Summary record of the 1403rd meeting : Yemen. 19/04/95.
CCPR/C/SR.1403. (Summary Record)

Convention Abbreviation: CCPR

HUMAN RIGHTS COMMITTEE

Fifty-third session

SUMMARY RECORD OF THE 1403rd MEETING

Held at Headquarters, New York, on Thursday, 30 March 1995, at 10 a.m.

Chairman: Mr. AGUILAR

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

Second periodic report of Yemen

The meeting was called to order at 10.20 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

Second periodic report of Yemen (CCPR/C/82/Add.1)

At the invitation of the Chairman, Mr. Al-Ashtal, Mr. Al-Hubaishi and Ms. Al-Hamami took places at the Committee table.

Mr. AL-HUBAISHI (Yemen) said that Yemen was a developing country which fully intended to espouse the principles of democracy and human rights. Much had been done for the establishment of a multi-party democracy and freedom of expression; a new constitution had been drawn up, and numerous laws enacted. There were, however, a number of problems such as those resulting from insufficient economic development and lack of technical expertise, which made the implementation of new measures more difficult. Also, the civil strife which had occurred recently had led to a temporary

situation of anarchy and chaos, which the Government had overcome by declaring a general pardon and amnesty, enabling the restoration of normal life in the country. He hoped that the Committee would show understanding for the country's difficult circumstances. Yemen did not claim to be perfect, but by acceding to the International Covenant on Civil and Political Rights and several other international humanitarian instruments, it had shown its intention of implementing human rights standards.

Constitutional and legal framework within which the Covenant is implemented, right to self-determination, state of emergency, non-discrimination, protection of the family and children, and rights of persons belonging to minorities (articles 1, 2, 3, 4, 23, 24, 25, 26 and 27 of the Covenant) (section I of the list of issues)

The CHAIRMAN read out section I of the list of issues concerning the second periodic report of Yemen, namely: (a) the status of the Covenant in domestic law in the wake of the merging of the People's Democratic Republic of Yemen and the Yemen Arab Republic into a single sovereign State on 22 May 1990; (b) information as to the impact of the recent civil war in Yemen on the exercise of the rights guaranteed under articles 1, 4 and 25 of the Covenant, the safeguards and remedies available to individuals during that period, the status accorded to the rights enumerated in article 4, paragraph 2, of the Covenant, and the reason why the Government of Yemen had not made use of the notification procedure laid down in article 4, paragraph 3, of the Covenant; (c) information, including relevant statistical data, concerning the participation of women in the political and economic life of the country, as well as on measures taken to ensure gender equality; (d) the compatibility of article 40 of the Personal Status Act No. 20 of 1992, which provided for different rights for men and women within the family and stipulated, inter alia, the husband's right to his wife's obedience in matters affecting the family's interests, with article 23, paragraph 4, of the Covenant; (e) information on the law and practice relating to the employment of minors; (f) additional information on measures taken to comply with article 27 of the Covenant; (g) information on steps taken to disseminate information on the rights recognized in the Covenant, and an indication as to whether the public had been informed on the Human Rights Committee's consideration of the report.

In addition to replies to the questions contained in the list of issues concerning the second periodic report of Yemen, the Yemeni delegation would also provide answers to a number of additional questions raised during the Committee's previous session.

Mr. AL-HUBAISHI (Yemen) said that he would provide English translations of Yemen's Constitution and of a number of relevant laws.

Referring to section I (a), he said that Yemeni constitutional law was implemented in such a way as to give precedence to any international agreement over local law. Also, any international agreements to which either of the two parts of the country had committed itself before unification were binding upon the unified State.

Referring to section I (b), he said that, thanks to the general amnesty which had been declared and the return of all the people who had been displaced during the civil war period, the situation had returned to normal. None of the elected members of Parliament had complained of having been deprived of their freedom during that period. As for the state of emergency, which had begun and ended in accordance with the law, it had been declared as a consequence of the beginning of fighting in the civil war.

