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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

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SUMMARY RECORD OF THE 36th MEETING

Held at the Palais Wilson, Geneva,
on Thursday, 13 November 2003, at 10.10 a.m.

Chairperson: Ms. BONOAN-DANDAN

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

CONSIDERATION OF REPORTS (continued)

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Initial report of Yemen (continued) (E/1990/5/Add.54; E/C.12/Q/YEM/1; CESCR/NONE/2003/3; HRI/CORE/1/Add.115)

1. At the invitation of the Chairperson, Mr. Alabassi, Mr. Alduraibi and Mr. Hajar (Yemen) took places at the Committee table.

II. Issues relating to the general provisions of the Covenant (continued)

Articles 1-5 of the Covenant (continued)

2. Mr. ALABASSI (Yemen) said that the Government was taking steps to ensure that women could participate in all spheres of public life. A number of women's organizations had been set up, including the High Supreme Council for Women, which helped ministers and institutions develop strategies for resolving women's issues; the National Committee for Women, which took steps to protect women's rights at work; and the General Federation of Yemeni Women. Although those institutions could submit proposals on women's rights to the Parliament, there was opposition by certain groups to progressive legislation. Various conferences on women's issues were also held.

3. The Ministry of Human Rights had drafted a legislative amendment that would ensure that children were able to acquire citizenship regardless of the marital status of their parents. Although no legislation prevented women from travelling alone, constraints existed at a personal level. For example, illiteracy was widespread and many women were unaware of their rights. The Government had prohibited and was taking steps to eliminate the practice of female genital mutilation, which continued to exist in some regions, albeit to a very limited extent.

4. Mr. ALDURAIBI (Yemen) said that, although the Constitution was very clear on the issue of gender equality, problems could arise owing to the fact that Shariah law was incompatible with international instruments on certain gender issues. The Government was aware of the problem and was considering whether to modify its interpretation of Shariah law accordingly. However, some aspects would be difficult to change. For example, in general it was the husband, not the wife, who had the right to request divorce. Women could, however, request divorce for reasons such as material or moral prejudice, the husband's imprisonment, or maltreatment. A wife could terminate a marital relationship without justification on condition that the gifts made to her family by her husband were returned.

5. Although polygamy was allowed under Shariah law, the Government imposed numerous constraints in order to limit the practice. In polygamous marriages, husbands must treat all their wives fairly. Both Shariah law and other legislation encouraged monogamous marriages; however, the Government believed that it made sense to grant a man the right to take a second wife in certain circumstances. Extramarital sexual relations were prohibited.

6. There was no legislation that prevented women from running in parliamentary elections. Candidates were chosen not on the basis of gender but on the basis of their competence and popularity.

7. The provisions of the International Covenant on Economic, Social and Cultural Rights were reflected in the country's legislation. To date, there had been no instances of conflict between international instruments and domestic legislation.

8. Disabled people enjoyed the same economic, social and cultural rights as the rest of the population. There was a requirement that 5 per cent of civil service employees should be recruited from among the disabled. A special fund had been set up to finance health centres and other services for the disabled, and to grant microcredits to disabled people's associations. A number of associations organized workshops and training sessions for the disabled.

9. Domestic legislation prohibited all forms of discrimination. The Government had ratified the International Convention on the Elimination of All Forms of Racial Discrimination. To date, there had been no legal cases involving discrimination on the grounds of religion, gender or ethnicity.

10. With regard to religious intolerance, in general Yemeni society was a tolerant one. However, some forms of religious intolerance persisted, which the Government was working to combat. Until recently some 300,000 pupils, or 10 per cent of the total, had been enrolled in religious schools. In 2001 the Government had taken the courageous decision to close the religious schools and enrol those pupils in public schools. Today there were no religious schools in Yemen.

III. Issues relating to specific provisions of the Covenant

Articles 6-9 of the Covenant

11. Mr. CEAUSU said that, according to the initial report (E/1990/5/Add.54, para. 73), in 2000 the Yemeni workforce had totalled 4.3 million. He wondered whether that figure was not too low, given that the core document (HRI/CORE/1/Add.115, para. 10) stated that the total population in 1998 had stood at some 17 million.

