



## International Covenant on Civil and Political Rights

Distr.: General  
4 April 2014  
English  
Original: Arabic

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### Human Rights Committee

#### Concluding observations on the fifth periodic report of Yemen

Addendum

#### Information received from Yemen on follow-up to the concluding observation\*

[Date received: 9 September 2013]

#### Clarifications of the Republic of Yemen concerning paragraphs 7, 10, 15 and 21 of the concluding observations of the Human Rights Committee

##### I. Introduction

1. The Government of the Republic of Yemen received with great interest the concluding observations of the Human Rights Committee following the Committee's consideration of the fifth periodic report of Yemen on the implementation of the International Covenant on Civil and Political Rights at its 2868th and 2869th meetings (CCPR/C/SR.2868 and 2869), held on 14 and 15 March 2012 and at its 2886th and 2887th meetings (CCPR/C/SR.2886 and 2887) held on 27 and 28 March 2012 during the Committee's 104th session, held in New York.

2. The Government of Yemen welcomes the Committee's positive observations on the spirit of cooperation and understanding and its appreciation of Yemen's achievements and developments. The Government is pleased to provide clarifications on the procedures and measures adopted by the Government in order to deal with the Committee's observations in general. The Council of Ministers issued Decision No. 137 of 2012 concerning executive measures for the implementation of the recommendations of the Human Rights Council issued at its 19th session on 21 March 2012, and the recommendations of the Human Rights Committee issued in March 2012, giving the approval of the Government of Yemen to

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\* The present document is being issued without formal editing.



those of the Committee's recommendations that are not inconsistent with the provisions of Islamic law and directing the competent authorities to implement those recommendations. Since the decision was issued, the Ministry of Human Rights has been following up with the various authorities responsible for its implementation according to their spheres of competence, through meetings, correspondence and receiving reports from various agencies on the implementation of the recommendations.

3. The Yemeni Government regrets that it did not submit its official comments by mid-March 2013, as requested by the Committee in its concluding observations. It is pleased to submit its official comments to the Committee on the observation contained in paragraph 29, which indicates that, in accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations contained in paragraphs 7, 10, 15 and 21 of its concluding observations issued in March 2012.

## **II. Comments concerning paragraphs 7, 10, 15 and 21 of the concluding observations of the Human Rights Committee on the fifth periodic report under the International Covenant on Civil and Political Rights**

### **Establishment of a national human rights institution (para. 7)**

**“The State party should establish a national human rights institution, in line with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). The Committee encourages the State party to benefit from the assistance of the Office of the High Commissioner for Human Rights in establishing such a mechanism.”**

4. We wish to note that Yemen has introduced a number of measures with a view to implementing its international commitments and to abiding by its voluntary pledge to establish an independent national human rights institution in accordance with the Paris Principles. In the first instance, it issued Council of Ministers Order No. 35 of 2012 on the preparation of a bill establishing an independent national human rights institution. Pursuant to that Order, a number of measures have been taken to ensure the independence, neutrality and objectivity of an independent institution for human rights and that human rights are promoted in a manner that would deepen understanding of the concept of the rule of law. One of the main goals of the Government's performance plan is to establish an independent national institution during the period 2012–2013. The international community has emphasized that it will provide all technical and material support to the Government in connection with the establishment of such an institution, to which end the actions set out below have been taken.

5. On 17 April 2012, the Council of Ministers issued Order No. 35 of 2012 on the preparation of a bill establishing an independent national human rights institution. The Ministry of Human Rights took a number of measures to implement the Order, including the following:

(a) The Ministry drafted a bill establishing a national human rights institution and set up a technical legal team, drawn from various governmental and non-governmental professional bodies, in order to review the draft;

(b) The ministerial committee studied and reviewed the draft bill submitted by the technical team supporting the committee and, with the Office of the High Commissioner, redrafted the bill and presented it to the Advisory Body and the Technical

Committee on Human Rights. The bill was then published on the Ministry of Human Rights website, as well as on the Ministry of Legal Affairs website, in order to solicit comments for inclusion that would enrich it so that it could be submitted to the Council of Ministers in final form for adoption and transmitted to the Council of Representatives for approval and issuance as a Republican Legislative Decree.