If violations of articles 6, 7 and 8 of the Covenant had taken place during the conflict, they had not been the result of any deliberate government policy; certain military units involved in the conflict might have committed human rights violations as a result of insufficient training or the lack of effectiveness of certain institutions during the crisis. At that time, the organs of State had been too preoccupied with the emergency to be able to report any human rights violations to the other States parties to the Covenant. The parties to the conflict had accused each other of violations, but the Government had had no means of verifying such accusations.

Referring to section I (c), he said that on the practical level, the problems of insufficient development, as well as Yemeni traditions and customs, sometimes impeded the implementation of rights which were, in fact, recognized by the Constitution and other laws. There were, however, many indications that women were more involved in the electoral process and that they were advancing in both the public and the private sector. Women had reached the rank of deputy minister in certain government departments. Efforts were continuing to improve the status of women through education and economic measures.

Referring to section I (d), he said that awareness of the sanctity of religious rules sometimes motivated legislators to produce laws which might not correspond exactly to what the Government would have wished.

Referring to section I (e), he said that Yemeni law prohibited the employment of children under 15. However, some families in rural areas and remote towns expected their children to work in agriculture or in family businesses. He expected that in future, when the Government would be able to provide educational and social services fully, the number of minors who were working would be reduced, especially in rural areas.

As to section I (f), he said that the only minority in Yemen was a group of some 500 Jews, who had their own culture, ancient language, and religious practices, and were free to travel within the country and abroad whenever they wished, like any other Yemeni citizen.

Referring to section I (g), he said that most reports issued by human rights organizations, whether local or international, were published by Yemeni newspapers, particularly the opposition press, without any government censorship. All details of the current meeting with the Committee would be widely published.

Mr. EL-SHAFEI said that it was very encouraging that the Government of Yemen had sent such a high-level delegation; it showed that the dialogue with the Committee would be constructive and useful. The Committee understood the problems and impediments faced by the Government as a result of the recent civil strife.

Recalling that the Covenant had been declared to be a part of Yemeni national legislation, he wondered what steps had been taken to ensure that Yemeni courts were fully aware of its provisions, and also to inform citizens of those provisions. Regarding women's rights, he inquired what were the areas of employment in which women worked, and what was the level of education among girls; what was the percentage of women participating in elections and in political parties. He would also welcome information regarding the updating of laws to make them more fair to women.

He asked to what extent the Government considered that there were contradictions between the Shariah and the provisions of the Covenant, and whether any reservations that Yemen might have made to the Covenant had resulted from that consideration.

He wondered whether the Secretary-General of the United Nations had been notified of the declaration and lifting of the state of emergency. With respect to cases of torture, it would be important to know whether Yemen abided by articles 4, 6, 7, 8, 11, 15, 16 and 18 of the Covenant. In particular, the delegation should provide information on investigations into cases of torture, the findings of those investigations, the compensation provided to victims and the prosecution of those responsible.

He wondered whether the unification of the People's Democratic Republic of Yemen and the Yemen Arab Republic had had any impact on legislation which had been in force previously in either of the two countries and, in particular, on the Personal Status Act as it applied to children. Information should be given on safeguards to protect political prisoners and killings committed by the security apparatus. He inquired about the scope and effect of the general amnesty, the violations it covered and its impact on those civilians who had been victims of abuse.

He wished to know if the President or Head of State ratified draft laws or bills approved by Parliament over the objection of members of the Government. He would be grateful for details on the laws concerning women, in particular, whether such laws were equitable or could be amended with a view to ensuring equality between the sexes. It would be useful to know whether Yemeni human rights organizations were authorized to conduct their activities within Yemeni territory. The report made no mention of them.

Mr. KLEIN asked whether the constitutional revisions introduced in autumn 1994 had had an impact on the issues examined by the Committee, particularly as the Islamic Shariah was the basis for all legislation.

