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Overview

A large, high-level delegation presented the Yemeni national report before the Human Rights Council Working Group, headed by the Minister for Human Rights, Ms Huda Ali Alban. The 21-person delegation also contained various representatives from the Ministry of Labour and Social Affairs, the Ministry of Planning, the Ministry of Legal Affairs, the Ministry of the Interior, the Office of the Prime Minister and the Ministry of Information, many of whom took the floor to answer questions raised by the plenary.

A total of 62 Council members and observers participated in the interactive dialogue, many of whom either belonged to the League of Arab States or the Organisation of the Islamic Conference (OIC). A wide range of issues were addressed, including in particular economic, social and cultural rights, which the delegation was evidently well prepared to provide additional information on. Although self-criticism was sometimes lacking, Yemen attempted to answer specific questions relating to child smuggling and the rights of the child, protection of women's rights in rural areas, provision of education and healthcare for all. A particularly promising exchange was held over the issue of inheritance laws and the need for equality. The honesty of the delegation in recognising current problems with the law and agreeing to eliminate discriminatory provisions therein indicated the level of openness possible in the review.

In light of this openness on some topics, the delegation's failure to substantively address other key topics was striking. On the divisive topic of the death penalty, numerous States made recommendations suggesting that Yemen at the very least declare a moratorium, with a view to eventually abandoning the practice entirely. The delegation's response to these recommendations was fleeting and perfunctory at best. Egypt seemed to offer its tacit support to the State's unwavering position in this regard with its now almost-customary recommendation that the State 'continue to resist attempts to enforce any human rights beyond the universally agreed ones'.

General information on Yemen

- Yemen is not a member of the Human Rights Council.
- The members of the troika for the examination of Yemen were Nicaragua, Indonesia and South Africa.¹
- In 2008, Yemen established a national committee to draft the report. More than 200 civil society organisations participated in discussions prior to the drafting of the report, and the drafting itself was conducted by representatives from 14 NGOs and 14 Government Ministries.

¹ Yemen requested that a member of its regional group be among its troika. There were no objections by Yemen or by the members of the troika to the selection. For a full summary of the selection of troikas, see ISHR's *Daily Update* of 8 September 2008, available at www.ishr.ch.

Information submitted to the Working Group

The **national report** of Yemen² is methodologically sound, beginning with information on the various institutions tasked with protecting certain rights or dealing with particular groups in society. This is followed by thematic reports on the rights identified as having significant importance in Yemen. The report provides useful information on the legislative steps to improve rights compliance but offers little self-analysis or criticism. It is quick to identify external socio-cultural factors, which are said to impede the further implementation of human rights standards. The report does not offer any information on the Government's own shortcomings or lessons for the future.

The OHCHR **compilation of UN information** focuses on: the need to harmonise national laws with international obligations; *de facto* discrimination against women, children and minority ethnic groups; the continued condoning of corporal punishment; the provision of fundamental health services and education; infringements on freedom of expression, particularly against journalists; and restrictions placed upon freedom of religion.³ The compilation also identified two overdue reports to treaty bodies⁴ – something that contradicts the State's commitment contained in the national report to the 'continued submission of national reports to the treaty bodies by the due date'.⁵

Other stakeholders, including XXX non-governmental organisations (NGOs), submitted information for the OHCHR **summary of stakeholders' information**.⁶ The report highlights major concerns, some of which are not address by the State report at all. The situation of internally displaced people (IDPs) was highlighted, with reportedly 100'000 persons currently needing support following the armed conflict.⁷ Continued problems also exist within the prison system. International organisations are often denied access⁸ and there are many reports of torture, extrajudicial killings, enforced disappearance and arbitrary detention proliferate in number.⁹ Amnesty International claimed that the revision of some laws has not led to greater compliance with international human rights laws, and death by stoning is still an accepted form of execution, in addition to nine new offences worthy of such punishment.¹⁰ According to Amnesty International, the death penalty has been applied and carried out on persons who committed the relevant crime whilst still minors, and there are also juveniles presently on death row.¹¹ Furthermore, the sentence is sometimes handed down after unfair trials, including some involving the mentally disabled.¹²

² A/HRC/WG.6/5/YEM/1, available at http://lib.ohchr.org/HRBodies/UPR/Documents/Session5/YE/A_HRC_WG6_5_YEM_1_E.pdf.

³ A/HRC/WG.6/5/YEM/2, available at http://lib.ohchr.org/HRBodies/UPR/Documents/Session5/YE/A_HRC_WG6_5_YEM_2_E.pdf.

⁴ The Committee against Torture (CAT) and the Committee on the Rights of the Child (CRC).

⁵ See note 2, above, at page 14.