12. The report (para. 92) referred to numerous difficulties and obstacles in connection with ensuring the employment of women and their enjoyment of the same working conditions as men, such as equal pay and promotion. That was very vague, and he asked the delegation to explain what exactly those difficulties and obstacles were.

13. With regard to article 8, the report made a number of references to civil and cooperative associations (para. 102), whereas the Committee was more interested in the situation of trade unions and whether employees could create and join them. He enquired whether the Cooperative Associations and Federations Act No. 39 of 1998 and the Civil Associations and Federations Act No. 1 of 2001 (para. 102) recognized the right of everyone to create and join trade unions, whether they contained any restrictions on the right of association and, if so, what those restrictions were.

14. Concerning the implementation of article 9, he would appreciate some basic information on how the social security system functioned. What was the age of retirement? Was the pension fund based on contributions? He would also like to know whether employees in Yemen also had unemployment insurance, occupational accident insurance and survivors' insurance.

15. Ms. BRAS GOMES asked whether there was a minimum wage in Yemen and whether it was sufficient for a decent standard of living. She sought the delegation's comments on information which the Committee had received according to which persons employed in workshops and stores could be forced to work 10- or 12-hour shifts without being paid extra time. If that was the case, she would like to know what measures the Government intended to take to ensure private-sector compliance with regulations on working hours. She also enquired whether the new labour legislation of 2002, which imposed a single trade union system, was still in force.

16. She would be interested to learn what occupational categories were actually covered by the social security system. The delegation had stated that self-employed agricultural workers were not covered. Given that more than 50 per cent of Yemen's labour force was made up of agricultural workers, she asked what efforts were being made to inform them about benefits and, when they were not covered, whether the Government had given any thought to a non-contributory old-age pension system for persons who were too poor to pay into a scheme during their working lives.

17. Regarding the Social Welfare Fund, she said that according to data until 1998, there had been a steady increase in the number of beneficiaries and in benefits paid. She hoped that the next report would include more up-to-date statistics. Had the Fund been replaced by the social solidarity fund to which the delegation had referred, and if not, what was the connection between the two?

18. She would like to know whether Yemen intended to ratify International Labour Organization (ILO) Convention No. 102 concerning Minimum Standards of Social Security.

19. Mr. RIEDEL, referring to the projects planned over the period 2001-2005 to improve working conditions, asked for disaggregated, comparative data in the next periodic report to assess whether there had been an improvement or a deterioration in the overall situation. Judging by the policies and programmes which the delegation had cited, a serious effort was being made.

20. Illiteracy among the labour force had a direct impact on the country's poverty reduction programmes. It would be useful to learn whether there had been any pilot projects or other initiatives to combat illiteracy.

21. He would like to know what was being done to combat Yemen's large informal labour market. Was there an inspection unit to address the issue? He also asked whether any employers who had hired persons informally had been punished.

22. Mr. MARTYNOV said that Yemen had a fairly good record of ratifying ILO conventions, but it had not acceded to ILO Convention No. 174 concerning the Prevention of Major Industrial Accidents. He asked why it had not done so and whether it planned to do so.

