



Yemen

**Alternative Report submitted to the Committee on Economic,
Social and Cultural Rights in the context of the review of the
second periodic report of Yemen**

14 March 2011

**Language: English
Original: Arabic**

About Hood

The National Organization for Defending Rights and Freedoms (HOOD - هود), non-profit, non-partisan and non-governmental organization, was established in 1998. HOOD is a volunteer organization of lawyers and activists working to promote a just and equitable society in Yemen. HOOD seeks the equal application of the law and equal protection under the law for all Yemeni citizens and residents.

The primary focus of the HOOD Organization, the National Organization for Protecting Rights and Freedoms, is the defense of human rights in Yemen. HOOD raises public awareness of legal rights and mobilizes public support for the victims of human rights abuses. HOOD works within the judicial system to protect and defend the victims of human rights abuses. HOOD also encourages governmental bodies to secure human rights and civil rights as granted by the Yemeni constitution and international protocols.

HOOD demands accountability for human rights violations in the courts, in the government and in the sphere of public opinion. HOOD often works on of the poorest and weakest citizens in Yemen. With HOOD's support, they are no longer invisible victims but instead, some have become national heroes.

This report was prepared with the cooperation and support of the Alkarama Foundation, based in Geneva.

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1. Introduction

The International Covenant on Economic, Social and Cultural Rights (ICESCR), was adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966. It entered into force on 3 January 1976, in accordance with article 27. It is considered a benchmark against which to measure the economic, social and cultural rights enjoyed by Yemenis. Yemen ratified this Covenant on 9 February 1987. Yemen also ratified a number of international human rights treaties, some of which related to the economic, social and cultural rights.¹

Article 6 of the Yemeni Constitution establishes: "The Republic of Yemen confirms its adherence to the UN Charter, the International Declaration of Human Rights, the Charter of the Arab League, and Principles of international Law which are generally recognized."²

In accordance with its obligations under article 16 of the ICESCR, the Government of Yemen submitted on 24 November 2009, its second periodic report. The present shadow report submitted by Hood and Alkarama clarifies some elements in the state report and provides alternative information about the implementation of the Covenant on Economic, Social and Cultural rights in Yemen. The shadow report addresses the rights inscribed in this covenant, examining to what extent they are included in Yemen's domestic laws, in particular the Constitution but also other relevant laws.

Year	The Rule of Law
2004	- 1.11
2002	- 1.23
2000	- 0.9
1998	- 0.68
1996	- 1.04
Source: the World Bank	

The report presents the gaps in the legislation with regards to these rights and examines to what extent the clauses of the ICESCR which are present in the legislation are actually applied, an exercise which shows very large differences between the legislation and its application. This lack of application of Yemen's laws is a well-documented trend, as shown in certain studies³, which state:

The Weakness of the State power is due to the disrespect of law in general (See index No. 1)⁴

The disregard shown by the law enforcement authorities for the economic, social and cultural rights, despite the importance given to them internationally and nationally, emanates in part from the fact that these rights are seen as separate from those enshrined in the International Covenant on Civil and Political Rights. Indeed, these were adopted separately due to an ideological competition and conflict between Liberalism and Socialism. Though this was the historical reason for the issuance of both covenants separately, it is not acceptable that they not be treated equally now. This treatment of the two set of rights separately still forms one of the major stumbling blocks to the actual application of the economic, social, and cultural rights. Added to this is the fact that international organization focus more on the civil and political rights in their programs and their support for human rights around the world, including in Yemen, which has affected the focus of human rights defenders, activists and civil society organizations, pushing them to work on the civil and political rights too.

¹Convention No. 100 concerning Gender equality - equal pay for work of equal value, 1976

Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize (International Labor Organization), 29/7/1976

Convention No. 111 concerning Discrimination in Respect of Employment and Occupation (International Labor Organization), 22/8/1996

Convention No. 182 concerns the worst forms of child labor (International Labor Organization), 28/12/1999

² *The Yemeni Constitution of 2001: article (6), p.4.*

³ The annual report of Human Rights and Democracy in Yemen, 2005, the Yemeni Observatory for Human Rights: June 2006,p. 133.

⁴ The Yemeni Strategic Report, 2005, p. 163. Note: Index 1 is an indicator of the independence of the judiciary and strengths of the rule of law, estimates range between +2.5 and -2.5, higher being better.

Hoping to fill this gap, the present report will examine a number of the main economic, social and cultural rights, inter alia, the right to education, the right to health, right to labor, the right to culture and the right to social security, the right to adequate standard of living, the right to adequate housing and the right to a clean environment.

2. The Right to Education (Articles 13 & 14)

Education is the strongest tool to create a change in the world, as Nelson Mandela says, and education is a crucial key for the development of human personality. It is the cornerstone in human development and civilized advancement. Education is seen as a way to ensure cultural development and to teach the importance of human rights. One distinguishing feature of the Right to Education is that its importance is internationally and domestically recognized, unlike certain other economic, social and cultural rights.

