



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

Distr.: General
25 May 2010

Original: English

Committee against Torture
Forty-fourth session
26 April-14 May 2010

Consideration of reports submitted by States parties under article 19 of the Convention

Concluding observations of the Committee against Torture

Yemen

1. The Committee against Torture considered the second periodic report of Yemen (CAT/C/YEM/2) at its 898th meeting (CAT/C/SR.898), held on 3 November 2009, and adopted, at its 917th meeting (CAT/C/SR.917), provisional concluding observations (CAT/C/YEM/CO/2). The Committee met with a delegation from the State party at its 943rd meeting (CAT/C/SR.943), on 6 May 2010. Pursuant to rule 66, paragraph 2 (b), of its rules of procedure, the Committee reviewed the provisional concluding observations in the light of the replies to the list of issues provided by the State party (CAT/C/YEM/Q/2/Add.1), and adopted, at its 952nd meeting (CAT/C/SR.952), its final concluding observations as set out below.

A. Introduction

2. The Committee welcomes the submission of the second periodic report of Yemen, which, while generally following the Committee's guidelines for reporting, lacks statistical and practical information on the implementation of the provisions of the Convention and relevant domestic legislation. However, the Committee regrets the delay in the submission of the report and the written responses to its list of issues (CAT/C/YEM/Q/2) and that the State party has not responded to the letter of 21 April 2006, in which the Committee Rapporteur on follow-up to the concluding observations requested further information on Yemen (CAT/C/CR/31/4 and Add.1).

3. The Committee regrets the absence of a delegation from the State party able to enter into a dialogue with it during its consideration of Yemen at the forty-third session, and notes that, owing to the absence of representatives from the State party, the examination of the report took place in accordance with rule 66, paragraph 2 (b), of its rules of procedure. The Committee welcomes, however, that a high-level delegation from the State party met with the Committee during its forty-fourth session to provide further information about

recent developments and relevant measures pertaining to the implementation of the Convention in the State party. While regretting that the State party did not submit written responses and comments to the provisional concluding observations, the Committee welcomes the State party's submission of replies to the list of issues (CAT/C/YEM/Q/2/Add.1). The Committee urges the State party, in the future, to comply fully with its obligations under article 19 of the Convention.

B. Positive aspects

4. The Committee welcomes the fact that, in the period since the consideration of the initial report, the State party has ratified or acceded to the following international instruments:

(a) The Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto, in 2009;

(b) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, in 2007;

(c) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, in 2004.

5. The Committee notes the ongoing efforts by the State to reform its legislation, policies and procedures to ensure better protection of human rights, including the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment, in particular:

(a) The State party's signature of several memorandums of understanding with the United Nations High Commissioner for Refugees in 2004, 2005 and 2007, including its commitment to prepare a refugee law and to promote it;

(b) The State party's comprehensive review of the criminal justice legislation and its implementation in Yemen, including in relation to the right not to be subjected to torture;

(c) The various human rights education and training activities and the State party's openness to international cooperation.

C. Principal subjects of concern and recommendations

Implementation of the Convention

6. The Committee notes with concern that the conclusions and recommendations it addressed to Yemen in 2003 have not been sufficiently taken into consideration. The Committee 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 be taken into consideration in order to develop adequate means to ensure respect for universal human rights, but they cannot jeopardize the implementation of all provisions of the Convention or negate the rule of law. In this respect, the Committee notes with concern the establishment, in 2008, of a commission to protect virtue and fight vice, and the lack of information on the mandate and jurisdiction of this commission, existing appeal procedures, and whether it is subject to review by ordinary judicial authorities (art. 2).

The State party should implement in good faith all recommendations addressed to it by the Committee and find ways to ensure that its religious principles and laws are

compatible with human rights and its obligations under the Convention. In this respect, the Committee draws the attention of the State party to its general comment No. 2 on the implementation of article 2. The State party is requested to provide information on the mandate of the new virtue and vice commission, its appeal procedures and whether it exercises a precise jurisdiction in full conformity with the requirements of the Convention or is subject to review by ordinary judicial authorities.

Definition of torture

7. While noting that the Constitution of Yemen prohibits torture, the Committee reiterates its concern at the lack of a comprehensive definition of torture in the domestic law as set out in article 1 of the Convention (CAT/C/CR/31/4, para. 6 (a)). The Committee is concerned that the current definition in the Constitution prohibits torture only as a means of coercing a confession during arrest, investigation, detention and imprisonment, and that punishment is limited to individuals who order or carry out acts of torture and does not extend to individuals who are otherwise complicit in such acts. The Committee is also concerned that, while the Constitution provides that crimes involving physical or psychological torture should not be subject to a statute of limitations, the criminal procedure law may include a statute of limitations (arts. 1 and 4).