He wondered whether the approximately 500 people who made up the Jewish minority in Yemen (para. 113 of the report) were permitted to leave the country for the destination of their choice, particularly Israel. He wished to know whether that minority enjoyed all the

rights guaranteed under article 25 of the Covenant, for example, participation in public life or recruitment for public service. He would also appreciate more information on the status of persons who had only one Yemeni parent. Apparently, they were virtual social outcasts and had many problems, for example, in obtaining identity cards.

He wondered whether the activities of the Yemen Human Rights League were conducted independently or in cooperation with the Government. The delegation should confirm whether there had been a major shift of competence from the judiciary to the police, army and political security forces following the civil war of 1994. In particular, it should provide more details on the security forces and any special powers they had to conduct searches or to interfere with individual privacy.

Mrs. HIGGINS said that a number of the questions she had raised during the fifty-second session of the Committee held in Geneva had been answered that morning. She associated herself with Mr. Klein's queries concerning the Jewish minority.

Referring to the fusion of two separate legal systems upon the unification of Yemen, she said that it would be interesting to know whether the Government intended to verify the compatibility of the resulting new body of law with the Covenant. Concerning the questions she had raised in relation to article 4 of the Covenant, it was her understanding that, although certain human rights violations had been committed by the military during the state of emergency, no notification had been issued because there had been no formal suspension of rights. In view of the Government's intention to guarantee pluralism, (para. 104 (c) of the report), it would be interesting to know whether authorized political parties were guaranteed equal access to the media. She also wished to know the Government's position on the formation of political parties based exclusively on religious affiliation.

Mrs. EVATT expressed regret at the paucity of information contained in the report on the situation of women and children. It was equally disappointing that the delegation had not provided more information in that regard in its oral presentation. Repeating a number of questions she had raised during the Committee's fifty-second session, she inquired about the presence of women in Parliament; to her knowledge, there were only two women representatives. She expressed concern about the high level of illiteracy among women and doubt as to whether certain provisions of the Civil Code were compatible with the Covenant. She referred, in particular, to provisions of the Civil Code on dowry, the need to obtain a guardian's consent before marriage, and on the wife's obedience to her husband and her inability to refuse sexual relations or to leave the household without his permission. The continued existence of polygamy, as borne out by the Civil Code provision on equal treatment of wives, was disturbing. It would be useful to know whether such provisions would be reviewed by a parliamentary or other special committee and ultimately amended.

She wished to know whether children's access to education in rural areas was impeded by child labour. The fact that the custody of children hinged on parental rights established by law rather than on the interests of the child appeared to be incompatible with articles 23 and 24 of the Covenant. She wondered whether that situation would be reviewed. As it

appeared that female circumcision persisted in certain parts of Yemen, it would be useful to know whether the Government had adopted a firm policy to eradicate it.

Referring to paragraph 107 (c) of the report, she noted that the literacy requirement for voting was discriminatory against women and perhaps other groups of persons which the delegation should identify.

Mr. BRUNI CELLI expressed understanding of the difficulties confronting Yemen, particularly the lack of resources and the anarchy following the civil war. In response to section I (a) of the list of issues, the delegation had indicated that international treaty law took precedence over domestic law; however, he wondered whether the Covenant could be invoked in concrete cases. Echoing Mr. El-Shafei's question concerning human rights violations committed during the state of emergency, he asked whether a special body had been established for the submission of complaints by victims or whether complaints were reviewed by the judiciary. Certain rights should never be suspended during a state of emergency; if they had been, investigations should be conducted. He, too, would appreciate information on the scope of the general amnesty.

Concerning a question he had raised during the fifty-second session of the Committee relating to section I (c) of the list of issues, he acknowledged that some Yemeni women held high political posts and enjoyed greater access to higher education. However, he would appreciate additional information on women's participation in social and political affairs. He associated himself with the questions raised by Mrs. Evatt concerning women's rights within the family. Lastly, he wondered what action was being taken to disseminate human rights norms and the provisions of the Covenant. Lastly, he inquired whether the Yemeni Government intended to ratify the first Optional Protocol to the Covenant.