Therefore, we find that article 26 of the Universal Declaration of Human Rights (UDHR) of 1948, states in paragraph 1 "Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.", while paragraph 2 emphasizes "Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights..."

Moreover, the right to education is enshrined in articles 13 and 14 of the ICESCR.⁵ Article 13 states the abovementioned concepts from the UDHR, whereas article 14 explains the mechanism that the states party shall undertake in order to ensure a free and compulsory education for all.

The Convention against Discrimination in Education⁶ adopted on 14 December 1960 and entered into force on 22 May 1962, is one of the fundamental conventions issued by the UNESCO in the field of the human rights and basic freedoms. Article 3 of this convention reads: "the States Parties thereto undertake to (a) abrogate any statutory provisions and any administrative instructions and to discontinue any administrative practices which involve discrimination in education; (b) To ensure, by legislation where necessary, that there is no discrimination in the admission of pupils to educational institutions or any other forms of assistance to pupils..."

Among these legal system which emphasizes the rights to education, the UNESCO Declaration of 4 November 1966 adds new meaning to this right including the recognition of identity, cultural values for each nation, equality of cultures, and that each cultures has its dignity and peculiarities that must be valued and preserved as well as the right and duty of each nation to develop their cultures.

The Convention on the Rights of the Child, of 20 November 1989, in one of its articles reads to "Make primary education compulsory and available free to all; The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin"

The constitutional, legislative and legal framework in Yemen includes many of the economic, social and cultural rights including the right to education. Yemen's legislation is drafted in accordance with Islamic principles as well as with the International Conventions and Treaties, such as the ICESCR.

The Yemeni Constitution guarantees the right to education with no discrimination in article 53, which states: "Education is a right for all citizens. The state shall guarantee education in accordance with the law through building schools and cultural and educational institutions. Basic education is obligatory. The state shall do its best to obliterate illiteracy and give special care to expanding technical and vocational education. The state shall give special attention to young people and protect them against

⁵ the International Covenant on Economic, Social and Cultural Rights, 1966

⁶ *Convention against Discrimination in Education, Human Rights: A Compilation of Human Instruments, UN publication: New York, 1983, p. 53.*

perversions, provide them with religious, mental and physical education, and the appropriate environment to develop their aptitude in all fields.”⁷

The Yemeni Law of Education, issued in 1992, reiterated a number of these principles such as equality and equal opportunities, variety of educational fields and free and compulsory education for all in the fundamental stage. Article 15 of the same law sets forth: “the educational system aims to attain a comprehensive and progressive education which contributes to develop the spiritual, moral, mental and physical aspects of the child to create a well-standing citizen”⁸

Paragraph 1 of article 6 stipulates: “Besides being a long-term developmental human investment, education shall be deemed a human legitimate right safeguarded and granted by the State to all citizens”⁹. This law enhances the contribution to creating an educated society and ensuring cultural advancement and a comprehensive social and economic development for the citizens and the country.

But in reality, Yemeni officials reiterate that “the rate of enrollment in education in Yemen is declining at all stages. It is at less than 61.4% in the fundamental stage (43.9% for girls) and 37.8 in secondary education”¹⁰. The main reason for this decline is the lack of educational institutions and the capacity to accommodate the rapidly increasing population. However, some sources indicate that the number of the educational institutions in all stages and branches of education and training are increasing annually, with the general education (primary and secondary) having more than 14 975 schools for approximately 5 million male and female students.¹¹

Reports indicate the declining level of girl's education, for which Yemen ranks 121 out of 140 countries¹² in the Gender Development Index with still 34.9% of female students ranging from 6-14 years old outside of the primary education framework. However, the State Report indicates an effort to qualify 70-100 teacher and administrators for the margining group [Akhdam].

A new UNESCO report called upon Yemen to allocate 10% of its military budget for education to allow additional chairs for 840 children in schools.

A recent report of the Cabinet's Supreme Council for Education Planning provided indicators of the state of education in the Republic of Yemen, which show that the investment in education has declined as a share of the gross domestic product (GDP) from 4.6% in 2004 to 4.2% in 2009, i.e., 0.4% decrease in 5 fiscal years.

A report by the shows a withdrawal of public funding in education as a share of gross public expenditure from 13.4% at the beginning of the period to reach 12.3% at the end. In addition, the gross expenditure of the education sector from 80.2% at the beginning of the period to reach 73.1% at the end, i.e. , 7 points.¹³

The Yemeni Ministry of Education is widely criticized for its failure to raise the outcome of the secondary and fundamental education. On the other hand, experts in the field of education find that the problem lies in the education system as a whole, which suffers a great deal of defects which reflect the defects experienced by the country as a whole in all areas of life.