The State party should incorporate the crime of torture into domestic law and adopt a definition of torture that covers all of the elements contained in article 1 of the Convention. By naming and defining the offence of torture in accordance with the Convention and distinct from other crimes, the Committee considers that States parties will directly advance the Convention's overarching aim of preventing torture by, inter alia, alerting everyone, including perpetrators, victims and the public to the special gravity of the crime of torture, and by improving the deterrent effect of the prohibition itself. The State party is requested to clarify to the Committee whether acts of torture are subject to a statute of limitations; if so, the State party should review its rules and provisions on the statute of limitations and bring them into line fully with the Constitution and the State party's obligations under the Convention.

Impunity for acts of torture and ill-treatment

8. The Committee is deeply concerned at the numerous allegations, corroborated by a number of Yemeni and international sources, of a widespread practice of torture and ill-treatment of detainees in Yemeni prisons, including State security prisons run by the Public Security Department, the national security authority and the Department of Anti-Terrorism under the Ministry of the Interior. The Committee is further concerned that such allegations are seldom investigated and prosecuted, and that there appears to be a climate of impunity for perpetrators of acts of torture. In this respect, the Committee expresses its concern at article 26 of the code of criminal procedure, which appear to provide that criminal lawsuits may not be filed against a law enforcement officer or a public employee for any crime committed while carrying out his job or caused thereby, except with the permission of the General Prosecutor, a delegated public attorney or heads of prosecution, and at the lack of information on the application of this provision (arts. 2, 4, 12 and 16).

As a matter of urgency, the State party should take immediate steps to prevent acts of torture and ill-treatment throughout the country and to announce a policy of eradication of torture and ill-treatment by State officials.

The State party should ensure that all allegations of torture and ill-treatment are investigated promptly, effectively and impartially, and that the perpetrators are prosecuted and convicted in accordance with the gravity of the acts, as required by article 4 of the Convention.

The State party is requested to clarify to the Committee whether article 26 of the code of criminal procedure is still in force and, if so, how the provision is applied in practice.

Fundamental legal safeguards

9. Notwithstanding the information provided in the replies to the list of issues and by the State party delegation, the Committee remains seriously concerned at the State party's failure in practice to afford all detainees, including detainees held in State security prisons, with all fundamental legal safeguards from the very outset of their detention. Such safeguards comprise the right to have prompt access to a lawyer and an independent medical examination, to notify a relative, and to be informed of their rights at the time of detention, including about the charges laid against them, and to appear before a judge within a time limit in accordance with international standards. In this respect, the Committee is concerned at the statement in the State report (para. 203) that "persons in pretrial detention may meet with their relatives and lawyers, provided they obtain a written authorization from the body/entity that issued the detention order". The Committee notes the information on record keeping provided in the replies to the list of issues but it remains concerned at the lack of a central register for all persons held in detention, including minors (arts. 2, 11 and 12).

The State party should take effective measures promptly to ensure that all detainees are afforded, in practice, all fundamental legal safeguards from the very outset of their detention; these include, in particular, the rights to have prompt access to a lawyer and an independent medical examination, to notify a relative, and to be informed of their rights at the time of detention, including about the charges laid against them, as well as to appear before a judge within a time limit in accordance with international standards. The State party should also ensure that all detainees, including minors, are included in a central register that functions effectively.

The Committee reiterates its request to the State party to provide information on the requirements to obtain written authorization for persons in pretrial detention to meet with their relatives and lawyers, as well as the conditions under which such authorization may be refused.

Monitoring and inspection of places of deprivation of liberty

10. The Committee notes that the Department of Public Prosecutions (the Prosecutor-General) has overall responsibility for overseeing and inspecting prisons and that prosecutor's offices are established in central prisons in the different governorates following decree No. 91 of 1995. It also notes the information provided by the State party that a significant number of inspections of arrest, detention and prison facilities are conducted on a yearly basis, including visits to the facilities of the Political Security Department. However, the Committee remains concerned at the lack of systematic and effective monitoring and inspection of all places of deprivation of liberty, especially places of detention, including regular and unannounced visits to such places by national and international monitors. In this respect, the Committee expresses its concern at the proliferation of places of detention, including political security, national security and military prisons, as well as private detention facilities run by tribal leaders, and at the apparent absence of control by the Prosecutor-General over such prisons and detention centres. As a consequence, detainees are allegedly deprived of fundamental legal safeguards, including an oversight mechanism with regard to their treatment and review procedures with respect to their detention (arts. 11 and 16).

