



# International Covenant on Civil and Political Rights

Distr.: General  
22 April 2021

Original: English  
Arabic, English, French and  
Spanish only

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## Human Rights Committee

### List of issues prior to submission of the sixth periodic report of Yemen\*

#### A. General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant

1. Please report on the main developments in the legal and institutional framework within which human rights are promoted and protected that have taken place in the State party since the adoption of the Committee's previous concluding observations (CCPR/C/YEM/CO/5).
2. Please provide information on the obstacles to the implementation of the Riyadh Agreement and the Stockholm Agreement as regards arrangements that are necessary for the discharge of the State party's obligations under the Covenant. Please also explain how the civil and political rights of the population in the parts of its territory outside the control of the State party are safeguarded and how accountability for human rights violations committed therein is ensured, including through negotiations and dialogue with the parties to the conflict.
3. Please provide information on all measures taken by the State party to ensure that its armed forces and affiliated groups do not violate the rights protected by the Covenant, including in respect of training, operational instructions, monitoring, accountability and remedies for victims. Please give examples of such measures.

#### B. Specific information on the implementation of articles 1–27 of the Covenant

##### Constitutional and legal framework within which the Covenant is implemented (art. 2)

4. Please report on the status of the draft Constitution and indicate whether consideration is being given to specifying therein the place of the Covenant in the State party's domestic legal order. Please provide information on measures taken to disseminate and implement the Committee's previous recommendations and indicate the extent to which the recommendations informed human rights discussions during the National Dialogue Conference. Please also provide information on the implementation of the national human rights strategy and on measures taken to raise awareness of the Covenant rights.

##### Fight against impunity and past human rights violations (arts. 2, 6–7 and 14)

5. Bearing in mind the Committee's previous recommendations (CCPR/C/YEM/CO/5, para. 6), please indicate whether Amnesty Law No. 1 of 2012 has been repealed so that those responsible for serious human rights violations committed under the previous regime can be

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\* Adopted by the Committee at its 130th session (12 October–6 November 2020).



held to account. Please also report on the investigations carried out by the State party into human rights violations perpetrated before 2012, on the release of all prisoners detained by all parties and on the disclosure of the fate of those who have been disappeared and been held in secret detention facilities, as recommended in the National Dialogue Conference Outcomes Document. Please provide updated information on the status of the transitional justice process undertaken by the State party, including the drafting of the transitional justice and reconciliation bill. Please also explain how the State party ensures that agreements negotiated in the context of the current peace process exclude the possibility of immunity from prosecution for serious human rights violations, including torture, enforced disappearance and extrajudicial executions committed by any party to the conflict.

#### **States of emergency (art. 4)**

6. Please provide information on legislation relating to the application of article 121 of the Constitution on states of emergency and war and indicate whether it specifically prohibits derogation from any of the rights listed in article 4 (2) of the Covenant. Please describe how that legislation has been applied during the conflict and in connection with the coronavirus disease (COVID-19) pandemic and give details of the main restrictions on the exercise of the Covenant rights, the legal basis for the restrictions and their compatibility with Covenant.

#### **Non-discrimination (arts. 2 and 26)**

7. Please provide information on national legislation aimed at combating discrimination and the extent to which its application conforms with the provisions of the Covenant, particularly regarding the prohibited grounds of discrimination and the implementation of temporary special measures to remedy discriminatory situations. Please provide information, including statistical data, on the effectiveness of remedies available to victims. Please indicate whether the State party envisages bringing the anti-discrimination provisions of the draft Constitution into line with the Covenant, especially as regards non-citizens' rights. Please indicate, furthermore, whether the State party intends to: (a) adopt comprehensive anti-discrimination legislation that contains all grounds prohibited under the Covenant and covers direct, indirect and intersecting forms of discrimination; and (b) review applicable laws and, where necessary, amend those that are discriminatory or lead to discrimination. In this regard, with reference to the Committee's previous recommendations (CCPR/C/YEM/CO/5, para. 13), please report on steps taken to repeal or amend all legislation which provides for or could result in prosecution and punishment of people because of their sexual orientation.