The experts emphasize the importance of maintaining coherence in the preparation and qualifying school principals, districts directors and the educational departments in accordance with adequate

⁷ *The Yemeni Constitution of 2001: article 54, p.10.*

⁸ *The Yemeni Constitution of 2001: article 54, p.10.*

⁹ *The Law of Education: The Ministry of Legal Affairs, Sana'a, 1992, p. 5.*

¹⁰ *Minister of Planning and International Cooperation tells «September 26»: Yemen's growth continues and extension of the effects of the economic boom in the Gulf* “26 September” Newspaper, 9 March 2006:

<http://www.26sep.net/newsweekprint.php?lng=arabic&sid=25043>

¹¹ Al Asemah, 23 September 2010:

http://www.alasemah.net/index.php?page=asema&ar_no=2714&action=print&type_page=2

¹² *The Yemeni Strategic Report 2009, p. 258* issued by the Yemeni Center for the Strategic Studies.

¹³ *News Yemen Website. 05/02/2011:*

http://www.news-yemen.net/view_news.asp?sub_no=1_2011_02_05_51689

qualified standards of management through developing training and qualifying programs at the educational faculties and programs at the level of the education ministry, administrations and areas.¹⁴

3. Cultural rights (Article 15)

Culture is central to humans. They are born and grow-up in a specific cultural space and all their interactions affect and are affected by their culture. At the same time, humans are the creators of culture and its protection and development has become one of the central aims of human efforts, as says the colloquial proverb: "humans do not live on bread alone, but they cannot survive without it."

After the Intergovernmental Conference on Cultural Policies for Development, held in Stockholm from 30 March to 2 April 1998, there was a change from an attempt to simply assess and review the role of culture in development policies using the current economic, social and political beliefs of countries, towards giving the concept of human development a broader meaning and significance. This culminated in an effort to shift culture's role in development: "to broaden the scope of the concept of development, to include cultural fulfillment as an essential aim of human development and to ensure a focus on sustainable development".

This change is clearly reflected in decisions taken by the UN General Assembly, such as at its 41st session in 1986, when it proclaimed "the decade of cultural development", the Fourth United Nations Decade for Development during which States agreed, inter alia, to the goals of protecting different in cultural entities. The UN General Assembly also called for formulation of a World Commission for Culture and Development headed by the former Secretary-General, Mr. Javier Pérez de Cuéllar Guerra; and the UNESCO was named as its executive secretariat. This direction was reflected on the various UN agencies. Moreover, the Human Development Report of 2002 defined the importance of culture in the field of human rights, naming the report "Cultural liberty in today's diverse world".¹⁵

The ICESCR explains cultural rights in article 15. The Yemeni Constitution guarantees the right to participate in cultural activities in article 27: "The state shall guarantee freedom of scientific research and achievements in the fields of literature, arts and culture, which conform to the spirit and objectives of the Constitution. The state shall provide means conducive to such achievements and shall provide support and encouragement for scientific and technical invention, and artistic creation and shall protect achievements thereof".¹⁶ Article 42 maintains that "every citizen has the right to participate in the political, economic, social and cultural life of the country. The state shall guarantee freedom of thought and expression of opinion in speech, writing and photography within the limits of the law"¹⁷ whereas article 54 encourages the establishment of various schools and cultural institutions and emphasizes the right of citizens to participate in the cultural life and its various activities¹⁸.

In violation of these articles, a number of anti-government theatrical artists were subjected to arrest, trial and confiscation of their products as a result of practicing their legitimate right to free speech.

To cite one example, the theatrical artist Fahd Saeed al-Qarni, 37, was detained, threatened and subjected to repeated assassination attempts because of his creative and cultural activities criticizing the policies and performance of the Yemeni government. On 5 April 2008, Mr. al-Qarni was abducted by agents of the Political Security whilst he was on his way to Aden, a city in the south of Yemen, to celebrate a popular festival. No arrest warrant was shown. He was transferred to a number of different prisons for months and was tried in absentia in a trial court in Sana'a while he was still detained at one of the State-run prisons in Taiz, his hometown.¹⁹ Al-Qarni was charged with "inciting an armed overthrow of the government and insulting the President". His cassettes were all forbidden

¹⁴ Alghad Yemen Website, 09/08/2009: <http://www.alghadyem.net/index.php?action=showNews&id=763>

¹⁵ Report available at: http://hdr.undp.org/en/media/hdr04_overview.pdf (consulted on 14.3.2011)

¹⁶ *The Yemeni Constitution of 2001: article 27, p.5.*

¹⁷ *The Yemeni Constitution of 2001: article 42, p.7.*

¹⁸ *The Yemeni Constitution of 2001: article 54, p.10.*

¹⁹ Al-Sahwa.net Website: http://www.alsahwa-yemen.net/view_news.asp?sub_no=1_2008_07_01_64362

to be sold, because they showed art festivals he organized in which he criticized the government and state corruption.²⁰

Before this, on 16 June 2006, Political Security freed Mr Al-Qarni after three days of detention in the Political Security's detention facility in Sana'a for having mocked the voice of the Yemeni president.²¹

Despite the authorities reports on the role of the civil society organizations in disseminating the culture of human rights and their key part in raising educational awareness and social values, there is a notable failure by the government to properly play its role in teaching human rights to police forces and agents of the Political and National Security Organizations (the Intelligence), who are responsible for a great deal of human rights violations, particularly when wanted persons are arrested.