23. He was surprised by the very small number of retired persons in the private sector (para. 112). Did that mean that some people employed in the private sector did not receive any old-age pension? He also sought information on the situation of old-age pensions in the agricultural sector.
24. According to paragraph 107 of the report, the maximum social security assistance which could be received in one month was 2,000 riyals. He wondered how that figure related to the cost of living.
25. Ms. BARAHONA RIERA noted that a large number of programmes existed to provide occupational training for young people of both sexes to help them find employment, but that there had not been any assessment of whether those initiatives, especially those for women, had been successful. It was alarming that males accounted for 74.2 per cent of the workforce and females for only 25.8 per cent (para. 73). It would be useful for the figure of 25.8 per cent to be disaggregated to show in which sectors women usually worked.
26. Mr. ALABASSI (Yemen), replying first to a question on obstacles to the employment of women, said that, as stated in the report, there were no such obstacles of a legislative nature. But others existed, related to social traditions, the high illiteracy rate among women, the nature of women's work, conditions governing their work, and women's relationship to society and family. The Government and civil society were striving to raise awareness in order to overcome them.
27. The situation of teachers in rural areas offered an example. Although the Government had adopted a programme for the education of girls, the rate of enrolment for girls in many remote rural areas remained very low. Tradition in those areas discouraged girls from attending school because the teacher might be a man. But if the teacher was a woman, they might be allowed to go to school. The problem was how to encourage female teachers to go to rural areas. Other problems arose in the area of health care. Sometimes women were discouraged from giving birth in hospitals in case the doctor was a man.
28. Such obstacles must be dealt with by awareness campaigns and education. Recently there had been signs of change. School enrolment rates for girls in rural areas had increased dramatically. Each region had an employment quota for women, and women graduates must account for a certain percentage of new hiring. Incentives were offered to women to work in rural areas.
29. With regard to the question of social security, updated statistics on old-age, health-care and occupational accident insurance would be included in the next periodic report. There were two social security systems, one for civil servants and one for the private sector. Under both, employees made monthly contributions to a fund which then paid out retirement benefits and allowances in the event of an accident in the workplace. Programmes were under way to extend the coverage of social security in the private sector. The informal sector was a major problem in Yemen, given that 52 per cent of the workforce was employed in the agricultural sector. Agricultural holdings were small and fragmented; inheritance law contributed to fragmentation. In the industrial, banking and other sectors, employees usually had insurance plans.

30. Drastic currency devaluations and structural reforms had adversely impacted wage levels and had made it difficult to establish a minimum wage; as a result, it was hard to provide reliable poverty figures. Workers' wages had not been adjusted since the 1990s despite reductions in purchasing power. In collaboration with the World Bank, the Government had devised a new strategy, which, it was hoped, would lead to more favourable working hours and wages for both public and private sector workers.

31. In cooperation with the International Labour Organization and the Arab Labour Organization, the Government had developed programmes to limit child labour, particularly in hazardous work, under which specialists sought to encourage children to re-enrol in school. Few indicators existed for girls' and women's training. However, in cooperation with the World Bank and the European Union, a strategy had been developed to promote the technical and vocational training of girls and women, with emphasis on matching curricula to their career aspirations. He acknowledged the importance of reliable statistics; the Government would include more precise figures in its next periodic report.

32. Mr. ALDURAIBI (Yemen) said that Yemen's cultural heritage was responsible for some of the limitations on women's integration in the labour market. For example, women themselves often preferred health-related, teaching and administrative jobs to those involving physical labour. Yet attitudes towards women's jobs had begun to change, as witnessed by the fact that women could now join the police or armed forces and were supported in those decisions by the Government and civil society. Attitudes towards exclusive male ownership of businesses or farms needed to be changed and legislation to establish the age of retirement should be enacted. There were no obstacles to the establishment of trade unions in Yemen.

Articles 10-12 of the Covenant

33. Mr. SADI said that, according to the delegation, female genital mutilation was prohibited and was practised in certain parts of Yemen only. He asked whether any examples could be cited in which persons had been brought to trial for such practices.

34. Forcing women to marry against their will violated a number of international instruments. He would like the delegation to comment. How was Yemen combating marital rape? He also reminded the delegation that international instruments prohibited discrimination against illegitimate children.

35. A number of fatwas stipulated that polygamy was not illegitimate from a religious point of view. He enquired whether there had been any move in Yemen to adopt a fatwa condemning polygamy. He would also appreciate clarification as to whether polygamy was a punishable offence and whether anyone had been prosecuted for it.