⁶ A/HRC/WG.6/5/YEM/3, available at http://lib.ohchr.org/HRBodies/UPR/Documents/Session5/YE/A_HRC_WG6_5_YEM_3_E.pdf.

⁷ Joint Submission, note 6, para. 38. Following the 2006 presidential elections, conflict arose in the Northern province of Sa'ada between government forces and Shiite rebels, causing an internationally recognised humanitarian problem, with civilians deprived of basic resources and amenities.

⁸ Joint Submission, note 6, para 24.

⁹ Amnesty International (AI), Human Rights Information and Training/Yemeni Observatory for Human Rights (HRITC/YOHR) and Joint Submission, note 6, para. 14.

¹⁰ AI, note 6, para 3.

¹¹ AI, note 6, para 10.

¹² AI, note 6, para 9.

Interactive dialogue¹³

Presentation by the State

In her opening statement, the Minister repeated some of the information contained in the report and thanked States for their advance questions. These formed the basis for larger part of the initial presentation. She clarified the role of the Ministry for Human Rights and updated the Working Group on the implementation of new laws preventing ‘tourist marriage’ and illegalising marriage to minors. Also mentioned were efforts to ensure the independence and effectiveness of the judiciary. However the vague assertion that ‘extrajudicial, arbitrary or unjust execution is *unlikely* to happen’ is of potential concern.

Although most of the advance questions were addressed, several were covered only summarily and amounted to little more than a repetition of the report itself. There was no mention of the question regarding ratification of the Optional Protocol to the Convention against Torture (OP-CAT) and little illumination was offered on measures to ensure freedom of expression, particularly for journalists and human rights activists. The bulk of the presentation focused on laws combating discrimination against women and regulating the exact application of the death penalty, but there was little evidence offered to demonstrate the implementation of those laws in practice.

Themes and issues

The main focus of the dialogue was two-fold, with nearly every participating State addressing the application of the death penalty or the issue of discrimination in some form or another. While the first issue evidently left little scope for compromise, the multi-faceted nature of the latter allowed for a more constructive dialogue to be held.

The continued application of the **death penalty** was questioned by many States,¹⁴ some of whom referred to General Assembly *Resolutions 62/149* and *63/168* concerning a moratorium on the death penalty.¹⁵ It was repeatedly recommended that such a moratorium be implemented in Yemen. However, some States recommended merely limiting the continued use of the penalty as much as possible, and ensuring that juveniles were never sentenced to death. Sweden paid particular attention to reports of the death sentence being carried out on minors despite legislation apparently prohibiting the practice, and recommended ensuring it is not repeated in future. It was clear that Yemen was not prepared to enter into dialogue on this topic. The delegation did not respond to this issue until its concluding remarks, and then simply asserted that the application of the death penalty is strictly safeguarded against misuse and that juveniles are never punished like this.

Concern about **discrimination** in Yemen manifested itself in many recommendations and ranged from issues such as widespread discrimination against women,¹⁶ particularly with regard to employment,¹⁷ discrimination against minority religious groups such as the Jews and Baha’i,¹⁸ discrimination in the provision of

¹³ Most statements made at the UPR Working Group can be found at <http://portal.ohchr.org/portal/page/portal/UPR>. Fill in the form at www.ohchr.org/english/bodies/hrcouncil/form.htm to receive username and password. Audiovisual archives of the meetings of the Working Group ‘webcast’ are available at www.un.org/webcast/unhrc/index.asp.

¹⁴ Including Mexico, the Netherlands, Denmark, Israel, Italy, Portugal, Hungary, France, Slovenia, Canada, UK, Austria, Brazil, and Sweden.

¹⁵ See for instance ISHR’s *Human Rights Monitor 2008* for an analysis of discussions in the GA on this issue.

¹⁶ Norway, Zimbabwe, Hungary, Nigeria, Libya, Mexico, Republic of Korea, Vietnam, Malaysia, UK.

¹⁷ Djibouti, Turkey and Morocco.

¹⁸ Nigeria, Brazil and France.

education¹⁹ and anti-union discrimination.²⁰ Some recommendations suggested a review of the Penal Code and inheritance laws, which was seen as vital to help eradicate discrimination against women.²¹ The delegation responded that laws relating to the protection of minority groups exist to prevent discrimination based on ethnicity or religion. It also asserted that women are increasingly being appointed to leadership positions, both within and outside the Government, and, apparently heeding the recommendation concerning inheritance laws, specifically stated that it would ‘study and eliminate’ any discriminatory measures in national law.