National and Political Security centers lack any educational programs except in some rare cases. The detention centers of these two forces are widely considered to be illegal because they are not covered by the Law of Prisons not being under the control of the ministry of interior. One notable example of a degrading violation in these centers is that they pass out copies of the holy Quran to prisoners, but they then confiscate them as punishment for any trivial reason. Books, if found in the possession of prisoners, are also confiscated. No independent news (satellite television, opposition newspapers) is allowed, and pens and paper are also forbidden for the prisoners in these places.

Regarding prisons subject to the Law of Prisons (those under the control of the Interior Ministry), in contradiction to the government statement in paragraph 32 of its report submitted to the Committee, prisoners are not allowed to access any of the modern communication techniques and bathrooms are not systematically-controlled, which often means they are places used to collect bribes by the prison officials. Some prisoners get some privileges, such as being able to watch satellite channels or read opposition newspapers, but these privileges are arbitrarily withdrawn for political reasons.

Referring to paragraph 18 and 37 of the Committees 2003 Concluding Observations with regard to the living condition for prisoners, Hood and Alkarama are informed that on 6 February 2011 riot police attacked inmates in the Political Security detention center in Sana'a. The attack left a number of prisoners seriously injured who had to be transferred to the governmental hospitals suffering broken bones as a result of the harsh beatings. Both organizations received a number of complaints from the families of prisoners who were banned from visiting their relatives in prison. Hood documented testimonies of former prisoners describing the mistreatment, malnutrition and lack of contact with the outside world.²²

The two organisations Hood and Sajeen documented two cases of assault on inmates in the Central Prison of Taiz after they made demands for better conditions of detention. Security officials shot on prisoners which led to the death of two inmates. Furthermore, fifteen inmates were transferred to the Political Security detention centers just hours after their meeting with the parliamentary committee which came on a fact-finding mission about the deaths.

On 7 March 2011, HOOD and Sajeen documented another case at the Central Prison where security agents shot tear gas at inmates, resulting in the death of three prisoners and the injury of 20. Food and medicine were banned for the prisoners following this incident.

On a separate occasion, Mr. Waleed Nahsahal, an inmate at the Central Prison, died of cancer after being illegally detained after the 2006 elections. He was repeatedly denied access to his medicine following a tonsillectomy he underwent.

In addition to this issue, Slavery is still one of the persistent humanitarian issues in Yemen. Investigative reports revealed the existence of 500 slaves in Hajjah province, while other information indicates their existence in other Yemeni provinces. Exposing this case recently resulted in shedding

²⁰ WJWC Fourth Annual Report, 2008: <http://www.womenpress.net/articles.php?id=166>

²¹ aleshteraki.net Website: http://www.aleshteraki.net/news_details.php?sid=705

²² alkarama Website: http://ar.alkarama.org/index.php?option=com_content&view=article&id=4052:2011-02-08-08-36-37&catid=164:2009-03-08-12-08-04&Itemid=140

light on their sufferings and violations subject to them, in particular the women, by the society. In July 3, 2010, HOOD in cooperation with al-Masdar Newspaper held a press conference in Sana'a, attended by Alkarama deputy, in which two of these slave victims talked about the violations perpetrated on them.²³

4. Right to Labor (Articles 6 & 7)

The requirement that everyone be allowed a safe and decent standard of living includes the need to ensure his right to work that preserves his dignity and the right to a fair salary as inscribed in the paragraph 1 of article 23 of the UDHR of 1948, which sets forth that: "Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment." Article 6 of the ICESCR reiterates this, whereas article 7 describes what are "just and favourable conditions of work."²⁴

Article 29 of the Yemeni constitution states: "work is a right, an honor, and a necessity for society's progress. Every citizen has the right to choose the appropriate work for himself within the law. No citizen can be compelled to do any work except within the law, and in which case it is to serve the common interest and be in return for a fair wage. The law shall regulate union activities and professional work, and the relationship between workers and employers."²⁵ This article describes the need for freedom of choice of work, but that it is not an obligation for the state party to provide jobs for its people. It is normal that no state bears legal responsibility to provide jobs, even if it guarantees this in political promises.