6. The bill was drafted with the participation of a number of civil society organizations, drawing on the experience of Arab countries that have established independent human rights institutions such as Morocco, Qatar and Jordan. In order to ensure broad participation in the preparation of the bill, the Ministry of Human Rights cooperated with the United Nations Development Programme to organize a number of events and workshops for the purpose of presenting and discussing the bill, as follows:

(a) A number of workshops were held to discuss the bill in the provinces of Amanat al-`Asimah, Al-Hudaydah, `Adan, Hadramaut and Ta`izz;

(b) A workshop was held on 29 May 2013 for members of the team of independent bodies for the National Dialogue Conference, to advocate and support the bill;

(c) A workshop was held on 30 May 2013 for members of the Council of Representatives, to advocate and support the bill;

(d) The bill was presented to a number of civil society organizations and international organizations (the Office of the United Nations High Commissioner for Human Rights, the Danish Institute for Human Rights);

(e) The bill was published on websites in order to solicit feedback and opinions from the public.

7. All of the feedback and recommendations that emerged from the workshops were incorporated and the suggestions of the Office of the United Nations High Commissioner for Human Rights and the Danish Institute for Human Rights were taken into consideration once the supporting legal team had studied them.

8. A team of professionals from Government, representatives of the Council of Representatives and civil society organizations as well as the National Dialogue Conference examined and took advantage of the experience of Tunisia in establishing an independent human rights institution.

9. The Ministry of Legal Affairs reviewed and approved the draft bill. Moreover, minutes on the approval of the bill by members of the ministerial committee were prepared so that it could be presented to the Council of Ministers for approval and referral to the Council of Representatives for discussion and adoption in its final form and, subsequently, brought before the President of the Republic for promulgation as a Republican Decree.

### **Discriminatory provisions pertaining to marriage, divorce and inheritance (para. 10)**

**“In line with its previous concluding observations (CCPR/CO/84/YEM, para. 9; CCPR/CO/75/YEM, paras. 7–11), the Committee urges the State party to ensure equality between men and women in the enjoyment of all the rights enshrined in the Covenant, which necessitates abolishing all discriminatory provisions in matters of marriage, divorce, testimony and inheritance. In this regard, the State party should inter alia (a) set a minimum age for marriage that complies with international standards; (b) abolish article 23 of the Personal Status law; (c) eradicate the use of temporary marriage for the sexual exploitation of children; and (d) ensure that honour crimes are punished in**

**accordance with their gravity. The State party should engage in official and systematic awareness-raising campaigns in order to eradicate polygamy, which is a form of discrimination against women.”**

10. In accordance with Council of Ministers Decision No. 137 of 2012 concerning executive measures for the implementation of the recommendations of the Human Rights Council, issued in March 2012, we are pleased to inform the Committee that the Government of the Republic of Yemen does not consider the provisions relating to marriage, divorce, testimony and inheritance to be discriminatory under Islamic law.

### **Investigation into cases of killing, arbitrary detention and enforced disappearance (para. 15)**

**“The State party should launch a transparent and independent investigation, in accordance with international standards, into all allegations of involvement of members of its law enforcement and security forces in the killings of civilians, excessive use of force, arbitrary detention, including enforced disappearance, torture and ill-treatment, whether this is related to the 2011 unrest, or to the unrest in the south, the conflict in the north and the fight against Al-Qaida’s presence in the territory of the State party. Furthermore, the State party should initiate criminal proceedings against the alleged perpetrators of such acts, sentence those responsible and afford victims reparation, including adequate compensation.”**

11. The Council of Ministers issued Order No. 4 of 2012 on the establishment of a ministerial committee, headed by the Minister of Human Rights, composed of the Minister for Foreign Affairs, the Minister of Parliamentary and Shura Council Affairs and the Minister of Justice. The committee studied and put forward proposals on the establishment of an independent commission of inquiry, in accordance with international standards, to investigate alleged human rights abuses.