36. Mr. RIEDEL said that he, too, was interested in learning what efforts the Government was making to combat polygamy, and in that connection he drew the delegation's attention to the recommendations contained in paragraphs 8 and 9 of the concluding observations of the Human Rights Committee (CCPR/CO/75/YEM). From the statements by the delegation, he could not see how Yemen was ensuring compliance with article 2.2 and article 3 of the Covenant.

37. He also wondered about the consequences of the break-up of polygamous marriages. What rights did the second wife have in relation to child custody and the distribution of the family's assets? It was on such issues that the Human Rights Committee, the Committee on the Elimination of Discrimination against Women and the Committee on the Elimination of Racial Discrimination had been so adamant in urging the Government of Yemen to take a clear stand.
38. Mr. GRISSA said that, from the standpoint of the Covenant, it was unacceptable for fathers to require their children to work on family farms or small businesses. Education should be compulsory and fathers should be obliged to send their children to school.
39. There were far too many child workers in Yemen. Those children represented the future of the nation; therefore, ensuring their education was, in effect, an investment in Yemen's future.
40. Mr. ATANGANA enquired whether the Government planned to take measures to address the urgent problem of access to water in Yemen. The delegation should provide details of the functioning of its poverty alleviation funds, including how they were financed and how their resources were distributed.
41. Mr. KOLOSOV said that it was difficult for rural inhabitants, especially illiterate persons, to seek assistance and remedies from the councils responsible for promoting and protecting human rights, which were present in the major cities of Yemen. No international human rights convention could fully be implemented without the active participation of the people, non-governmental organizations and trade unions. He therefore strongly urged the Government to set up local branches of the human rights councils.
42. Mr. TIRADO MEJÍA said that the government statistics on child labour, particularly those referring to the fact that children aged 6 to 14 made up 9 per cent of the workforce, were alarming. Child labour was a problem that could not be resolved solely through legislation; effective policy implementation was required. The high population growth rate in Yemen was also a serious problem in terms of the attendant high maternal mortality rate. He suggested that the Government should address that problem through policies that took into account the traditional practices of the population.
43. Mr. CEAUSU asked whether the Government was taking steps to slow population growth through family planning, including the use of modern contraceptives. He also wished to know whether voluntary abortion was permitted in Yemen.
44. In order for the Committee to assess the health situation in Yemen, it was vital for the Government to provide such statistics as the number of doctors; the number and geographical distribution of hospitals, including the number of hospital beds; and general information on the number of health dispensaries in rural areas, including clinics where women could give birth under the supervision of a doctor or midwife.
45. Ms. BARAHONA RIERA said that a great deal of work remained to be done in Yemen to ensure the enjoyment by women of gender equality, as well as other economic, social and cultural rights. Islamic law was inherently non-egalitarian with respect to women, and

legislators who held deeply conservative political positions impeded the enactment of legal instruments proposed by women's organizations. It was therefore difficult for States parties governed by Islamic law to comply with the provisions of international instruments that called for gender equality.

46. While poverty affected both sexes, women required poverty alleviation projects tailored specifically to their needs. High maternal and infant mortality rates revealed the need for basic programmes to provide pre- and post-natal care, vaccinations and sexual and reproductive health education. She wondered whether the Government had plans to address those issues, and, if so, what share of the budget they had been allocated.

47. There were no legal provisions to protect women against domestic violence. She was concerned that women victims of violence in rural areas were isolated and could not report violent incidents to the police as easily as urban women could, not least as women needed their husbands' or guardians' permission to leave the house. The system of marriage gifts was another obstacle to women's rights, since women could not divorce their husbands unless their families returned the nuptial gifts made to their families on marriage, which they were often reluctant to do. She wished to know whether women could obtain microcredits independently of their husbands or guardians. The Government should develop field programmes, not merely adopt legislation, to deal with the various forms of gender inequality found in Yemen.

48. She enquired whether the State, the municipality or the community was responsible for supplying drinking water to rural areas.