Article 5 of Labor Law No 25 of 2003 states: "work is a natural right for every citizen and is a duty for every person able to work with equal conditions, opportunities, guarantees and rights without discrimination as to sex, age, race, color, creed or language; the State shall organize as possible the right to work through the growing planning for national economic." Article 42 states that: "Women are equal to men in all conditions of employment, rights and duties, and relations without any discrimination; equity shall be maintained between men and women in hiring, promotion, training, qualifying and social insurance; and discrimination shall not be deemed as the specifications of work or profession may be required."

However, because of the increasing corruption in State institutions, there is no equality of opportunities and employment. Most Yemenis with higher education fail to receive governmental jobs due the absence of transparency in distributing state jobs, most of which are subject to bribes or being given to influential people and unqualified relatives of high-rank governmental officials.

A report, issued by the Supreme Council for Education Planning in Yemen in September 2010 indicated that the unemployment rate among graduates reached 52%. The reason attributed was that "the annual increase in the number of the applicants for jobs are not followed by an increase of the number of jobs available in the public sectors" and therefore thousands of young graduates whose names are registered to be civil servants, keep waiting for years for their opportunity to get such a job.

Indeed, the overall unemployment rate exceeds 39% of the population of working age, which represent one tenth of the total population of 23 million. This is not only in ordinary jobs or professions; the president has surrounded himself, during his 33-year rule, with members of his family and relatives who are given the highest public positions such as leadership of the military, security and intelligence. Even the financial, petroleum and investment institutions in the country are turned into private sectors for him and his family to run behind the scenes and the earnings are used for their personal interests and purchase loyalties.

²³ almasdar online: http://almasdaronline.com/index.php?page=news&article-section=13&news_id=9305

²⁴ the International Covenant on Economic, Social and Cultural Rights,1966

²⁵ *The Yemeni Constitution of 2001: article (29)*,

The president's nepotism produces frustration among the Yemeni people, which is worsened by his policy of exclusion of thousands of the southern citizens. This discrimination is a legacy of the civil war between North and South Yemen which ended in 1994. It has meant the president proclaimed strict provisions against separatists (calling for the secession of South Yemen) or sympathizers, and has discharged tens of thousands of soldiers and employees from the south, depriving them from any of the privileges granted to them by their positions. The Yemeni Observatory for Human Rights recorded 23 000 persons discharge from their work, the majority are about 15 000 soldiers who were obliged to take early retirement. This included a number of senior officials who had worked hard to achieve the unity between the two North and South Yemen, but since this move they have spearhead protests against the central authority and have joined the call for separation of the South.

Employees of the State's administrative bodies suffer low wages whereas the high-ranking state officials receive many illegal payments and allowances. Recent years have witnessed a string of massive protests by different state employees including, *inter alia*, the Yemeni Teachers Syndicate, judges, college professors and others calling for higher wages.

During March 2011, around 2,000 of Sana'a's municipality workers from the Sanitation and Improvement Department took to the streets protesting the discrimination policy they face when they receive monthly wages less than \$100 per worker and are treated as daily workers which means that they are denied the right to public employment.

In the context of the popular protests in Yemen calling for political and economic change and the ouster of Yemen's president, he announced in February 2011, the creation of 60,000 job positions for the unemployed graduates, however the government decided to delay the execution of this decision until July 2011.

5. Right to Social Insurance (Art 9) and to Adequate Standard of Living (Art 11)

Article 22 of the Universal Declaration of Human Rights states: "Everyone, as a member of society, has the right to social insurance", this is confirmed in article 9 of the ICESCR. Articles 13-14 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) stresses gender equality in economic rights.

At the level of national legislation, article 56 of the Yemeni Constitution reads: "The state shall guarantee social insurance for all citizens in cases of illness, disability, unemployment, old age or the loss of support. The state shall especially guarantee this for the families of those killed in war according to the law."

In the same context, a range of laws were issued: Law No. 31 of 1996 regarding Social Care along with its amendments: Law No. 17 of 1999; and 2 republican resolutions: Law No. 26 of 1991 concerning Social Insurance, and Law No. 25 of 1991 concerning Social Insurance and Pensions with its amendments: Law No. 1 of 2000.

However, many reports indicate that social insurance benefits, referred to by the government in their report are not paid to the right people, rather they are paid to officers and people in charge and their families and relatives. Benefits are also used for bribes, favoritism and hypocrisy.²⁶

The second annual report of corruption prepared by Parliamentarians Against Corruption (Yemen PAC) and WJWC, published in the Yemeni newspapers of 2008, revealed "employment ranks manipulation" in a number of the Yemeni provinces, described the bad condition of education and mal-distribution of social insurance benefits, for example to non-eligible people.²⁷

²⁶ Almotamar.net (affiliated to the ruling party): <http://www.al-tagheer.com/arts7354.html>

²⁷ WJWC Website: <http://www.womenpress.net/articles.php?id=308>

Witnesses confirm that influential people gain high salaries from the Social Insurance Fund as well as allowances for fake cases in return for their work in the interest of the ruling party. Recently, those benefiting from social insurance have been forced to participate in the pro-government demonstrations under threat of canceling the social insurance if they refuse to take part.