12. The Ministry of Human Rights addressed all political stakeholders and parties asking them to put forward proposals and ideas on the nomination of their members to sit on the commission of inquiry, in accordance with a consensus-based decision-making process. An explanatory note was drafted on the importance of establishing the commission of inquiry and of formulating its terms of reference.

13. The ministerial committee drafted the Republican Decree establishing an investigation commission into allegations of human rights violations in 2011 and presented the draft to the Council of Ministers.

14. At the beginning of August 2012 it was announced that a civil alliance had been established to support the independent commission of inquiry. Some 60 civil society organizations active in Yemen are now members of the alliance.

15. On 7 August 2012, the Council of Ministers issued Decision No. 138 of 2012 approving, in principle, the establishment of a commission of inquiry into allegations of human rights violations and calling for the draft to be referred to the Ministry of Legal Affairs for review and finalization and for completion of the relevant legal procedures.

16. On 18 September 2012, the Council of Ministers issued a decision approving the establishment of an independent commission of inquiry. The decision was transmitted to the President of the Republic for the issuance of a republican decree establishing the commission.

17. On 22 September 2012, Presidential Decree No. 140 of 2012 was issued, approving the establishment of an independent commission of inquiry to investigate the human rights abuses committed in 2011. It is expected that members will be nominated and that the commission will commence its work.
18. In support of victims of arbitrary detention and enforced disappearance, the Ministry of Human Rights followed up on the Council of Ministers decision on the implementation by Yemen of Human Rights Council recommendations and Security Council resolutions 2014 (2011) and 2051 (2012), based on the Gulf initiative and its implementation mechanisms, which refers to the speed of release of all persons held in extrajudicial detention or those detained for their opinion or expression and the disclosure of the whereabouts of detainees who have disappeared.
19. The Council of Ministers issued Decision No. 108 of 2012 on the release of all prisoners of conscience detained in 2011 from all lawful and unlawful places of detention, which included its approval of their release, in addition to a list of all detainees and disappeared persons known to the authorities. Through the media, the Council of Ministers invited the families of all detained or disappeared persons to provide the relevant departments of the Ministry of Human Rights with full information about the persons concerned, in order to establish their actual number.
20. The Ministry of Human Rights obtained lists of names of persons who had been subjected to extrajudicial arrest and detention from youth coalitions and components for the defence of forcibly detained and disappeared persons and the General Council for Detainees of the Revolution. The Ministry then brought those lists to the attention of the Office of the President of the Republic, the Office of the Prime Minister, the Ministry of the Interior, the Ministry of Defence, the Political Security Organization, the National Security Agency, the Republican Guard, the First Armoured Division, the General Council for Detainees of the Revolution, the Organizing Committee of the Popular Youth Revolution and the Legal Committee of the National Organization for the Defence of Rights and Freedoms (HUD) by means of official memorandums.
21. The Ministry of Human Rights supports and advocates for victims of arbitrary arrest and detention, in cooperation with a number of interested civil society organizations. The Ministry has held a number of meetings with commanders of military and security units and with the authorities concerned in order to discuss reported cases of detention and disappearance following the widespread security incidents in Yemen in 2011.
22. During the meetings, a number of topics were raised for discussion, among the most important of which was the release of prisoners. The speed of their release was emphasized, as was the importance of making concerted efforts and cooperating to close private prisons owned by some religious and military leaders.
23. The Ministry contacted the sponsors of the detainees initiative (European Union ambassadors and Mr. Jamal Benomar (Special Adviser to the Secretary-General of the United Nations to Yemen), identifying the most important recommendations for moving this rights and humanitarian issues forward.
24. On 28 July 2012, the Ministry of Human Rights contacted the Ministry of Information concerning the publication of an announcement on detainees and missing persons in various media. On 12 August 2012, a circular was issued to various media to issue an announcement.
25. The Prime Minister also contacted the security agencies and requested them to provide the Ministry of Human Rights with information on detainees and prisoners.
26. The Ministry of Human Rights received a letter from the Committee on Military Affairs and the Achievement of Security and Stability providing information and details

clarifying some 99 cases obtained by the Committee from the various security agencies. The Committee reported that it was obtaining full data about persons whose whereabouts were unknown, including their residential addresses and telephones, so that it could verify their situation.