Mr. FRANCIS said that, like Mrs. Evatt, he was concerned with the issue of women's rights and wished to have more information on the genital mutilation of young girls. Discriminatory practices against women and young girls were documented in brochures published by non-governmental organizations (NGOs). In that connection, it was relevant to recall the second preambular paragraph of the Covenant, emphasizing the inherent dignity of the human person and the fifth preambular paragraph concerning individuals' duties to other individuals. He wondered if legislative or other action would be taken to ensure respect for those provisions.

Mr. BUERGENTHAL requested more specific information on activities to promote public awareness of human rights and of the Covenant (para. 5 of the report). He would appreciate examples of government initiatives and of government support to private-sector activities to that end. Referring to the delegation's statement that the Covenant enjoyed higher status than ordinary law, he inquired whether that was explicitly stated in the Constitution or deduced from customary practice. It would also be interesting to know how treaties ratified by the Republic of Yemen were disseminated to the population.

Turning to issues of sexual discrimination, he inquired whether men and women were sentenced to identical punishment for offences, in particular adultery. It would be useful to know what constituted punishment for adultery committed by a woman. He would appreciate an explanation of the system of guardianship described in paragraph 93, in particular, the statement that an adult woman required a guardian's permission before she could marry. The delegation might also provide information on women's representation in Parliament and on other elective councils. Referring to the literacy requirement for voting, he asked whether women had equal access to university education and whether there were special universities for women. It would also be interesting to know whether women were barred from studying certain subjects and, if so, which ones.

He wondered whether members of the Jewish minority were permitted to hold public office and if any currently did. Perhaps the delegation could tell the Committee whether Jews were free to leave the country and if, in so doing, they were entitled to take their property with them or dispose of it as they saw fit. He also wished to know whether sanctions were imposed on persons who left the country and whether members of the Jewish minority who left the country were allowed to return to visit relatives. He praised the delegation's responses to the questions contained in the list of issues but requested clarification of its response to question I (d). It was his understanding that laws could not be criticized, particularly if they were based on religion. An explanation would be appreciated.

Mr. PRADO VALLEJO asked what was meant by the words "leading role" in paragraph 5. Details on awareness-building activities would also be appreciated. Perhaps the delegation could explain why civil rights had been omitted from the enumeration of rights enjoyed by women (para. 11 of the report). Civil rights, which included provisions on marriage, contracts and, in general, women's life in society, were extremely significant. Lastly, he, too, would appreciate information on the scope of the general amnesty and the conditions for its implementation.

Mrs. MEDINA QUIROGA, referring to paragraph 8 on the implementation of article 27 of the Covenant, asked why the Constitution did not explicitly prohibit discrimination on the grounds of political opinion. She wondered whether discrimination occurred on grounds which were not enumerated in the constitutional provisions. If that were the case, she wished to know how the provisions of the Covenant would be incorporated into the Yemeni legal order. She associated herself with the question posed by Mr. Prado Vallejo concerning civil rights.

She wondered whether marital provisions concerning the guardian's consent, the bride-price (para. 93), the woman's duty to obey her husband and not to leave the home without his permission (para. 94) were consistent with the provisions of the Covenant on the equal rights of men and women. She inquired whether gender equality was ensured by other rights of a political nature. Lastly, like Mrs. Evatt, she wished to know the Government's position concerning genital mutilation. She, too, was quite concerned that the requirements for eligibility to vote, set forth in paragraph 107, discriminated against women.

Mr. KRETZMER said that paragraph 95 of the report seemed to suggest that men enjoyed greater freedom to divorce their spouses than women. He would welcome information on the procedures for granting divorce to husbands and whether women enjoyed similar rights. He noted that divorced women were entitled to receive maintenance from their former husbands only during the waiting period which must be observed after divorce. It would be useful to have more information on the entitlement of divorced women to maintenance for themselves and their children.

On the question of domestic violence, he wished to know whether the courts in Yemen gave special consideration to persons charged with murder whose motive was the preservation of family honour.

