



**International covenant
on civil and
political rights**

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HUMAN RIGHTS COMMITTEE
Eighty-fourth session

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT**

Concluding observations of the Human Rights Committee

ADVANCED UNEDITED VERSION

YEMEN

1. The Human Rights Committee considered the fourth periodic report of Yemen (CCPR/C/YEM/2004/4) at its 2282nd and 2283rd meetings (CCPR/C/SR.2282-2283), on 11 and 12 July 2005, and adopted the following concluding observations at its 2298th meeting (CCPR/C/SR.2298), on 21 July 2005.

A. Introduction

2. The Committee welcomes the timely submission of Yemen's fourth periodic report, which was elaborated in conformity with the reporting guidelines, and contains detailed information, including statistical data, on the implementation of the Covenant. It further appreciates the efforts made by the delegation to answer the Committee's written and oral questions. The Committee encourages the State party to increase its efforts in order to include in its reports more detailed information on factors and difficulties affecting the implementation of the Covenant, and on measures adopted to overcome them.

B. Positive aspects

3. The Committee appreciates the creation, in 2003, of a Ministry of Human Rights, as well as the declared commitment of the State party to create a culture of human rights in Yemen.

4. The Committee welcomes the adoption of the Children's Rights Act N° 45 of 2002.

C. Principal subjects of concern and recommendations

5. The Committee notes with concern that the recommendations it has addressed to Yemen in 2002 have not been fully taken into consideration, and that the State party justifies the absence of progress on several important issues by the impossibility, in its view, to abide at the same time by religious principles and some obligations under the Covenant. The Committee disagrees with such interpretation and stresses the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms. In its view, cultural and religious specificities may positively be taken into consideration in order to develop adequate means to ensure the respect for universal human rights, but they cannot jeopardize the very recognition of these rights for all. (article 2)

The State party should examine in good faith all recommendations addressed by the Committee, and find ways to ensure that its desire to abide by religious principles is implemented in a way fully compatible with its obligations under the Covenant, which it has accepted without reservations.

6. The Committee reiterates its concern about the reported lack of independence and efficiency of the judiciary, despite the existence of constitutional guarantees and measures taken to reform the judicial branch. (articles 2 and 14)

The State party should ensure that the judiciary is free of any interference, in particular from the executive power, in law as well as in practice. The next periodic report should contain detailed information on existing legal guarantees ensuring the security of tenure of judges and their application. In particular, information should be provided on the appointment and promotion of judges, and on the disciplinary sanctions procedures.

7. The Committee, while welcoming the fact that the State party is currently considering establishing an independent national human rights institution, notes that such institution has not yet been created. In this regard, the Committee wishes to stress the complementary role of such institution with governmental institutions dealing with human rights and non governmental organisations. (article 2)

The State party should work towards establishing a national human rights institution, in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (General Assembly resolution 48/134).

8. The Committee welcomes the adoption of various measures for the advancement of women, as well as the recognition by the State party that stereotyped views of women's and men's social roles and responsibilities have had a negative impact on some aspects of Yemeni legislation. It notes with concern the high rate of illiteracy amongst women, which clearly hinders the enjoyment of their civil and political rights. (articles 3 and 26)

The State party should increase its efforts to change stereotypical attitudes detrimental to women's rights, and to promote the literacy and education of girls and women.

9. The Committee reiterates its deep concern about discrimination suffered by women in matters of personal status. It is concerned, in particular, about the persistence of polygamy, apparently without even the possibility for women to enter in a form of marriage that precludes polygamy, and the existence of rules discriminating against women in matters of marriage, divorce, testimony and inheritance. (articles 3 and 26)

The State party should review its laws in order to ensure full equality between men and women in matters of personal status and actively promote measures to combat polygamy, which is not in compliance with the Covenant.

10. While noting the efforts developed by the State party, the Committee remains concerned at the low level of participation of women in political life, in particular in the House of Representatives, local councils, leadership structures of political parties, as well as in the judiciary. (articles 3 and 26)

The State party should increase its efforts to promote the participation of women in all spheres of public life, appoint more women to the judiciary and higher positions in the executive branch, and provide statistical data in its next periodic report on this issue.

11. The Committee regrets that insufficient information was provided on the extent to which female genital mutilation is practised in Yemen. While noting that female genital mutilation can no longer be practiced in hospitals and health centres, it notes with concern that, according to various sources of information, no general prohibition of such practices has been enacted. (articles 3, 6, and 7)

The State party should increase its efforts to eradicate female genital mutilation, and enact a law prohibiting all persons from performing such practices. The State party should provide more detailed information on this issue, including (a) statistical data on the number of women and girls concerned; (b) information on proceedings, if any, instituted against perpetrators of female genital mutilation; and (c) on the effectiveness of programmes and awareness raising campaigns implemented in order to combat these practices.

12. The Committee notes with concern that domestic violence remains persistent in Yemen, and that the law provides for lower sentences against husbands who have murdered their wives caught in the act of adultery, than is generally provided for in case of murder. (articles 3, 6 and 7).

The State party should actively combat domestic violence through awareness-raising campaigns as well as the enactment of appropriate penal legislation. Detailed information should be provided in the next periodic report regarding proceedings instituted against perpetrators of domestic violence and assistance provided to the

victims. The State party should abolish legislation providing for lower sentences in case of “honour killings”.