27. The Ministry of Human Rights sponsored and participated in a number of activities carried out by revolutionary activists and persons concerned with political detainees and cases of enforced disappearance.

28. A presidential decree was issued on 9 July 2013 directing the Government to implement on an expedited basis the outstanding items of the 20 items adopted by the Technical Committee tasked with the preparation of the National Dialogue Conference in addition to the 11 items adopted by the South issue team. Meanwhile, the Government is seeking adequate funding for the entitlements arising from the implementation of those items in accordance with paragraph 27 of the executive mechanism of the Gulf initiative. The Council of Ministers issued Order No. 53 of 2013 on drafting a matrix of executive measures to implement those items and a ministerial committee was assigned to that task.

29. It should be noted that the 20 items that the Technical Committee for the National Dialogue proposed to the President of the Republic should be implemented as necessary steps in preparation for the Dialogue included a number of items related to the release of detainees, establishment of the fate of victims of enforced disappearance and compensation, as follows:

- Item 6 calls for the release of all persons arrested in connection with the peaceful Southern Movement, the treatment of all victims of the 1994 civil war and the peaceful Southern Movement as martyrs and the provision of treatment for the wounded and support and honour for their families;
- Item 16 calls for the immediate release of the remaining persons arrested in connection with the Sa`adah wars and for the fate of victims of enforced disappearance whether dead or alive, to be established;
- Item 19 calls for the presidential decisions and directives pertaining to the release of persons arrested in connection with the peaceful popular youth revolution and all unlawfully detained persons to be implemented, and those responsible to be held accountable;
- Item 20 calls for the establishment on an expedited basis of an independent, impartial commission of inquiry that meets international standards to investigate the human rights violations that occurred in 2011.

30. Moreover, the South issue team at the Dialogue Conference approved 11 items as measures and procedures urgently needing to be implemented on the ground. These 11 items take as their starting point the 20 items proposed by the Technical Committee for the National Dialogue Conference and include:

- Condemnation of any fatwas declaring others to be unbelievers issued against the people of the South during the 1994 war and bringing of defendants to court;
- Complete demilitarization of streets and neighbourhoods in `Adan and Hadramaut, the return of military vehicles to their barracks and the immediate cessation of violence from any source against activities relating to the right to peaceful expression;
- Release of political detainees in connection with the peaceful Southern Movement and repeal of all decisions handed down in respect of southern leaders and symbols;

- Emphasis on the need for the committees established to consider the cases of civil servants and military and security personnel forcibly dismissed from their posts following the 1994 war to accomplish their work on an expedited basis, to ensure fair compensation for victims and to inform the public of all steps and procedures followed;
- Equal treatment for the dead and wounded of the peaceful Southern Movement and others killed and wounded in the revolution, and the rapid transfer abroad, at the expense of the State, of those requiring treatment, particularly those wounded on 21 February 2013.

31. The Ministry of Legal Affairs, in consultation with the Ministry of Human Rights, submitted a draft decision to the Council of Ministers on ratification and accession to the International Convention for the Protection of All Persons from Enforced Disappearance. The Council of Ministers approved the draft and completed the legal procedures necessary for its ratification by the Council of Representatives. Moreover, the Council of Ministers issued decision No. 48 of 2013 approving the establishment of a committee to draft a bill on missing persons and victims of enforced disappearance, which is preparing a plan to start work.