The Committee calls upon the State party to establish an effective national system to monitor and inspect all places of detention and to follow up on the outcome on such

systematic monitoring. It should also ensure that forensic doctors trained in detecting signs of torture are present during these visits. The Committee requests the State party to clarify whether the Political Security Department, the National Security authority and the Department of Anti-Terrorism under the Ministry of the Interior are under the control of the civil authorities, and whether the Prosecutor-General has access to the said detention centres, military prisons and private detention facilities. The State party should formally prohibit all detention facilities that do not come under State authority.

Anti-terrorism measures

11. The Committee recognizes that the State party is engaged in a prolonged fight against terrorism. However, recalling the absolute prohibition of torture, the Committee is concerned at reports of grave violations of the Convention committed in the context of the State party's fight against terrorism. Such violations include cases of extrajudicial killing, enforced disappearance, arbitrary arrest, 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 Committee is also concerned at the content of the draft anti-terrorism and the money laundering and terrorism funding laws, including the reportedly broad definition of terrorism and the absence of legal/judicial procedures pertaining to the delivery, arrest or detention of individuals (arts. 2 and 16).

The State party should take all necessary measures to ensure that its legislative, administrative and other anti-terrorism measures are compatible with the provisions of the Convention, especially with article 2, paragraph 2. The Committee recalls that no exceptional circumstances whatsoever can be invoked as a justification for torture and, in accordance with relevant Security Council and other resolutions, anti-terrorism measures must be implemented with full respect for international human rights law, especially the Convention. The State party is requested to provide information on the content and status of the draft anti-terrorism and the money laundering and terrorism funding laws.

Incommunicado detention

12. While noting that information regarding the Political Security Department was provided in the replies to the list of issues, the Committee reiterates its concern at credible reports of the frequent practice of incommunicado detention by Political Security Department officials, including detention for prolonged periods without judicial process (CAT/C/CR/31/4, para. 6 (c)), and is concerned that other security agencies reportedly also engage in such practices. The Committee is also concerned at the lack of information on the exact number and location of places of detention in the State party (arts. 2 and 11).

The State party should take all appropriate measures to abolish incommunicado detention and ensure that all persons held incommunicado are released, or charged and tried under due process. The State party should submit information on the exact number and location of places of detention used by the Political Security Department and other security forces, and the number of persons deprived of liberty in such facilities. The State party should also provide an update on the case of four nationals of Cameroon — Mouafo Ludo, Pengou Pierpe, Mechoup Baudelaire and Ouafu Zacharie — who have been detained incommunicado and without legal process in Sana'a since 1995.

Enforced disappearances and arbitrary arrests and detention

13. The Committee expresses its concern at reports of enforced disappearance and of the widespread practice of mass arrests without a warrant and arbitrary and prolonged detention

without charges and judicial process. The Committee is also concerned at the wide array of security forces and agencies in Yemen empowered to arrest and detain, and at the lack of clarification as to whether such powers are prescribed by the relevant legislation, including the Criminal Procedure Law. The Committee stresses that arrests without a warrant and the lack of judicial oversight on the legality of detention can facilitate torture and ill-treatment (arts. 2 and 11).

The State party should take all necessary measures to counter enforced disappearances and the practice of mass arrest without a warrant and arbitrary detention without charges and judicial process. The State party should clarify to the Committee whether the powers of the various security forces and agencies to arrest and detain are prescribed by the relevant legislation, including the Criminal Procedure Law; it should minimize the number of security forces and agencies with such powers. Furthermore, the State party should take all appropriate steps to ensure the application of relevant legislation, to reduce further the duration of detention before charges are brought, and develop and implement alternatives to the deprivation of liberty, including probation, mediation, community service or suspended sentences. The State party is requested to provide detailed information on any investigations into the many reported cases of detention during the “Bani Hashish events” of May 2008.

Hostage-taking of relatives

14. Notwithstanding the statement provided by the State party delegation that hostage-taking is illegal in the country, the Committee expresses its great concern at the reported practice of holding relatives of alleged criminals, including children and elderly, as hostages, sometimes for years at a time, to compel the alleged criminals to surrender themselves to the police; it also emphasizes that such practice is a violation of the Convention. In this respect, the Committee notes with particular concern the case of Mohammed Al-Baadani, who was abducted in 2001, at age 14, by a tribal chief because of his father’s failure to pay back debts, and who reportedly remains in a State prison without a set trial date (arts. 12 and 16).

The State party should, as a matter of priority, discontinue its practice of holding relatives of alleged criminals as hostages, and punish the perpetrators. The State party should also provide an update on the case of Mohammed Al-Baadani.

Allegations of extrajudicial killings

15. While noting the statement in the replies to the list of issues that extra-judicial, arbitrary or summary executions constitute violations of the Convention and the laws in force and are “unlikely to occur”, the Committee expresses its great concern at allegations of extrajudicial killings by security forces and other serious human rights violations in different parts of the country, in particular the northern Sa’ada province and in the south (arts. 2, 12 and 16).