Mr. ANDO joined Mrs. Evatt in expressing concern at the continuing practice of polygamy. He wondered whether males and females were equal before the law in the matter of the inheritance of property from their parents. Women seemed to have inferior status in Yemen as regards finances, particularly after marriage. That status placed them at a disadvantage when seeking custody of their children after divorce. He wished to know what provisions were made in the social security system to cater to the financial needs of divorced women in order to ensure their equality with men in the matter of custodial rights.

On the question of entitlement to Yemeni nationality, he would welcome information on whether sexual equality was maintained in the application of the provisions of article 3 of the Yemeni Nationality Act of 1990.

Mr. BHAGWATI asked whether international instruments ratified by Yemen automatically became part of domestic law and thus were enforceable in national courts. He wished to know whether, where domestic law was inconsistent with the provisions of international instruments, the latter were given precedence. Moreover, it would be useful to know whether any mechanism was in place to ensure compatibility between national legislation and the provisions of the Covenant. He also wondered whether parliamentarians, who made domestic law, were made acquainted with the provisions of the principal human rights instruments.

Noting that Yemeni law prohibited the employment of minors under 15 years of age, he asked what mechanisms were in place to monitor compliance with the law and to punish non-compliance. It would also be helpful to know what the effect of the law had been to date.

On the question of the small Jewish minority in Yemen, the Committee would welcome information on whether members of that minority held public office and otherwise had the right to participate in public life. It would also be interesting to learn whether human rights groups and relevant non-governmental organizations had been consulted during the preparation of the country's second periodic report.

The Committee was gravely concerned about reports of genital mutilation of girls in Yemen. If those reports were true, such a practice would be a violation of the Covenant and the Committee would welcome information on the steps being taken by the Government to put an end to it.

Paragraph 107 of the report provided that for a citizen to stand as a candidate for elections, he must be literate. Since a high percentage of women in Yemen were illiterate and were thus barred from being elected to Parliament, it would be useful to know what plans the Government had for removing that barrier.

Mr. KLEIN asked whether copies of the most recent version of the Constitution of Yemen could be made available to the Committee.

Mr. AL-HUBAISHI (Yemen), replying to the questions put by Mr. El-Shafei, said that the provisions of international instruments ratified by Yemen took precedence over domestic law and could be invoked in a court of law.

On the question of the status of women in Yemen, from a theoretical point of view Yemeni women enjoyed all economic, political and social rights. In practice, however, their participation in national life was limited for historical, social and cultural reasons. The Government was making every effort to educate women and to provide opportunities for them to participate more fully in the economic and social life of the nation. In the field of education, in particular, large numbers of women were to be found in colleges and universities, including among the faculty.

On the question of whether the provisions of the Covenant were incompatible with those of the Shariah, he pointed out that the sources of the Shariah were the Koran, the traditions of the Prophet Mohammed and Islamic jurisprudence. Of those three sources, Islamic jurisprudence was the most significant and was still being developed. In fact, a full understanding of the concept of the Shariah required a certain level of education and awareness on the part of the public.

On the subject of the adverse effect of the state of emergency on respect for human rights, he acknowledged that the recent civil conflict in Yemen had been accompanied by human rights violations. However, the Government had always taken steps to correct the situation when it received reports of such violations. Reports of torture, for example, were investigated and the victims were encouraged to seek redress through the courts.

Turning to the question of the laws of the unified State of Yemen, he explained that laws which existed in either of the two States prior to their unification remained in force, unless amended. Parliament had almost completed its review of all the legislation in force in the unified State.

On the subject of laws protecting the welfare of minors, legislation was due to be enacted shortly. Many existing laws, including those relating to employment and to the family,

contained provisions for the protection of children in general. The Government of Yemen had also ratified the Convention on the Rights of the Child.

Responding to the question concerning the effect of the general amnesty that had been declared, he noted that 90 per cent of those who had left the country, including both civilians and military personnel, had already returned. The declaration of amnesty had been enacted into law and could be invoked in national courts.

With regard to the procedures for enacting legislation, the Constitution provided that both the Government and members of Parliament could introduce bills for adoption by the Parliament. The President of Yemen had the right to veto any such legislation within 30 days of its adoption. A qualified majority of Parliament could, however, override the presidential veto.

