including women, if they felt their human rights had been violated.

35. Mr. KHALIL, referring to question 11, welcomed the decision of the Supreme Court to order a retrial of the woman sentenced to death by stoning for adultery, although it was unfortunate that she would have to undergo the ordeal of a new trial and the possibility of the death sentence again being imposed. He requested confirmation that, as indicated in paragraph 174 of the report, no punishment of stoning had been applied for hundreds of years, and that, in accordance with the information provided in paragraphs 118 and 174, even if found guilty once again, the woman would have the right to apply for a pardon. He stressed that the right to life and the right to seek pardon or commutation of a death sentence were fundamental rights guaranteed under article 6, paragraphs 1 and 4, of the Covenant.

36. Turning to question 12, he said that he had information according to which the death sentence against the individual alleged to be schizophrenic had been upheld after review by the supreme judicial council and the sentence had been carried out in 2001. The case had in fact been the subject of an urgent appeal by the Special Rapporteur on extrajudicial, summary or arbitrary executions (E/CN.4/2003/3/Add.1, para. 561). He asked if the delegation could shed any more light on that case and on how that sentence could be justified in relation to article 6 of the Covenant. With regard to question 13, he recalled that in its concluding observations on the third periodic report of Yemen (CCPR/CO/75/YEM, para. 15), the Committee had already noted with concern that the offences punishable by the death penalty were not consistent with the requirements of the Covenant and that the right to seek a pardon was not guaranteed for all on an equal footing. Given the large number of individuals awaiting execution, he wondered whether the Government of Yemen had considered amending its legislation so as to reserve the death sentence for only the most serious crimes or even to abolish capital punishment entirely.

37. Mr. AMOR said that despite the difficult situation in Yemen, the Government had made considerable efforts to promote and protect human rights, and progress had been made in many areas. Cultural traditions were a particular obstacle to the full realization of human rights, since they were deeply rooted in society and therefore difficult to change, despite progress in policy and legislation. The report currently before the Committee emphasized the importance of the specific cultural and, in particular, religious characteristics of the State party. Those

characteristics should not, however, be used as an excuse for failure to respect human rights. The Vienna Declaration and Programme of Action should not be interpreted in a selective manner, and articles of the Covenant should not be considered in isolation from each other or out of context.

38. Although the Committee acknowledged and respected the historical and cultural context of women's rights in Yemen, that context should not be accepted as an obstacle to their full realization, since the Covenant was based on the concept of the universality of civil and political rights. Women's rights were recognized in every article of the Covenant, to which Yemen had not submitted any reservations. The religious character of Islam varied between Muslim countries since the Koran was open to a wide variety of interpretations. The Koran stated, for example, that a man could not enter into a polygamous marriage if he feared that there would be any inequality between his wives. That could be interpreted as a prohibition of polygamy, since no man could be sure that he would always treat his wives equally. Further information on the Yemeni interpretation of that verse of the Koran would be welcome.

39. He asked what information and education were available to women, and what measures were being taken to combat illiteracy. Illiteracy led to ignorance, which could result in women being subjugated to traditions that were considered unacceptable under international human rights standards. He wished to know how much, if any, religious extremism had been evinced in Yemen, and said that the Committee would appreciate any information on the use of religion as a political instrument.

40. Mr. O'FLAHERTY said that the issue of trafficking in persons had not been mentioned in the State party report. He requested information on the extent to which such trafficking posed a problem in Yemen, and on the Government's efforts to combat the phenomenon. He asked what measures the Government was taking to address the issue of Iraqi women being trafficked to Yemen by criminal syndicates, and how those women's rights were being defended. The Committee had received shocking information on the numbers of Yemeni children being trafficked to Saudi Arabia; according to UNICEF, they had totalled 50,000 in 2004. He asked whether that figure was accurate, and what measures the Government was taking to solve the problem. He wondered what measures were in place to protect children's rights, and whether the Government was running any programmes in cooperation with children's organizations such as UNICEF.

41. Sir Nigel RODLEY said that in accordance with the Covenant, freedom of religion was incontestable, but the freedom to manifest one's religion could be subject to limits in order to protect the fundamental rights and freedoms of others. Although the Committee accepted religious law as national law, no national law, be it religious or otherwise, could be invoked against international treaty law. According to the Committee's General Comment No. 31, a State could not invoke the provisions of its internal law as justification for its failure to perform a treaty. The issue at stake was therefore not whether religion could override a treaty, but rather whether the religion in question was compatible with that treaty.

42. On the issue of the use of the death penalty, he was concerned about how frequently it appeared to be possible to find the four witnesses, or extract the confessions, required to apply the law that allowed adulterous women to be sentenced to death by stoning. Although in certain cases the women concerned had been released, the fact that the practice continued to exist was

contrary to the right to life, and article 6 of the Covenant. Although the State party's legal and constitutional policy was not to execute a person who had committed a crime when under the age of 18, there appeared to be instances in which that policy was not applied. He had been informed of the case of 17-year-old Hafez Ibrahim, who had been sentenced to death for a murder he was alleged to have committed at the age of 16. He wished to know whether that sentence had been carried out and, if not, what was the current status of the case.

43. In crimes with political motivation, the serenity of justice could be called into question. The delegation should comment on the case of Yahya Al-Dailami, who had been sentenced to death for conspiracy with another country. Further information should be provided on the use of the death penalty in political cases. The Committee had been informed of the deaths of six men, who had been suspected of being members of Al-Qaida. The men had been driving a car that had been hit by a missile, in a joint operation by the Yemeni Government and United States security forces. Article 6 of the Covenant required that every effort should be made to apprehend individuals with the minimum use of force in security-related cases. He wondered what efforts had been made to apprehend those six men before the use of lethal force had been authorized.

44. Mr. ANDO asked how the Islamic laws on polygamy were interpreted by Yemeni society.

45. Ms. WEDGWOOD said that according to article 6 of the Covenant, the death penalty could be imposed only for the most serious offences. She wondered whether the Government intended to re-examine the use of the death penalty for crimes relating to sodomy and the drug trade. The Committee was concerned about revenge and blood money, particularly since in Yemen failure to pay blood money could result in death, even though under article 11 of the Covenant a person could not be imprisoned for not paying financial debts. Articles 434 and 484 of the Yemeni Penal Code provided for the possibility of the amputation of limbs as punishment, which was in stark violation of the Covenant.

46. Turning to the issue of polygamy, she wished to know whether a woman could contract a form of marriage that excluded polygamy. She wondered whether the law provided for secular marriage and, if not, whether the Government planned to institute such a provision. She also wished to know whether the issue of the equal treatment of wives was justiciable before a family court. Although a woman must be informed in the event that her husband intended to take a second wife, that information was useless unless she had the right to object to a polygamous marriage.

47. She took it that the delegation conceded that female genital mutilation was not in line with the Covenant and was not protected under the sharia, and asked whether the Government intended to criminalize all forms of such mutilation. She wished to know whether there had been any cases of prosecution for domestic violence. The frequency of cases in which four male witnesses to an act of adultery could apparently be found, and thus an adulterous woman could be stoned to death, seemed implausible.

The meeting rose at 5.50 p.m.