The State party should take effective steps to investigate promptly and impartially all allegations of involvement of members of law enforcement and security agencies in extrajudicial killings and other serious human rights violations in different parts of the country, in particular the northern Sa’ada province and in the south.

Complaints and prompt and impartial investigations

16. The Committee notes the information provided by the State party on its complaints system in its replies to the list of issues, but it remains concerned at the apparent failure to investigate promptly and impartially the numerous allegations of torture and ill-treatment

and to prosecute alleged offenders. The Committee is particularly concerned at the lack of clarity of which authority has the overall responsibility for reviewing individual complaints of torture and ill-treatment by law enforcement, security, military and prison officials, and for initiating investigations in such cases. The Committee also regrets the lack of information, including statistics, on the number of complaints of torture and ill-treatment and results of all the proceedings, at both the penal and disciplinary levels, and their outcomes (arts. 11, 12 and 16).

The State party should strengthen its measures to ensure prompt, thorough, impartial and effective investigation into all allegations of torture and ill-treatment committed by law enforcement, security, military and prison officials. In particular, such investigations should not be undertaken by or under the authority of the police or military, but by an independent body. In connection with prima facie cases of torture and ill-treatment, the alleged suspect should as a rule be subject to suspension or reassignment during the process of investigation, to avoid any risk that he or she might impede the investigation or continue any reported impermissible actions in breach of the Convention.

The State party should prosecute the perpetrators and impose appropriate sentences on those convicted in order to ensure that State officials who are responsible for violations prohibited by the Convention are held accountable.

The Committee requests the State party to provide information, including statistics, on the number of complaints of torture and ill-treatment and results of all the proceedings, at both the penal and disciplinary levels, and their outcomes. This information should be disaggregated by sex, age and ethnicity of the individual bringing the complaints, and indicate which authority undertook the investigation.

Judicial proceedings and independence of the judiciary

17. The Committee appreciates the detailed information provided by the State party on existing legal guarantees ensuring the security of tenure of judges, the procedure for the appointment of judges, the duration of their mandate, the constitutional or legislative rules governing their irremovability and the way in which they may be dismissed from office. While noting the information provided in the replies to the list of issues that the laws on the judiciary are currently being amended so as to strengthen the judiciary's independence, the Committee expresses its concern at the reported lack of efficiency and independence of the judiciary, despite the existence of constitutional guarantees and the measures taken to reform the judicial branch, including in the context of the national strategy for the modernization and development of the judiciary (2005–2015). It is particularly concerned that this may impede the initiation of investigation and prosecution of cases of torture and ill-treatment. In this respect, the Committee is concerned at reports of interference by the executive and lack of security of tenure of judges. While noting that article 150 of the Constitution of Yemen prohibits without exception the establishment of special courts, the Committee is also concerned at the establishment by Republican Decree of 1999 of the Specialized Criminal Court and at reports that international norms of fair trial are not upheld by this Court (arts. 2, 12 and 13).

The State party should take the necessary measures to establish and ensure the full independence and impartiality of the judiciary in the performance of its duties in conformity with international standards, notably the Basic Principles on the Independence of the Judiciary. In this respect, the State party should ensure that the judiciary is free from any interference, in particular from the executive branch, in law as in practice. The State party should also strengthen the role of judges and prosecutors with regard to the initiation of investigation and prosecution of cases of torture and ill-treatment and the legality of detention, including by providing

adequate training on the State party's obligations under the Convention to judges and prosecutors.

Furthermore, the State party should dissolve the Specialized Criminal Court, as the trials before this exceptional court violate basic principles for the holding of a fair trial.

Criminal sanctions

18. The Committee remains concerned that certain criminal sanctions (or *hadd* penalties) such as floggings, beatings and even amputation of limbs are still prescribed by law and practised in the State party, in violation of the Convention. The Committee is also concerned at reports that courts across the country impose sentences of flogging almost daily for alleged alcohol and sexual offences, and that such floggings are carried out immediately, in public, without appeal. It is also concerned at the wide discretionary powers of judges to impose these sanctions and that they may be imposed in a discriminatory way against different groups, including women (arts. 1, 2 and 16).

The State party should put an end immediately to such practices and modify its legislation accordingly, especially with regard to the discriminatory effects of such criminal sanctions on different groups, including women, in order to ensure its full compatibility with the Convention.

Internally displaced persons

19. The Committee is seriously concerned at the high number of internally displaced persons in the northern Sa'ada province, and at the fact that the State party has reportedly not taken sufficient steps to ensure the protection of persons affected by the conflict in the north, in particular the internally displaced persons currently confined to camps (arts. 12 and 16).