49. Ms. BRAS GOMES said that as long as the dowry system of nuptial gifts existed, it would be an obstacle to women's rights and the Government should consider abolishing it. She enquired whether the Government's structural adjustment programme included the provision of social services to deal with the difficulties arising from the programme's implementation. The delegation should provide details of the way in which progress made in alleviating poverty in Yemen had been measured. She wondered whether any efforts had been made to improve the treatment of mothers and children in prison.

50. Mr. GRISSA said that khat (*catha edulis*) was an addictive drug on which people in Yemen spent large sums of money; yet the delegation had indicated that parents did not have enough resources to spend on health and education. The role of the State was to lead, not to follow public opinion and it should not acquiesce in the public view of khat use as a traditional practice. Rather, it should uphold its obligations under the Covenant to protect the right of its citizens to health.

51. Mr. MARTYNOV enquired whether the Government's poverty alleviation policies and measures had been fully integrated into the second five-year plan for economic and social development for 2001-2005, as indicated in the written replies. What results, if any, had been obtained? He asked whether the Government had consistently requested national and international financial institutions to take poverty alleviation into account in their programmes and strategies for Yemen.

52. Since rural poverty was a major problem, he wondered what progress had been made by the Government in increasing land ownership through agricultural reform and what percentage of farmers currently owned the land they worked. He enquired whether the Government had formulated special programmes to improve access to basic services in remote parts of the country.

53. Mr. MARTYNOV, referring to the fact that only 36 per cent of the population had access to safe drinking water, asked what programmes had been set up to improve the situation. What long-term plans did the Government have to remedy the major problem of dwindling water resources in the country?

54. Mr. RIEDEL said that he would welcome information on the interim results of the Government's programme of action for maternal health. The programme had envisaged the delivery of prenatal services to 60 per cent of pregnant women, for example. The final results of the programme could be included in the next report. The Committee's general comment No. 14, particularly paragraphs 54 to 58, could provide useful guidelines for setting benchmarks for the next periodic report.

55. According to the Government's written replies, 806 AIDS cases had been reported by early 2000. However, more recent sources suggested that the figure for 2002 was 9,900. What measures was the Government taking in the light of that massive increase? Had it sought the involvement of the World Health Organization (WHO) and UNAIDS? He would welcome information on any programmes in place, particularly education programmes for schools. Had education programmes had appreciable effects in urban areas? What was the infection rate, and was it increasing or decreasing?

56. He would be interested to hear the immediate measures that had been taken in relation to the creation of high-quality pre-, peri-, and post-natal services for women, and what was planned for the future. What benchmarks had been set? What was being done to address the problem of the shortage of emergency services? He would welcome information on measures taken, and on the financial resources set aside. What was being done in the light of the fact that the average gap between one birth and the next was only 19 months for women in the 15 to 19 age group? What were the results of the population programme of action?

57. Mr. KERDOUN asked for clarification of the legal system in Yemen - was it based on both Shariah and positive law? If so, were there contradictions when both bodies of law were applied? In some countries Shariah law was applied only in personal status matters, was that the case in Yemen?

58. Mr. ALDURAIBI (Yemen) said, with regard to female genital mutilation, that the practice of excision was no longer widespread in Yemen. While it may have been common in the past, it was a disappearing tradition. A number of government programmes on women's health and media campaigns had heightened public awareness of the dangers of excision.

59. In response to Mr. Sadi's question on marital rape, he said that women had rights, and if those rights were infringed they could ask for a divorce, not just in the case of marital rape, but any type of violence, abuse or mistreatment which made it impossible to continue in the relationship.

60. Mr. GRISSA said that the question referred not to rape within a marriage but to the fact that, if a woman was raped, the perpetrator was not punished if he agreed to marry her. For the Committee it was important that the rapist should be punished regardless of the situation.

61. Mr. ALDURAIBI (Yemen) said that the Government shared the same concerns as the Committee: its objective was to eradicate unjust, traditional practices. As he had understood it, Mr. Sadi's question referred to rape within marriage, and he had answered accordingly.