In light of this, concern was raised about the general **implementation of improvements made to legislation**.²² States considered that additional human rights training for the judiciary and police forces,²³ particularly on ensuring adherence to the commendable new law banning marriage to minors under the age of 17 was essential in this regard.²⁴ Such training would also help to eradicate corruption within those institutions.²⁵ Public human rights awareness-raising and fostering a culture of human rights was also highlighted as important by the Republic of Korea, Malaysia, Japan and Iran.

Freedom of expression, particularly in relation to the press, was raised both in the advance questions and in the review itself, with Yemen attesting that there are ‘generally’ no restrictions on the press, except when they have ‘overstepped the mark’. A recent Presidential decree prevents the imprisonment of any journalist for exercising their right to freedom of speech, but States were still anxious to raise the issue, referring to the OHCHR compilation and the summary of stakeholder information and quoting examples of journalists and human rights defenders who have been harassed or prevented from reporting in certain circumstances.²⁶ The US specifically recommended that the Press Act of 1990 be amended to explicitly protect the freedom of speech.

The delegation strongly rejected claims of **torture** contained in the stakeholders’ report, saying that many such claims have been false allegations, but some States were keen to return to this point, particularly in relation to prison conditions. Nigeria was concerned about certain punishments like flogging and, in some instances, amputation. Austria raised the issue of incommunicado detention and Israel recommended abolishing torture in all its forms. Both the UK and Canada expressed concern about overcrowding in prisons and healthcare provision, and recommended improving conditions. In its replies, Yemen claimed that ‘rights are protected according to our means’. The US recommended reforming the prison system and allowing greater access to NGOs and international organisations. This recommendation was echoed by the Czech Republic, which emphasised the need for independent inspections to complement those undertaken by the Ministry for Human Rights.

Health and education appeared to be areas of priority for both Yemen and the States intervening in the interactive dialogue. The delegation provided useful information on the allocation of funds to these areas (currently 6% of the gross national product) and welcomed calls to focus on improving access to these rights. The level of poverty in the country was recognised and Vietnam highlighted the need for more assistance.

¹⁹ Azerbaijan.

²⁰ US.

²¹ Sweden and Israel.

²² Italy.

²³ Denmark and Thailand.

²⁴ Netherlands and Canada.

²⁵ Kuwait, Canada and Turkey.

²⁶ Italy, Norway, France and Germany.

Several States commended the pending creation of an independent **national human rights institution** compliant with the Paris Principles,²⁷ but urged the Government to expedite its establishment.²⁸ Germany encouraged Yemen to intensify its cooperation with treaty bodies and special procedures, and Latvia recommended that it issue a standing invitation to all special procedures mandate holders. This was not addressed by the Yemeni delegation during the review.

Other questions drawn largely from the OHCHR compilation report were also prevalent, with attention being paid to issues such as **reporting duties**²⁹ and **ratifying additional conventions**. Argentina recommended ratifying the Optional Protocol to the Convention against Torture, Portugal urged the Government to ratify the Second Optional Protocol to ICCPR, and Azerbaijan recommended ratifying the UNESCO Convention against Discrimination in Education.

Adoption of the report

Indonesia, as a troika member, thanked Yemen and the other troika members (Nicaragua and South Africa) for their constructive commitment in the finalisation of report. The delegate of Indonesia explained that the recommendations in the draft report on Yemen will appear only at the end of the report under ‘conclusions and/or recommendations’ and will not be contained the summary section of the report. This is in accordance with the new format proposed by the President following the adoption of the report of Afghanistan on 11 May 2009. From now on, recommendations are only contained in Part II and no longer in Part I in the case of draft UPR reports that are over 9,630 words.

In her final comments, the delegate of Yemen declared that 109 out of 125 recommendations had been accepted, with others being under further consideration or rejected as they are covered by existing legislation. Those that do not enjoy the support of Yemen include: ratifying the Second Optional Protocol to ICCPR on abolishing the death penalty, or introducing a moratorium; halting the execution of minors; amending specific national laws on discriminatory grounds; abolishing corporal punishment; and ensuring freedom or persons to choose and practice a religion.

As a Muslim country, the Minister explained, legislation is based on Sharia, and all laws were applied equally. She also explained that laws concerning the death penalty are also based on Sharia. Finally, Ms Huda claimed that there is no discrimination against women in Yemen.

She concluded that the UPR had been an important process conducted in an atmosphere of respect, and that Yemen had the utmost commitment to upholding human rights.

²⁷ The ‘Paris Principles’ were adopted by the United Nations General Assembly as an Annex to *Resolution 48/134*. They define the role and functions of national human rights institutions in the promotion and protection of human rights. Available at: <http://www.un.org/Depts/dhl/res/resa48.htm>.

²⁸ Algeria, France, South Africa, Thailand and Jordan.

²⁹ Japan and Republic of Korea.

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