13. The Committee notes the statement by the State party that although its effort to combat terrorism has had an impact on the enjoyment of civil and political rights in Yemen, this has not resulted in systematic and continuing violations. The Committee remains concerned, however, about reported grave violations of articles 6, 7, 9 and 14 of the Covenant committed in the name of the anti-terrorism campaign. It notes with concern reported cases of extrajudicial killings, enforced disappearances, arbitrary arrests, indefinite detention without charge or trial, torture and ill-treatment, and deportation of non-citizens to countries where they are in danger of being subjected to torture or ill treatment.

The State party should ensure that the utmost consideration is given to the principle of proportionality in all its responses to terrorist threats and activities. It should bear in mind the non-derogable character of specific rights under the Covenant, in particular articles 6 and 7, which must be respected in all circumstances. The Committee wishes to receive information on the findings and recommendations of the parliamentary committee established to monitor the situation of persons being detained on terrorism charges.

14. The Committee is concerned about the use of force by security forces, on 21 March 2003, which resulted in the killing of four people, including an 11 year-old-boy, participating in a demonstration against the war in Iraq. (article 6)

The State party should conduct a full and impartial investigation into these events and should, depending on the findings of the investigation, institute proceedings against the perpetrators of the killings. It should also provide remedies to the victims’ families.

15. The Committee remains concerned that the offences carrying the death penalty under Yemeni law are not consistent with the requirements of the Covenant and that the right to seek a pardon is not guaranteed for all on an equal footing. The preponderant role of the victim’s family in whether or not the penalty is carried out on the basis of financial compensation (“blood money”) is also contrary to the Covenant. Furthermore, while noting the claim that death by stoning has not been implemented for a long time in Yemen, the Committee is concerned that such sentence may be pronounced as shown by the case of Layla Radman ‘A’esh before the Court of first instance in Aden in 2000. The Committee also deplores the suffering she underwent while still subjected to the sentence. (articles 6, 7, 14 and 26)

The State party should limit the cases in which the death penalty is imposed, ensure that it is applied only for the most serious crimes, and officially abolish the sentence of death by stoning. The Committee reiterates that article 6 of the Covenant limits the circumstances that may justify the death penalty and guarantees the right of every convicted person to seek a pardon. The Committee wishes to be informed about the follow-up given to the case of Hafez Ibrahim, who has been condemned to death, but whose age at the time of the commission of the crime has not yet been determined. The Committee also wishes to be informed, in detail, of who was sentenced to death or executed for what offence, during the reporting period. The

State party is further encouraged to work towards the abolition of the death penalty and to accede to the Second Optional Protocol to the Covenant.

16. The Committee reiterates its deep concern that corporal punishments, such as flogging and in a few cases even amputation of limbs, are still prescribed by law and practiced in the State party, in violation of article 7 of the Covenant.

The State Party should immediately put an end to such practices, and modify its legislation accordingly, in order to ensure its full compatibility with the Covenant.

17. The Committee is concerned about reports of trafficking of children out of Yemen and of women coming to or through the country, as well as the practice of expelling trafficked persons from the country without appropriate arrangements for their care. (article 8)

The State Party should increase its efforts to combat such practices, while fully addressing the human rights entitlements and needs of the victims. More detailed information, including statistical data, should be included in the next periodic report.

18. The Committee reiterates its concern about the prohibition of Muslims converting to another religion, in the name of social stability and security. Such prohibition is in violation of article 18 of the Covenant, which does not permit any limitations whatsoever on the freedom of thought and conscience or on the freedom to have or adopt a religion or belief of one's choice, and of article 26, which prohibits discrimination on the ground of religion.

The State party should review its position, and take all necessary measures to ensure the freedom of all persons to choose a religion or belief, including the right to change one's current religion or belief.

19. The Committee regrets that no response was provided by the delegation to the question whether Yemen law recognizes a right to conscientious objection to military service. (article 18)

The State party should ensure that persons liable for military service may claim the status of conscientious objector and perform alternative service without punitive character.

20. The Committee is concerned about reported violations of freedom of the press, including arrest and harassment of journalists, as well as about reports regarding the restrictive character of the new draft Press and Publications Act, currently under review.

The State party should respect freedom of the press, and ensure that the new Press and Publications Act will be in full conformity with the provisions of article 19 of the Covenant.

21. The Committee notes with concern that the Personal Status Act allows children aged 15 to marry, and that early marriage of girls, sometimes below the age fixed by the law, remains persistent. It is also concerned about marriages of under-age children contracted by their guardians. Such practice jeopardizes the effectiveness of the consent given by spouses, their right to education, and in the case of girls, their right to health. (articles 3, 23 and 24)

The State party should raise the minimum age of marriage and ensure that it is respected in practice.

D. Dissemination of information about the Covenant (art. 2)

22. The Committee sets 1st July 2009 as the date for the submission of Yemen's fifth periodic report. It requests that the State party's fourth periodic report and the present concluding observations be published and widely disseminated in Yemen, to the general public as well as to the judicial, legislative and administrative authorities, and that the fifth periodic report be circulated for the attention of the non-governmental organizations operating in the country.

23. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should submit within one year information on the follow-up given to the Committee's recommendations in paragraphs 11, 13, 14 and 16 above. The Committee requests the State party to include in its next periodic report information on its remaining recommendations and on the implementation of the Covenant as a whole.