The State party should take all necessary measures to ensure the protection of persons affected by the conflict in the northern Sa'ada province, particularly internally displaced persons currently confined to camps.

Human rights defenders, political activists, journalists and other individuals at risk

20. The Committee notes with concern allegations, including in conjunction with recent events in the region of Sa'ada, indicating that many Government opponents, including human rights defenders, political activists and journalists, have been subjected to arbitrary detention and arrest, incommunicado detentions lasting anything from several days to several months, denied access to lawyers and the possibility of challenging the legality of their detention before the courts. The Committee regrets the lack of information provided on any investigations into such allegations (arts. 2, 12 and 16).

The State party should take all necessary steps to ensure that all persons, including those monitoring human rights, are protected from intimidation or violence as a result of their activities and exercise of human rights guarantees, to ensure the prompt, impartial and effective investigation of such acts, and to prosecute and punish perpetrators with penalties appropriate to the nature of those acts. The State party should provide information on any investigation into recent events in the region of Sa'ada, as well as the outcome of such investigations.

Imposition of the death penalty

21. While noting the information provided by the State party in the replies to the list of issues, the Committee expresses its concern that a total of 283 deaths sentences were

executed in the period 2006-2008. The Committee also remains deeply concerned at reported cases of imposition of the death penalty on children of between 15 and 18 years of age. The Committee also expresses concern at the conditions of detention of convicted prisoners on death row, which may amount to cruel, inhuman or degrading treatment, in particular owing to the excessive length of time on death row. The Committee is further concerned at the lack of information in the State report and the replies to the list of issues on the precise number of persons executed in the full reporting period and for which offences, as well as the number of persons currently on death row, disaggregated by sex, age, ethnicity and offence (arts. 2 and 16).

The Committee recommends that the State party consider ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights on the abolition of the death penalty. In the meantime, the State party should review its policy with regard to the imposition of the death penalty, and in particular take the measures necessary to ensure that the death penalty is not imposed on children. Furthermore, the State party should ensure that its legislation provides for the possibility of the commutation of death sentences, especially where there have been delays in their implementation. The State party should ensure that all persons on death row are afforded the protection provided by the Convention and are treated humanely.

The Committee reiterates its request to the State party to provide information, in detail, on the precise number of people executed in the full reporting period, for which offences and whether any children have been sentenced to death and executed. The State party should also indicate the current number of people on death row, disaggregated by sex, age, ethnicity and offence.

Non-refoulement

22. While noting the information provided by the State party in the replies to the list of issues, the Committee remains concerned at numerous cases of forced return of foreign nationals, including to Egypt, Eritrea and Saudi Arabia, without the individuals being able to oppose it by means of an effective remedy, which may be in breach of the obligations imposed by article 3 of the Convention. The Committee also regrets the lack of information on measures taken by the State party to ensure that those foreign nationals did not run a real risk of being subjected to torture or inhuman or degrading treatment in the country of destination, or that they would not be subsequently deported to another country where they might run a real risk of being subjected to such torture or ill-treatment, as well as the lack of any follow-up measures taken by the State party in this respect (art. 3).

Under no circumstances should the State party expel, return or extradite a person to a State where there are substantial grounds for believing that he or she would be in danger of being subjected to torture or ill-treatment. The State party should ensure that it complies fully with article 3 of the Convention and that individuals under the State party's jurisdiction receive appropriate consideration by its competent authorities and guaranteed fair treatment at all stages of proceedings, including an opportunity for effective, independent and impartial review of decisions on expulsion, return or extradition.

When determining the applicability of its non-refoulement obligations under article 3 of the Convention, the State party should examine thoroughly the merits of each individual case, ensure that adequate judicial mechanisms for the review of the decision are in place and ensure effective post-return monitoring arrangements. Such assessment should also be applied with regard to individuals who may constitute a security threat.

National human rights institution

23. The Committee notes with interest the information provided by the State party delegation that the Cabinet has decided to study the possibility of establishing an independent national human rights institution. However, it regrets that such an institution has not yet been created. The Committee also notes that the Human Rights Ministry has a mandate to receive complaints, but regrets the lack of information on how the complaints received by the Ministry are dealt with, as well as on investigations, prosecutions and criminal and/or administrative punishments of perpetrators (arts. 2, 11 and 12).

The State party should, as a priority, continue to work towards establishing a national human rights institution in accordance with the Principles relating to the status and functioning of national institutions for protection and promotion of human rights (the Paris Principles) adopted by the General Assembly in its resolution 48/134. The State party is also requested to provide information, including statistical data, on the complaints received by the Human Rights Ministry and on any investigation, prosecution and criminal and/or administrative punishment of perpetrators.