According to Yemen's state report²⁸, submitted to the ICESCR, the Social Welfare Fund provides assistance to poor families, covering 943 668 people during 2006 with an amount of 15,263,178,000 Yemeni Riyals (YR) – knowing that 1\$ is equal to 200 YR, this means about \$1.5 was given per person per week. This is not enough for basic living costs for a family for a week.

In spite of the indication of the national report that the governorate of Amran had the highest poverty rate, at 71 per cent, followed by the governorates of Shabwah and Al-Bayda', at 60 per cent, there has been no governmental priority to set up projects in the aforementioned governorates in order to reduce the high poverty rate.

Indeed, the figures of unemployment benefits stated by the government are not true. Regarding the Social Insurance Fund for poor families, the government dispenses 6000 YR quarterly to each family, i.e., each family receives the amount of \$10 per month where as the family needs more than \$100 for rental resident merely, let alone the other basic requirements of living.

One third of Yemen's 23 million people suffer "permanent hunger", according to recent warnings of food crisis by the World Food Program²⁹. Yemen has the highest rate in the world of malnutrition. Some 46% of all Yemeni children under five are underweight. According to UNICEF's 2009 report "Tracking Progress on Child and Maternal Nutrition", about 58 percent of children suffer from malnutrition or stunting, making Yemen rank second after Afghanistan.³⁰

Experts say that even though the successive Yemeni governments last year adopted economic stabilization programs in an attempt to cope with the escalating economic challenges, the result of these measures was not conclusive and unemployment reached a critical point ranging between 29%-34%, with a rate of 18% among the youth and reach its highest level among women with a rate of 39.5% comparing to men 13.1%.

The State Report based its figures on the figures from the Central Statistical Organization (CSO), saying the unemployment rate is decreasing every year: from 16.2% in 2004 to approximately 13% in 2010, while the female unemployment rate fell from 39.6% to 15% in 2008. These figures are however not reliable, as the data issued by the CSO is regularly contradicted by numbers and figures stated by the government at various times.

Based on widely accepted figures for unemployment and population size, experts concluded that unemployment can be estimated at 38.1% in 2008 and the total rate of unemployment rose from 66.8% in 1999 up to 72.8% in 2008, 70% of the unemployed persons are youth of 16-25 years old.³¹

6. The Right to Adequate Housing

In its general comment No 4, issued in 1991, regarding the right to adequate housing as laid out in article 11.1 of the Covenant, the Committee expounded that the right to housing should be defined in a broad sense because it is not merely a roof over one's head, but also means the right of each citizen to have a safe and secure place which preserves his dignity. The Committee relied in its definition on the fact that this right is related to all other human rights and basic principles on which the Covenant is built. The Committee also concluded that the enjoyment of all rights, such as the right to free speech, freedom of association the right to chose ones residence and the right to take part in public decision making is crucial requirement in order to practice the right to an adequate housing. The

²⁸ E/C.12/YEM/2

²⁹ Reuters: <http://ara.reuters.com/article/idARAFK45164420100504?sp=true>

³⁰ alMastar online: http://www.almastaronline.com/index.php?page=news&article-section=13&news_id=6957

³¹ Dr. Mohammed Jobran, work paper presented at the Yemeni Economic Conference titled: "the problem of unemployment in the Republic of Yemen", 2010: <http://www.ycfss.com/index.php?page=content&id=112>

committee further deemed crucial to the question of adequate housing, "the right to not be subjected to any arbitrary or illegal interference in his or his family's privacy or his house or his correspondence".

Yemen has recently repeatedly violated peoples' homes and privacy in the context of their cooperation with "global war against terrorism". Part of this cooperation includes operations where Yemeni forces attacked a number of sites reported to be "potential terrorist hideouts", but were later discovered to be civilian sites. A number of areas in Yemen recently witnessed military campaigns and air strikes aimed at "hunting terrorists", which led to the death of dozens of civilians and the destruction of their houses, without any moves by the government to compensate the victims. In 2009, air strikes by American warplanes in various Yemeni districts resulted in the death of civilians, including women and children, and the destruction of their houses.

The security operations included storming civilians' houses and searching them at night under the pretext of arresting suspects. This is a blatant violation of the ICESCR's the right to adequate housing.