#### **Rights of persons with disabilities (art. 2)**

8. Please provide an update on the implementation of the national disability strategy and the recommendation contained in the National Dialogue Conference Outcomes Document on establishing a national authority for persons with disabilities. Please indicate whether the State party intends to correct the shortcomings of existing laws on the rights of persons with disabilities and to guarantee, in law and in practice, access to reasonable accommodation, inclusive education, employment and health care.

#### **Treatment of aliens, including migrants (arts. 2, 7 and 26)**

9. Please provide information on measures taken by the State party to respond to reports of detention, racial discrimination and physical abuse of migrants transiting through its territory. Please explain how the State party guarantees that undocumented victims are able to report these acts and obtain access to justice without discrimination based on their migration status. Please also indicate to what extent the State party investigates such cases when brought to its attention and seeks to secure the release of people who have been held captive by smugglers. Please provide examples of the outcome of such investigations, including the reparations provided to the victims and the punishment of perpetrators.

#### **Violence against women and girls (arts. 2–3 and 6–7)**

10. Please provide information on laws, strategies and policies adopted by the State party to prevent and comprehensively respond to the escalating numbers of cases of violence

against women and girls, including sexual violence. In particular, please provide information on measures taken to: (a) provide safe spaces for victims; (b) ensure adequate legal, social, psychological and rehabilitative services for victims and their families; and (c) ensure the availability and accessibility of these services throughout the territory.

#### **Voluntary termination of pregnancy (arts. 6–7)**

11. Please clarify the content of articles 239 and 240 of the Penal Code with regard to the penalties for abortion and the grounds under which abortion is permitted. Please also indicate whether the State party intends to broaden the list of exceptions to the prohibition on abortion, including in cases where women and girls have been victims of sexual violence.

#### **Right to life (art. 6)**

12. Please provide information on the measures taken to protect persons not directly involved in hostilities from death and injuries arising from the conflict, including in the State party's dealings with its allies. In particular, please provide information on the measures taken to address the disproportionate numbers of child casualties of the conflict. Please also report on the investigations and criminal proceedings initiated in connection with violations of international humanitarian law by all parties to the conflict. Furthermore, please report on disarmament, demobilization and reintegration plans in place or envisaged and on any reform of the security apparatus of the State party. Please also indicate the measures taken to urgently identify minefields and other hazardous areas, to expedite the clearance of unexploded devices and landmines and to raise awareness of related risks among the population. Please clarify whether an official register recording civilian casualties is maintained by the State party.

13. Please provide information on the investigations into cases of extrajudicial killings attributed to actors affiliated to the State party's forces, such as those identified by the National Commission of Inquiry. Please report on how the State party handles allegations of extrajudicial killings by other parties to the conflict, the investigations carried out and the outcome thereof and the measures taken to prevent recurrence. Please provide statistical data on such cases.

14. Please clarify the extent to which the cases carrying the death penalty provided for in the new draft Constitution are consistent with the provisions of the Covenant. With reference to the Committee's previous recommendations (CCPR/C/YEM/CO/5, para. 14), please indicate whether the sentence of death for crimes committed by persons under 18 years of age and persons with psychosocial disabilities and the penalty of death by stoning have been prohibited in law and in practice. Pending the adoption of the relevant legislative measures, please provide information on the measures taken to adopt a moratorium on executions. Furthermore, please provide information on steps taken to overturn death sentences imposed by courts in the State party, including on parliamentarians, journalists and members of religious groups, for charges that do not meet the threshold of "most serious crimes" involving intentional killing. Please also indicate whether any further consideration has been given to abolishing the death penalty.