The situation of women in detention

24. The Committee takes note of the information provided by the State party in the replies to the list of issues. However, it expresses its serious concern at information that prisons' conditions are not suitable for women, that there are no female guards in female prisons, with the exception of the Hajah detention centre or specific health care for women prisoners, including for pregnant women and for their children. Women in detention are frequently harassed, humiliated and ill-treated by male guards, and there are allegations of sexual violence, including rape, against women in detention. The Committee reiterates its concern with regard to the situation of women who have served their prison sentence but who remain in prison for prolonged periods, owing to the refusal of their guardian or family to receive them home upon completion of their sentences or because they are unable to pay the "blood money" they have been convicted to pay (CAT/C/CR/31/4, para. 6 (h)). The Committee is also concerned that the majority of women in prison have been sentenced for prostitution, adultery, alcoholism, unlawful or indecent behaviour, in a private or public setting, as well as for violating restrictions of movement imposed by family traditions and Yemeni laws; the Committee also notes with concern that such sentences are applied in a discriminatory way against women (arts. 1, 2, 4, 11 and 16).

The State party should take effective measures to prevent sexual violence against women in detention, including by reviewing current policies and procedures for the custody and treatment of detainees, ensuring separation of female detainees from males, enforcing regulations calling for female inmates to be guarded by officers of the same gender, and monitoring and documenting incidents of sexual violence in detention.

The State party should also take effective measures to ensure that detainees who have allegedly been sexually victimized are able to report the abuse without being subjected to punitive measures by staff, protect detainees who report sexual abuse from retaliation by the perpetrator(s); promptly, effectively and impartially investigate and prosecute all instances of sexual abuse in custody; and provide access to confidential medical and mental health care for victims of sexual abuse in detention, as well as access to redress, including compensation and rehabilitation, as appropriate. The State party is requested to provide data, disaggregated by sex, age and ethnicity of the victims of sexual abuse, and information on investigation, prosecution and punishment of perpetrators.

Furthermore, the State party should ensure that women prisoners have access to adequate health facilities and provide rehabilitation programmes to reintegrate them into the community, notwithstanding the refusal of the guardian or family to receive them. In this respect, the State party is requested to inform the Committee of any steps taken to establish “half-way homes” for these women, as recommended by the Committee in its previous concluding observations (CAT/C/CR/31/4, para. 7 (k)).

Children in detention

25. While appreciating information provided by the State party on progress achieved in the juvenile justice system and that a draft amendment to the Juvenile Welfare Act that would raise the minimum age of criminal responsibility to 10 years is currently being considered, the Committee remains deeply concerned at the continued practice of detention of children, including children as young as 7 or 8 years of age; it is also concerned at reports that children are often not separated from adults in detention facilities and that they are frequently abused. The Committee also remains concerned at the very low minimum age of criminal responsibility (7 years) and other shortcomings in the juvenile justice system (arts. 2, 4, 11 and 16).

The State party should, as a matter of urgency, raise the minimum age of criminal responsibility in order to bring it into line with generally accepted international standards. The State party should also take all measures necessary to significantly reduce the number of children in detention and ensure that persons below 18 years of age are not detained with adults; that alternative measures to deprivation of liberty, such as probation, community service or suspended sentences, are available; that professionals in the area of recovery and social reintegration of children are properly trained; and that deprivation of liberty is used only as a measure of last resort, for the shortest possible time and in appropriate conditions. In this respect, the Committee reiterates the recommendations made by the Committee on the Rights of the Child (CRC/C/15/Add.267, paras. 76 and 77). The Committee requests the State party to provide statistics on the number of children in detention, disaggregated by sex, age and ethnicity.

Training

26. The Committee takes note of the detailed information included in the State report and the replies to the list of issues on training and awareness-raising programmes. However, it is concerned at the limited information on any awareness-raising and training programmes for members of the Political Security Department, the National Security authority and the Ministry of the Interior, as well as on any training programmes for forensic doctors and medical personnel dealing with detained persons, to detect and document physical and psychological sequelae of torture. The Committee also regrets the lack of information on monitoring and evaluation of the impact of its training programmes in reducing incidents of torture and ill-treatment (art. 10).

The State party should further develop and strengthen educational programmes to ensure that all officials, including law enforcement, security, military and prison officials, are fully aware of the provisions of the Convention, that reported breaches will not be tolerated and will be investigated, and that offenders will be prosecuted. In this respect, the State party is requested to provide information on any awareness-raising and training programmes in place for members of the Political Security Department, the National Security authority and the Ministry of the Interior. Furthermore, all relevant personnel should receive specific training on how to identify signs of torture and ill-treatment; such training should include the use of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel,

Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), which should be provided to physicians and utilized effectively. In addition, the State party should assess the effectiveness and impact of such training/educational programmes.