The intermittent confrontations between the Yemeni governmental forces and the Houthi groups [She'at] in the Sa'ada governorate, northern Yemen, contributed to the destruction of more than 5000 homes between 2004 and July 2009, according to UN reports. A great deal of donor States offered post-war reconstruction funds to Yemen, but the authorities have failed to deliver the funds appropriately. The inhabitants in the target regions accuse the authorities of nepotism and unfair distribution the compensations and therefore thousands of the displaced people are still living in camp with no permanent shelters.³²

The Yemeni government claims that has established housing projects for marginalized groups in Taiz, Lahjj and Hadramout governorates in cooperation with national and international institutions and organizations. However, the marginalized people were simply moved to another location, and have not yet been provided with new homes. These groups say that this is due to the corruption of governmental officials: they explain that some officials sold a number of these houses for profit, and that indeed these houses are not at all provided for the marginalized families, the majority of which are still living in tin shacks inside or on the outskirts of the cities along with refugees of the African horn. Around 1200 Eritrean refugees in the region of al-Khokhah on the shore of the Red Sea face harsh living conditions in such shanty towns.

In response to the statement in Yemen's State Report that they providing water and electricity services for the marginalized people free of charge (paragraph 20), we wish to bring alternative information. People periodically pay the water and electricity bills to the Office of Works. Many groups from different parts of Yemen are subject to organized looting by tribal chiefs, and military or security officials without paying the victims any compensation or relief.

Mr. Tawfeek Ibrahim an orphan who supports 13 of his siblings says that the authorities confiscated their large house in order to build the al-Saleh Mosque project near the president's residence in Sana'a, with a promise that they would receive two housing units in the labor city project built for the marginalized people. He got only one housing unit of two small rooms, a bathroom and kitchen forcing him to give put some of his siblings in a orphanages, which they received thanks to the mediation of good people. Moreover, inhabitants confirm that they have not yet been granted title deeds; they reside in the houses according to verbal permits.

7. Right to Clean Environment

The right to a clean environment is an individual and collective right, a fundamental and procedural right. In the Covenant, this right is attached to the right to life and the right to health,³³ a legacy of the industrial revolution which left behind waste, fumes and pollution which threaten the life of humans and other living creatures on earth. "The environmental movement and the defense of the

³² Alghad Newspaper: <http://www.alghadyem.net/index.php?action=showDetails&id=4558>

³³ Mr. Haitham Mana', "the Right of Environment", Human Rights Encyclopedia, part 2, ibid, p.45.

environment as a human right was not broadly recognized and accepted in the Western countries until recently."³⁴ For this reason, there is no mention of the right to a clean environment in the UN charter and the Universal Declaration of Human Rights.

"Paying attention to the right to a clean environment does not mean to achieve a perfect environment; however the aim is to preserve the natural resources of the environment in which human beings live, to protect this environment from any dangerous degradation and to develop it in a way that serves humankind"³⁵.

"And since the sources of pollution may be mobile or immobile, the issue of environment protection is, undoubtedly, forced to have a global outlook."³⁶

As previously mentioned, it is not unusual to consider environment one of the fundamental human rights, as the UN General Assembly's resolution no 45/94 of 1990 recognizes that "all individuals are entitled to live in an environment adequate for their health and well-being"³⁷. In this regard, a number of conventions were issued³⁸.

Regarding the Yemeni laws, article 35 of the Constitution provides that: "environment protection is the responsibility of the State and the society and it is a religious and national duty of every citizen."

Two laws were issued in Yemen for the protection of the environment: 1. Law No. 26 of 1995 concerning Environment Protection, which addresses the environmental protection from the damages of pollution and commits the perpetrator to remove the damages and be held criminally liable. It also puts a condition that any facility which is a source of pollution must obtain a license which ensures the monitoring that all necessary precautions are taken by the facility for the protection of the populations and the nature from any potential damage.

A second law, no. 11 of 1993 concerning marine environment protection against pollution was issued by a republican resolution. The law defines the environmental damage as "the harm that comes upon the environment and directly or indirectly affects its natural or physical features or affects its function and dysfunction or reduces its stability; the harm which affects or may affect humans, living creatures or natural resources as a result of a change in the environmental features."³⁹ It is important to note that this law states that there is only civil responsibility for damages made to the Marine environment, and the punishments are restricted to fees that do not fit the gravity of the damages.

A Yemeni parliamentary report issued in 2006 ascribes the key source of diseases and epidemic widespread among people to the water pollution in Yemen, indicating that 75% of the Yemenis suffer injuries related to water pollution or other related diseases, i.e., 12 million people and 60% of the inhabitants of the areas were infected with Malaria.

