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1 December 2011

Your Excellency,

In my capacity as Rapporteur for follow-up on Concluding Observations of the United Nations Committee against Torture, I refer to the examination of the second periodic report of Yemen (CAT/C/YEM/CO/2) by this Committee, at its 44th session, held from 26 April to 14 May 2010. At the end of that session, the Committee's Concluding Observations (CAT/C/YEM/CO/2/Rev.1) were transmitted to your Permanent Mission. In paragraph 41 of those Concluding Observations, the Committee requested, pursuant to its rules of procedure, that the State party provide, within one year (by May 2011) further information regarding areas of particular concern identified by the Committee in paragraphs 10, 12, 16, 31 and 32 (see extracts annexed).

The Committee has adopted a follow-up procedure to pursue issues that are serious, that can be accomplished by the State party in a one year period, and that are protective.

The information sought by the Committee has not been provided yet, although more than one year has elapsed from the transmittal of the Committee's Concluding Observations. Accordingly, I would be grateful for clarification as to the current status of your Government's responses on the matters, and as to when the information requested will be forthcoming. A Word electronic version of the reply should be sent to the Secretariat of the Committee against Torture (cat@ohchr.org). Upon receipt of this information, the Committee will be able to assess whether further action is needed.

The Committee looks forward to pursuing the constructive dialogue it has started with the authorities of Yemen on the implementation of the Convention. In this context, the Committee seeks to receive your response to this enquiry.

Accept, Your Excellency, the assurances of my highest consideration.

A handwritten signature in cursive script, appearing to read 'Felice D. Gaer'.

Felice D. Gaer

Rapporteur for Follow-up on Concluding Observations
Committee against Torture

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COMMITTEE AGAINST TORTURE
 Forty-fourth session
 26 April – 14 May 2010

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
 UNDER ARTICLE 19 OF THE CONVENTION**

Concluding observations of the Committee against Torture
(Extracts for follow-up of CAT/C/YEM/CO/2/Rev.1)

YEMEN

(...)

C. Main subjects of concern and recommendations

(...)

Monitoring and inspection of places of deprivation of liberty

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

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

(...)

Incommunicado detention

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

the lack of information on the exact number and location of places of detention in the State party (arts. 2 and 11).

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

(...)

Complaints and prompt and impartial investigations

16. The Committee notes the information provided by the State party on its complaints system in its replies to the list of issues, but it remains concerned at the apparent failure to investigate promptly and impartially the numerous allegations of torture and ill-treatment and to prosecute alleged offenders. The Committee is particularly concerned at the lack of clarity of which authority has the overall responsibility for reviewing individual complaints of torture and ill-treatment by law enforcement, security, military and prison officials, and for initiating investigations in such cases. The Committee also regrets the lack of information, including statistics, on the number of complaints of torture and ill-treatment and results of all the proceedings, at both the penal and disciplinary levels, and their outcomes (arts. 11, 12 and 16).

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

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

(...)

Early marriages

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

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

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

Harassment of an NGO participating in the work of the Committee

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

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

(...)

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

(...)