#### **Administration of justice (arts. 2, 6–7 and 14)**

15. Please provide information on the measures taken to restore the rule of law and a functioning judicial system in the State party. Bearing in mind the Committee's previous recommendations (CCPR/C/YEM/CO/5, para. 17), please describe the measures taken to address the systemic issues identified in the judiciary before the conflict, such as lack of access, long delays in trials, lack of independence, endemic corruption and the existence of ad hoc judicial bodies, and the issues that have emerged in recent years, such as the lack of physical security for members of the judiciary and the coexistence of two formal judicial systems. Please provide further information on efforts made to introduce fair trial standards in the traditional dispute settlement mechanisms in the State party, to limit the competence of those mechanisms to minor civil and criminal matters and to make their judgments subject to possible validation by State courts.

16. Please provide updated information, including statistical data, on the outcome of cases investigated by the National Commission of Inquiry that have been transmitted to the Office of the Public Prosecutor, related to allegations of human rights violations committed by all parties to the conflict. Please explain how the State party ensures their prompt handling and the cooperation of all with the National Commission. Please also describe the steps taken to address the challenges faced by the National Commission and its monitors in conducting their work.

**Torture and ill-treatment (art. 7)**

17. Please clarify whether steps have been taken to: (a) introduce a definition of torture in line with international standards into the State party's legislation; (b) hold accomplices to acts of torture, as well as perpetrators, responsible before the law; (c) repeal the provisions of Law No. 13 (1994) on criminal procedures regarding crucifixion, stoning, amputation and flogging as forms of criminal sanction.

18. Please respond to allegations of torture and ill-treatment in places of detention, including sexual violence against male and female detainees, and of reports of convictions based on confessions made under torture, including in proceedings in specialized courts. Please also report on: (a) the number of complaints filed, investigations carried out, prosecutions conducted and convictions handed down; (b) remedies provided to victims and their families, including rehabilitation and compensation; and (c) measures taken to prevent and combat the use of torture and cruel, inhuman or degrading treatment or punishment.

**Right to liberty and security of the person, treatment of persons deprived of their liberty (arts. 6–10 and 14)**

19. Please inform the Committee of the measures taken to ensure that, in law and in practice, persons deprived of liberty are provided with all fundamental safeguards required under article 9 of the Covenant, in particular the right of access to a lawyer. Please also provide information, including statistical data, on: (a) the investigation of cases of arbitrary arrest and detention brought to the knowledge of the State party; (b) the complaints recorded and any measures taken to facilitate the reporting of such violations; (c) the release of persons arbitrarily or unlawfully detained, including those who have been acquitted by courts, and the reparation afforded to them; (d) measures taken to prevent arbitrary detention in the absence of a functioning judicial system; and (e) follow-up given to cases involving the detention of children. Furthermore, please provide information on steps taken to address the large number of persons held in pretrial detention. Please also describe the means available to the State party for ending arbitrary detentions perpetrated by non-State actors or committed in parts of the territory that are not under the control of the State party.

20. Please report on the measures taken to address the proliferation of places of detention, such as political security, national security and military prisons, some of which are outside the command of the Office of the Public Prosecutor. In this regard, provide data on detention facilities in the State party, including unofficial and secret places of detention, indicating which parties to the conflict control them. Please also provide information, by facility, on the official capacity and the number of persons actually detained, disaggregated by age group, sex and nationality, indicating the number being held in pretrial detention. Please report on the findings of the visits to places of detention undertaken by the State party's monitoring bodies and on the resulting measures taken to improve conditions in prisons, including in respect of overcrowding, lack of adequate sanitation, food and health care and prevention of the spread of COVID-19 among detainees.

21. Please provide information on the oversight the State party has over the treatment of detainees in places of detention run by its allies in the conflict. Furthermore, please describe how independent monitors are ensured access to places of deprivation of liberty, including unofficial places of detention, throughout the territory. Please also provide information on the implementation of the prisoner exchange agreement.