Redress, including compensation and rehabilitation

27. The Committee reiterates its concern at the lack of information on modalities of compensation for and rehabilitation of victims of torture and ill-treatment by the State party (CAT/C/CR/31/4, para. 6 (g)), as well as on the number of victims of torture and ill-treatment who may have received compensation and the amounts awarded in such cases. The Committee also regrets the lack of information on treatment and social rehabilitation services and other forms of assistance, including medical and psychosocial rehabilitation, provided to victims (art. 14).

The State party should strengthen its efforts to provide victims of torture and ill-treatment with redress, including fair and adequate compensation, and as full rehabilitation as possible. Furthermore, the State party should provide information on redress and compensation measures ordered by the courts and provided to victims of torture, or their families, during the reporting period. This information should include the number of requests made, the number granted and the amounts ordered and actually provided in each case. In addition, the State party should provide information about any ongoing reparation programmes, including for treatment of trauma and other forms of rehabilitation provided to victims of torture and ill-treatment, and allocate adequate resources to ensure the effective functioning of such programmes.

Coerced confessions

28. While noting that constitutional guarantees and provisions of the Code of Criminal Procedure prohibit the admissibility of evidence obtained through torture, the Committee is concerned at reports of numerous cases of confession obtained through torture and at the lack of information on any officials who may have been prosecuted and punished for extracting such confessions (arts. 2 and 15).

The State party should take the steps necessary to ensure that confessions obtained under torture or duress are inadmissible in court in all cases in line with domestic legislation and the provisions of article 15 of the Convention. The Committee requests the State party to submit information on the application of the provisions prohibiting admissibility of evidence obtained through torture, and whether any officials have been prosecuted and punished for extracting such confessions.

Domestic violence

29. The Committee notes that a team of legal experts has been established to review domestic legislation on women and eliminate any discriminatory provisions incompatible with international treaties on women's rights. The Committee also notes the reference in the State report to the adoption of the Protection against Domestic Violence Act No. 6 of 2008 (CAT/C/YEM/2, paras. 132-146), but regrets the very limited information on its content and implementation. The Committee notes with deep concern that violence against women and children, including domestic violence, remains prevalent in Yemen. It is also concerned that women reportedly experience difficulties in filing complaints and seeking redress with regard to such violence. The Committee is also concerned that article 232 of the Penal Code provides that a man, or any male relative, who kills his wife, or a female member of the family suspected of adultery is not prosecuted with murder but a less serious crime. It also expresses its concern at the lack of data, including statistics on complaints, prosecutions

and sentences, relating to homicides committed against women by their husbands or male relatives and to domestic violence (arts. 1, 2, 12 and 16).

The State party should strengthen its efforts to prevent, combat and punish violence against women and children, including domestic violence. The State party is encouraged to participate directly in rehabilitation and legal assistance programmes and to conduct broader awareness campaigns for officials (judges, law officers, law enforcement agents and welfare workers) who are in direct contact with victims. The Committee also recommends that the State party establish clear procedures for filing complaints on violence against women, and establish female sections in police stations and prosecutor's offices to deal with such complaints and investigations.

The State party should repeal article 232 of the Penal Code to ensure that homicides committed against women by their husbands or male relatives are prosecuted and punished in the same way as any other murders. The State party should also strengthen its efforts in respect of research and data collection on the extent of domestic violence and homicides committed against women by their husbands or male relatives; it is also requested to provide the Committee with statistical data on complaints, prosecutions and sentences in this respect.

Trafficking

30. The Committee notes the statement in the replies to the list of issues that the "problem of child smuggling" in the country is largely a matter of irregular migration by children, not child trafficking, and it also notes a number of measures adopted by the State party to prevent and combat such phenomenon. However, the Committee expresses its grave concern at reports of trafficking in women and children for sexual and other exploitative purposes, including reports of trafficking of children out of Yemen, mostly to Saudi Arabia. The Committee is also concerned at the general lack of information on the extent of trafficking in the State party, including the number of complaints, investigations, prosecutions and convictions of perpetrators of trafficking, as well as on the concrete measures taken to prevent and combat such phenomena (arts. 1, 2, 12 and 16).

The State party should increase its efforts to prevent and combat trafficking of women and children and cooperate closely with the authorities of Saudi Arabia in respect of cases of combating trafficking in children. The State party should provide protection for victims and ensure their access to medical, social, rehabilitative and legal services, including counselling services, as appropriate. The State party should also create adequate conditions for victims to exercise their right to make complaints, conduct prompt, impartial and effective investigations into all allegations of trafficking, and ensure that perpetrators are brought to justice and punished with penalties appropriate to the nature of their crimes. The State party is requested to provide further information on measures taken to provide assistance to the victims of trafficking as well as statistical data on the number of complaints, investigations, prosecutions and convictions relating to trafficking.