62. The rights of wives under polygamy were dealt with exhaustively in the Personal Status Act. One of the conditions was that the first wife must approve of the proposed second marriage. If that was not the case, she had the right to ask for a divorce, with no conditions such as the return of nuptial gifts. Contrary to common belief, the second wife was legally entitled to her own house.

63. The Government shared Mr. Grissa's opinion that education should be compulsory. Education in Yemen was, in fact, compulsory up to the age of 14. Families that did not send their children to school were told to do so. In order to accommodate families whose children worked, there was a day and a night shift at school, and therefore no child was deprived of an education.

64. As to what access citizens in rural areas had to the councils responsible for promoting human rights, he said that they could submit complaints by post, or through their regional parliamentary representative, who could submit the complaint to Parliament. Complaints could also be submitted to police stations, courts and prosecutors throughout the country. It was difficult to establish a branch of a particular mechanism in every province; however, investigation committees had been created by the human rights councils; they conducted fact-finding missions, reported to the competent authorities, and provided recommendations. Several cases of human rights violations had already been submitted to the courts, and sanctions had been imposed.

65. If a person felt that they had been deprived of one of their rights, the best way for them to proceed was through a lawyer. Those not in a position to pay for a lawyer would be assigned a lawyer by the court free of charge.

66. Yemeni legislation was based on a full democratic system. Legislation could be proposed by the cabinet of ministers, by civil society, by Parliament itself and, in exceptional cases, by the President of the Republic. In all cases, the proposal must be submitted to Parliament for approval. Shariah law played an important role in family law; however, it was not the absolute and only source of law. The only requirement was for new legislation not to contradict Shariah law.

67. Mr. HAJAR (Yemen) said that the Constitution guaranteed basic education for all. Although the report did not contain statistics on school attendance at the primary level, the rate was very high; there had been a significant increase in the 1990s. With unprecedented numbers attending school, the Government was faced with the problem of funding education. As a result of liberalization, the private sector was now providing education at all levels, a development that was encouraged by the Government.

68. The Government shared the Committee's concern at the widespread use of khat. A recent government initiative had prohibited its use in all public and military institutions, in airports, and by the police and traffic wardens. The Government was taking measures to raise awareness, and a major national conference on the use of khat had recently been organized. Civil society was also involved in combating the practice.

69. Mr. ALABASSI (Yemen) said that the Government had adopted a specific strategy for primary education adopted following consultation with the World Bank, the European Union and other donors. A number of projects were currently being implemented as part of the strategy, with particular focus on the education of girls and access to education in rural areas. In the light of the high dropout rate for girls, a number of other government programmes to help them to remain in education were being implemented.

70. Regarding water resources, the Government had adopted a water strategy and was in the process of implementing it in a practical and scientific manner. A law on water had been enacted, regulating the drilling of wells and their replenishment. Many infectious diseases in the country were the result of poor-quality water, and programmes had been initiated to improve access to safe water.

71. Regarding poverty alleviation, in 2003, in cooperation with the International Monetary Fund, the World Bank and donor countries, the Government had adopted a national strategy to combat poverty, and had issued a progress report on poverty reduction. The poverty reduction strategy focused on the eight main priority areas contained in the Millennium Development Goals, including poverty reduction, basic education, improving health services for mothers and children, and adequate housing for all.

72. The Government had initiated a health reform strategy; however, owing to limited resources, the objectives and benchmarks, such as decreasing infant and maternal mortality rates, providing prenatal care and increasing the rate of vaccination for diseases such as polio, were less ambitious than might have been hoped. National indicators and objectives had been formulated for the short, medium, and long term. There was ongoing evaluation of the various plans. The results of one of the poverty reduction programmes conducted by the Social Welfare Fund had been evaluated with the help of the International Monetary Fund and the World Bank, which planned to use its experience in Yemen as a model for work in other developing countries. The work and progress of institutions working in the fields of water access, education and health were carefully monitored. The Government would like to do more, but resources, both from the national budget and international donors, were scarce. The allocation for health from the national budget was only 6 per cent, while education received 22 per cent.

The meeting rose at 1 p.m.