**Enforced disappearances (arts. 6–7, 9 and 14)**

22. Please report on: (a) searches initiated in the numerous cases of enforced disappearance reported in the State party, including those identified by the National Commission of Inquiry, and their outcome; (b) access to information for families or other persons close to the disappeared persons on the action taken by the authorities and the progress made; (c) related investigations and measures taken to bring those responsible to justice; and (d) reparation provided to victims. Please indicate whether support and assistance similar to that given to the families of persons who have been detained and disappeared by the militias is also provided to victims of human rights violations committed by Government forces. Please also report on the status and content of the bill on missing persons and enforced disappearances.

**Counter-terrorism measures (arts. 2, 7, 9–10 and 14)**

23. Please provide information on the implementation of the Comprehensive Counter-terrorism Strategy for Yemen and the related directives issued in August 2012. With reference to the Committee's previous recommendations (CCPR/C/YEM/CO/5, para. 8), please report on any amendments made to the State party's counter-terrorism legislation and describe how that legislation has been enforced since the beginning of the conflict, especially as regards the protection of the rights under the Covenant. Furthermore, please provide an update on the capacity-building programme for the rehabilitation of extremists sentenced to imprisonment, including its purpose and the criteria for the definition of "extremists".

**Freedom of movement and delivery of humanitarian aid (arts. 6–7, 9 and 12)**

24. Please provide information on current restrictions on movement and on the progress made towards lifting the air and sea blockade in the State party. Please also explain the measures adopted to ensure that those restrictions do not obstruct the delivery of humanitarian aid. Please provide further information on the measures taken to counter the acts of violence against humanitarian personnel, including threats, physical assaults, arrests and detentions.

**Situation of refugees and asylum seekers**

25. Please provide information on the measures taken to respond to the mass influx of refugees and asylum seekers, especially from the Horn of Africa. Please report on the measures taken to protect internally displaced persons, including measures adopted on cooperation with humanitarian organizations.

**Freedom of conscience and religious belief (arts. 2, 18 and 26)**

26. Please indicate whether the State party intends to ensure that the provisions of the draft Constitution do not lead to the criminalization of proselytism. Please also comment on reports that members of the Baha'i community face persecution and are prevented from freely practising their religion and that their places of worship have been closed. Please also respond to allegations that members of the Jewish community have been detained by the authorities.

**Freedom of expression (arts. 19–20)**

27. With reference to the Committee's previous recommendations (CCPR/C/YEM/CO/5, para. 25), please clarify whether all journalists detained in the context of the 2011 protests have been released. Please also provide information on any investigations conducted into reports of arbitrary arrest and detention, torture, ill-treatment, threats and extrajudicial killings of journalists and other civilians who have exercised their freedom of expression: (a) during the 2011 protests; (b) since President Hadi Mansour took office; and (c) since the beginning of the conflict. Please provide further information on steps taken to end the practice of suppression of criticism and dissent through arbitrary arrest and detention, prosecution for treason or threat to national security, violence, harassment and intimidation by all parties to the conflict.

28. Please comment on the compatibility with the Covenant of article 56 of the draft Constitution and of articles 194 and 195 of the Penal Code on libel. Please also provide

information on: (a) any plans to bring Law No. 25 (1990) on the press and publications into line with international standards; (b) any plans to adopt regulations on audiovisual media to protect the freedom of the press and other media; and (c) on the plan to establish an independent supreme press and media council and on its expected mandate.

**Right of peaceful assembly (arts. 6–7, 9–10, 14, 19 and 21)**

29. Please report on the outcome of investigations conducted into the excessive use of force and killing of civilians during the 2011 protests. Please also provide information on the legal regulation of the use of force by the police, including during demonstrations, and indicate whether the relevant laws and practices comply with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement. In this regard, please provide information on measures taken to strictly circumscribe in practice the use of force by the principles of legality, necessity, proportionality, precaution and non-discrimination when policing assemblies in order to minimize the potential for injury to participants.

**Rights of minorities (arts. 2 and 26)**

30. Please provide information on the minorities recognized in the State party and the rights guaranteed to them. Please also report on measures taken to address discrimination and violence against Muhamasheen and to ensure that they are able to effectively exercise their civil and political rights, including their right to participate in political life.

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