Early marriages

31. The Committee notes with interest the information provided by the State party delegation that a draft legislative amendment to raise the minimum age of marriage has been approved by the Council of Ministers and is currently before the Parliament. However, the Committee remains seriously concerned at the amendment to Personal Status Law No. 20 of 1992 by Law No. 24 of 1999, which legalized the marriage of girls under 15 years of age with the consent of their guardian. The Committee expresses its concern at the "legality" of such early marriages of girls, some as young as 8 years of age, and underlines the fact that this amounts to violence against them as well as inhuman or degrading

treatment, and is thus in breach of the Convention. The Committee further expresses its concern at the very high maternal and child mortality rates, including the considerable number of girls that reportedly die every day following complications during labour and delivery (arts. 1, 2 and 16).

The State party should take urgent legislative measures to raise the minimum age of marriage for girls, in line with article 1 of the Convention on the Rights of the Child, which defines a child as being below the age of 18, and the provision on child marriage in article 16, paragraph 2, of the Convention on the Elimination of All Forms of Discrimination against Women; it should also stipulate that child marriages have no legal effect. The Committee also urges the State party to enforce the requirement to register all marriages in order to monitor their legality and the strict prohibition of early marriages and to prosecute the perpetrators violating such provisions, in line with the recommendations of the Committee on the Elimination of Discrimination against Women (CEDAW/C/YEM/CO/6, para. 31) and the universal periodic review (A/HRC/12/13).

Harassment of an NGO participating in the work of the Committee

32. The Committee expresses its serious concern at information of threats against, and intimidation and harassment of, members of the non-governmental organization Sisters' Arab Forum for Human Rights, which coordinated an alternative joint submission to the Committee prior to its consideration of the State party at its forty-third session and also briefed the Committee during the current session. The Committee is concerned that such threats and intimidation may be related to the peaceful activities of this non-governmental organization in promoting and protecting human rights, and in particular with monitoring and documenting cases of torture. The Committee deeply regrets that the State party has not replied to the letter sent by the Committee's Chairperson on 3 December 2009, drawing the attention of the State party to this issue and requesting the State party to provide information on the measures taken to implement, especially with regard to the organization's chairperson, articles 12, 13 and 16 of the Convention and paragraph 20 of the provisional concluding observations of the Committee.

The Committee reiterates its request to the State party, as a matter of urgency, to provide information on the measures taken to implement, especially with regard to members of the Sisters' Arab Forum for Human Rights, articles 12, 13 and 16 of the Convention and paragraph 20 of the Committee's final concluding observations.

Data collection

33. The Committee regrets the absence of comprehensive and disaggregated data on complaints, investigations, prosecutions and convictions of cases of torture and ill-treatment by law enforcement, security, military and prison personnel, as well as on extrajudicial killings, enforced disappearances, trafficking and domestic and sexual violence (arts. 12 and 13).

The State party should compile statistical data relevant to the monitoring of the implementation of the Convention at the national level, including data on complaints, investigations, prosecutions and convictions of cases of torture and ill-treatment, extrajudicial killings, enforced disappearances, trafficking and domestic and sexual violence as well as on means of redress, including compensation and rehabilitation, provided to the victims.

Cooperation with United Nations human rights mechanisms

34. The Committee recommends that the State party strengthen its cooperation with United Nations human rights mechanisms, including by permitting visits of, inter alia, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on the promotion and protection of human rights while countering terrorism, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Working Group on Arbitrary Detention.

35. Noting the commitment made by the State party in the context of the universal periodic review (A/HRC/12/13, para. 93 (4)), the Committee recommends that the State party consider ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as soon as possible.

36. The Committee recommends that the State party consider making the declarations envisaged under articles 21 and 22 of the Convention.

37. With reference to its previous concluding observations (CAT/C/CR/31/44 (d)), the Committee recommends that the State party consider ratifying the Rome Statute of the International Criminal Court.

38. The Committee invites the State party to ratify the core United Nations human rights treaties to which it is not yet a party, namely the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of All Persons from Enforced Disappearance.

39. The Committee invites the State party to submit its core document in accordance with the requirements of the common core document in the harmonized guidelines on reporting, as approved by the international human rights treaty bodies (HRI/GEN/2/Rev.6).

40. The State party is encouraged to disseminate widely the reports submitted to the Committee and the present provisional concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations.

41. The Committee requests the State party to provide, within a year, information on its response to the Committee's recommendations contained in paragraphs 10, 12, 16, 31 and 32 above.

42. The State party is invited to submit its next periodic report, which will be the third report, by 14 May 2014.