A report prepared by a committee concerned with environment and water in the Yemeni parliament discovered the existence of 30 million citizen infected with hepatitis and that 50% of child deaths are caused by diseases related to water pollution: 30% due to diarrhea and 30% Malaria or typhoid. 55 thousands children annually die of these diseases with an average of 151 children daily. The report of the parliamentary committee deemed that the persistent poor environmental condition without any medical or precautionary control would cause environmental and health disasters. They considered this a highly dangerous matter and that keeping silent and doing nothing is a crime in itself, according

³⁴ Ibid, p.45

³⁵ Dr, Mazen Liloy Radi & Dr. Haidar Adham Abdul-Hadi, "Human Rights", college Publishing House, 2009,p. 192

³⁶ Dr. Ahmed Abo al-Wafa, "the International Protection of Human Rights", in the framework of UN specialized organizations and agencies, the Arabian Advancement House, Cairo, second edition, 2005,p. 84.

³⁷ Ibid, pp. 84-85.

³⁸ Vienna Convention for the Protection of the Ozone Layer, 1985. & Basel Convention on the Control of Trans-boundary Movements of Hazardous Wastes and their Disposal, 1989. &United Nations Framework Convention on Climate Change, 1992.

³⁹ Law of environment protection from marine pollution, the Republican resolution No. (11) for 1993 concerning environment protection from pollution, article (2, para. g)

to the report. In addition, 93% of Yemenis use unsafe sanitation means and no control on the performance of water purification techniques⁴⁰.

In Sana'a, for example, street no. 40 in Sa'wan district had an open drainage hole which was mistakenly placed to implement a drainage system which caused flooding of the houses in the area with waste water when it rained. The hole is still open until now.

8. Right to Health Care

Health care is one of the most crucial requirements of human life. The ICESCR asserts this right in Article 12:

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:
 - (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
 - (b) The improvement of all aspects of environmental and industrial hygiene;
 - (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
 - (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

This right is also emphasized in article 12 of the CEDAW. In the Yemeni legislation, Article 55 of the Yemeni constitution reads: "health care is a right for all citizens. The state shall guarantee this by building various hospitals and health establishments and expanding their care. The law shall organize the medical profession, the expansion of free health services and health education among the citizens."

The right to health care is guaranteed in the aforementioned legal texts, however there are some challenges to provide health services such as the government expenses on health as 4.5% of the State budget which does not match the high population growth, with a population estimated at 18.830 million in 2001: around 60% women⁴¹.

In addition, the population's distribution in remote areas exacerbates the difficulty of providing these areas with medical care, particularly in light of poor planning and lack of equitable distribution of services which results in a low quality of health services in general.

This matter requires substantial real measures to reduce poverty, illiteracy, unemployment and provide benefits and aids to all people in various categories, specially the rural areas.

9. Conclusion

The key problem with the implementation of economic, social and cultural rights in Yemen is put down to the absence in Yemen of state institutions and the rule of law. This is in particular due to the lack of a government and institutions truly representative of the people's concerns and aspirations, a lack of patriotism and loyalty to the people of high-rank leaders of the State and most of the resources being used for the individual interests of the head of state, paying no attention to the basic requirements and rights of the people. Consequently, there is no indicators that change toward democracy and progress in the country can happen, and on the contrary, it has lead to internal civil conflicts and countless crises.

⁴⁰ The Civilized Dialog: <http://www.ahewar.org/debat/show.art.asp?aid=62168>

⁴¹ The third periodic report of the Republic of Yemen on the Condition of the Children in Yemen, "the Application of the International Convention of Child during 1998-2003", the Supreme Council of Mothers and Children, first edition, pp. 72-73

10. Recommendations

Therefore, we call upon the Committee to urge the State party to:

1. Initiate political reforms in the system to allow active participation of all citizens in the political, social and cultural life through representatives elected in free and fair election process.
2. Enhance the principle of Separation of powers: an executive, a legislature, and a judiciary.
3. Take serious and realistic measures to strengthen judiciary independence and the respect of law; stop the selective policy in the context of the application of the national laws that guarantee economic, social and cultural rights
4. Reconstruct the institutional structure of military, security and intelligence bodies according to legal and national objective standards, and enact laws and by-laws to organize the work of these bodies in accordance with the human rights principles away from being affiliated to persons or authorities.
5. Increase the social insurance benefits, broaden the beneficiaries' network, drop the social insurance illegally provided to tribal chiefs; cancel all double or fake cases and those taken up by the ruling party or authority loyalists.
6. Conduct independent transparent investigation of administrative negligence in the fields of education and health and conduct investigation of corruption cases such as benefits and international grants manipulation particularly in the sectors of education and health.
7. Immediately stop harassment of human rights activists, journalists, artists and educated persons, and secure their protection for practicing their rights in peaceful means.
8. Establish an independent national human rights institution based on Paris principles with an emphasis on the necessity of its autonomy in order to enhance and protect human rights.
9. Launch independent and transparent investigation into all death cases in prisons and public hospitals due to medical negligence and lack of medical care, in addition to the death cases caused by the excessive use of power by the authorities and bring the perpetrators of these violations to fair trials.