### **Refugee issues (para. 21)**

**“The State party should take concrete measures to ensure the adequacy of the refugee determination process and asylum procedures for migrants of all nationalities. Asylum seekers and refugees should not be held in penal conditions.”**

32. We wish to note the considerable responsibility borne by the Government as a result of the flow of refugees into Yemen and the economic, social and security burden that this imposes on the country, in view of the complex and difficult economic and security situation and the prevalence of poverty and rampant unemployment among Yemeni citizens themselves. Despite international aid and the Government’s efforts and interventions, the Government continues to fall short in the face of the large numbers and continuing inward flow of refugees. According to the statistics, there are more than 800,000 refugees in Yemen.

33. The Ministry of Human Rights made tireless efforts in 2012 to give asylum and refugee issues attention commensurate with developments in those issues and their impact on the country. In that context and placing emphasis on the provision by Yemen of international protection to refugees, a memorandum of understanding was signed on 21 May 2012 between the Ministry and the Office of the United Nations High Commissioner for Refugees (UNHCR) in Sana`a under the terms of which UNHCR allocated US\$ 50,000 from its annual budget to cover the cost of joint programmes and activities implemented up to the end of 2012 in the area of training and capacity-building, awareness-raising, loss, study of the situation of refugees and displaced persons and provision of legal aid.

34. All parties concerned are responsible for taking all necessary legal measures to regulate the status of refugees and, also, all precautionary measures to deal with the consequences of the increasing refugee flow, in order to promote national security and stability, hold together the fabric of society and protect national culture, customs and traditions while at the same time maintaining the rights guaranteed to refugees. On this basis, the Ministry of Human Rights, with the support of UNHCR in partnership with UNDP, held a workshop on the economic, social, political and security impact of refugee flows to Yemen in the context of the first National Conference on Human Rights, held from 9–10 December 2012. Some 45 participants from Government, civil society and academic

bodies concerned with refugee issues attended the workshop, at which refugee issues were discussed, as well as the difficulties confronting and confronted by refugees in Yemen from an economic, social legal and security perspective. The workshop concluded with a number of recommendations, which the Ministry of Human Rights is acting to implement and integrate into Government plans and public policies. The most salient of those recommendations are:

(a) Coordination between government asylum and immigration agencies should be strengthened and local legislative infrastructures developed in a manner that does not violate the Constitution or impose additional obligations upon the State but is consistent with the obligations of Yemen;

(b) The international community should take serious steps to end the crisis in Somalia, to support security and stability and to reconstruct the State, as the continuation of the crisis represents a threat to security and peace in the region;

(c) The international community should be called upon to study the establishment and rehabilitation in terms of security and development of a secure zone in Somalia, particularly in the north, as an alternative to the displacement of citizens outside Somalia, until the situation returns to normal and Somalis can return home;

(d) Increased regional and international support for Yemen in dealing with waves of asylum and mixed migration should be called for, in addition to support for programmes to improve the situation of refugees in Yemen and to build the legislative, regulatory and rehabilitative capacities of the agencies concerned with asylum and mixed migration;

(e) Regional cooperation to study asylum and mixed migration issues should be encouraged. Such cooperation would include the consolidation and development of monitoring systems at international border points in the region, the strengthening of humanitarian services in the countries of the region and the prevention of transnational crime through the development of joint action plans to counter piracy, smuggling, human trafficking and drug trafficking;

(f) A national law regulating the asylum process in Yemen should be created, since such a law would curtail a number of problems and minimize their impact and, also, serve to protect refugees and define their rights and obligations;

(g) Refugee issues should be included in national public development programmes and development programmes for provinces affected by asylum and mixed migration.

### **III. Conclusion**

35. In conclusion, the Government of the Republic of Yemen submits this document to the Committee for consideration and draws the Committee's attention to the fact that developments in Yemen are taking place against the background of a difficult political transitional process. It is hoped that ways of addressing and resolving all issues at the national level will be found through the current Comprehensive National Dialogue and that by the time presidential elections are held in Yemen in February 2014, the transitional phase will have been completed and implemented and the new Yemen can be launched on the right course to the future as a modern, civil, democratic State based on good governance and founded on freedom, justice, equality and respect for human rights.

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