To the question put by Mr. Klein concerning the effect of the recent constitutional amendments on the Shariah, he said that, while the amendments had strengthened the basic document, they had been introduced out of deference to certain sections of the population of Yemen and had few if any legal consequences.

He noted that several questions had been asked about the rights of the small Jewish minority in Yemen. Jews in Yemen lived in relative isolation by their own choice, for historical and social reasons. No laws prevented them from participating more actively in public life. He personally knew of some Jews who had participated in elections and others who were practising attorneys in Yemen. Moreover, there were no barriers to their leaving Yemen if they so desired.

On the question of human rights organizations in Yemen, while there was no specific organ associated with the Government, a number of human rights defence bodies existed, some of which were openly critical of the Government.

The text of the amended Constitution was available only in Arabic, but it could be made available to members of the Committee. The relatively few articles that had been amended mainly concerned civil rights and human rights in general.

In reply to Mrs. Higgins, he said that the process of amalgamating the laws of the two formerly separate parts of Yemen was under way. Political parties had full rights to express their opinion, publish newspapers and have access to television and radio time in the periods before elections. The laws governing political parties prohibited the association of political parties with religion, and while some of the over 30 parties in Yemen did, indeed, employ religious discourse, they were not organized around religious principles. The Constitutional Court had jurisdiction over such issues. In reply to Mrs. Evatt, from a theoretical point of view, no distinction was made in the Constitution between the rights of men and women. In practical terms, however, equality was a matter of education, social evolution and social and economic development. The Government encouraged equality and had fostered the establishment of many women's associations. Three women currently served as members of Parliament.

Marriage, family and social issues could not be separated from religion. Religious interpretation had been applied to Islamic law, however, in an attempt to reach a middle ground. The dowry had been established under Islamic law as a sum of money paid by the husband to the wife, and while that practice did continue, its value had become mainly symbolic, with a token sum being exchanged. Guardians relinquished their role when a girl reached adulthood, and a woman had the right to manage her financial affairs and enter into contracts independently. Obedience in marriage should be understood to mean the duties of a wife to her husband. If family law was read as a whole, however, it became clear that a husband must also respect many obligations towards his wife. A wife had full freedom to sue for divorce, including in the case where the husband was polygamous and had decided to take a second wife without her consent. Regarding the custody of children, Islamic law itself stipulated that the judge must take into account the interests of the child. Female circumcision was not a major issue in Yemen, having been practised only by a small minority ethnic group in the coastal region.

Regarding the political participation of women, there was no literacy requirement for the right to vote, but candidates for elective office must be literate. There was no difference in the education provided to women and to men. Women had the right to attend university and to study the same subjects as men; in fact, there were currently several women teaching at the university. An increasing number of educated women were entering the labour market.

The Covenant took precedence over domestic legislation, and some cases testing its provisions were currently pending before the courts.

As a result of the declaration of a general amnesty, most of the Yemeni citizens who had left during the civil conflict, both civilians and members of the military, had returned. The amnesty law took precedence over other laws and was being applied as promulgated. After reunification, the number of women employed both in the civil service and in the private sector had risen significantly.

Information about the Covenant was disseminated through all the communications media - newspapers, magazines, radio and television. The opposition newspapers published the texts of all the international human rights instruments to which Yemen was a party and reports of international human rights bodies. In addition to seminars and colloquia, the Government had set aside national days for human rights education and training in observance of the International Day for Human Rights Education and the signing of the Universal Declaration of Human Rights.

In reply to Mr. Francis, he said many laws had been promulgated that were related indirectly or directly to the dignity of man and the duties of members of society to each other; he cited as a recent example a law passed in February 1995 on the right to work and social security.

In answer to Mr. Buergenthal's questions regarding the Jewish minority, no laws prevented their access to the civil service and other forms of employment. Those who had

left the country during the civil war had been free to take their personal property with them or to sell it, and any who so desired had returned to Yemen.

The meeting rose at 1 p.m.