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**Human Rights Committee**

**Consideration of reports submitted by States  
parties under article 40 of the Covenant**

**Fifth periodic report of States parties**

**Yemen\*, \*\***

[14 December 2009]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

\*\* Annexes can be consulted in the files of the Secretariat.

## Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction.....	1–10	5
II. General status of the Covenant .....	11–304	7
Article 1 .....	11–31	7
Article 2 .....	32–54	12
Article 3 .....	55–70	20
Article 4 .....	71	30
Article 5 .....	72	30
Article 6, paragraph 1 (right to life) and paragraph 2 (death penalty).....	73–74	30
Article 7 .....	75–84	31
Article 8 (paras. 1 and 2).....	85–106	33
Article 9 (paras. 1, 2, 3, 4 and 5).....	107–151	38
Article 10 (paras. 1, 2 (a) and (b) and 3).....	152–181	46
Article 14 (paras. 1, 2, 3 (a), (b), (c), (e), (f) and (g), 4, 5 and 6).....	182–248	65
Article 15 .....	249–250	92
Article 16 .....	251	92
Article 17 .....	252	93
Article 18 .....	253	93
Article 19 .....	254–282	93
Article 20 .....	283	100
Article 21 .....	284	100
Article 22 (paras. 1, 2 and 3).....	285	100
Article 23 .....	286–297	100
Article 24 .....	298	102
Article 25 .....	299–302	102
Article 26 .....	303	104
Article 27 .....	304	104
 Tables		
1. Local council sessions and session dates .....		9
2. Administration and development sectors and areas .....		11
3. Number and category of complaints and communications .....		17
4. Decisions on high-ranking posts, by sex, 2007 and 2008 .....		20
5. Women’s representation in the House of Representatives and the Advisory Council .....		21
6. Number and percentage of female and male candidates in elections to the House of Representatives.....		22

7.	Women's representation in the judiciary in 2008 .....	22
8.	Women in diplomatic posts in 2008.....	22
9.	Legal articles on women's issues adopted by the Cabinet at its thirty-first session ..... held on 7 August 2007 .....	23
10.	Cases of torture reported to the Ministry of Human Rights and action taken .....	31
11.	Number of children received by the Harad Centre.....	37
12.	Legal assistance provided by the State in 2005 to prisoners ordered to pay blood money, indemnities for bodily wounds and private debts, and to indigent prisoners .....	49
13.	Prisoners released, amounts they were ordered to pay and that were paid by a benefactor, 2006.....	49
14.	Number of prisoners released by Ramadan committees .....	49
15.	Number of prisoners released after serving three quarters of their sentence.....	50
16.	Prisoners released, amounts they were ordered to pay and that were paid by the State, 2006.....	51
17.	Male and female prisoners enrolled in different stages of education in 2005 .....	52
18.	Male and female prisoners enrolled in vocational training centres in prisons in 2005 .....	52
19.	Number of prisoners whose data were uploaded on a computer in 2005.....	54
20.	Prisoner data uploaded onto the system via the Prisons Department network.....	54
21.	Numbers of prisoners whose cases had been taken up by public prosecutor's offices in Yemen as at the end of 2007 .....	54
22.	Public prosecutor's offices at appeal courts which were connected to the prisoner database of the Office of the Public Prosecutor.....	55
23.	Number of prisoners whose data were uploaded onto a computer in 2006.....	56
24.	Number of juveniles in prison, 2003–2008.....	57
25.	Support provided to juvenile and juvenile offenders homes .....	58
26.	Orphanages visited and support provided .....	59
27.	Number of children with their mothers in prison .....	59
28.	Action taken to deal with juvenile offenders' cases, 2007, Office of the Public Prosecutor .....	61
29.	Number of juveniles in social guidance homes and type of delinquency, 2005.....	62
30.	Number of juveniles in social guidance homes and type of delinquency, 2006.....	63
31.	Number of juveniles in social guidance homes and type of delinquency, 2007.....	64
32.	Training courses held for members of the Department of Public Prosecutions, 2007 .....	73
33.	Training for members of the Department of Public Prosecutions, 2004 .....	74
34.	Number and types of courses attended by members of the Department of Public Prosecutions, 2005 .....	74
35.	Prosecutor's offices established in 2007 .....	75
36.	Prosecutor's offices established in 2006 .....	75
37.	Prosecutor's offices established in 2005 .....	75

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38.	Data on the number of members of the Department of Public Prosecutions working at different prosecutor's offices in the governorates of Yemen in 2007 .....	76
39.	Cases referred, processed and pending in 2007, including cases carried over from previous years .....	77
40.	Total number of cases, 2001–2007 .....	78
41.	Cases referred to and processed by the Technical Bureau .....	80
42.	Data on the Judicial Inspectorate's activities in 2005 .....	82
43.	Findings of report by the Judicial Inspectorate on regular inspections in 2005 of work by public prosecutor's offices and their staff across Yemen.....	83
44.	Issues referred to a department of the Judicial Inspectorate in 2005.....	85
45.	Overview of juvenile cases registered in 2007.....	87
46.	Overview of juvenile cases registered in 2003–2007.....	88
47.	Number of juveniles and types of offence, 2006.....	89
48.	Number of juvenile reform institutions in the Republic of Yemen.....	89
49.	Cases heard by juvenile courts in some governorates.....	91
50.	Newspapers and magazines published in Yemen .....	94
51.	Main government newspapers.....	95
52.	Main party newspapers in Yemen, 1990–2006.....	95
53.	Main private newspapers in Yemen.....	96
54.	Number of hours of television and radio broadcasts on women's issues and daily average in minutes, 2008.....	99
55.	Number of electoral districts, and election participation rates.....	103

## I. Introduction

1. The Government of the Republic of Yemen consistently strives, in the framework of Yemen's commitments under all the international human rights treaties and instruments to which the State is a party, to strengthen cooperation with the various international mechanisms and bodies of the Human Rights Council, together, naturally, with the human rights treaty bodies. Yemen has undertaken to provide these bodies, including the Human Rights Committee, with information on all the legislative, judicial and administrative developments that have occurred in the interval between the submission of the previous report and the new report. In this, it adheres to the harmonized guidelines on reporting under international human rights treaties, which were adopted following inter-committee meetings held between the treaty bodies and meetings of the treaty body chairpersons.

2. The present report contains a description of the general status of the implementation of the Covenant, together with an explanation of actions taken in response to the recommendations set out in the Committee's concluding observations. The report offers data on and examples of steps taken by State institutions to ensure that the Covenant is applied and that training and awareness programmes are implemented. Details of actual cases are provided to illustrate how the Covenant is applied in practice.

3. Democracy and human rights are becoming part of the way of life in Yemen. In this democratic setting, Yemen is seeing the constant development of the legislative and institutional safeguards that are essential if civil society institutions and members of society are to be able to apply the principles and values underpinning rights and freedoms and to participate actively in political, economic, social and cultural life. These are key elements in comprehensive and sustainable development and provide an important framework for individual and collective initiatives and the expression of a consciousness which prompts everyone to contribute to the achievement of development goals and to adjust to social and political changes. Yemen is convinced that democracy and human rights are part of an integrated system, and there is no better evidence of this than the State's early ratification of more than 56 international treaties and instruments and the establishment of the Ministry of Human Rights in 2003.

4. On the subject of the judiciary, all trials are conducted according to constitutional and legal procedures and the principle that the accused is innocent until proved guilty beyond all doubt on the basis of compelling evidence. There is an effective institutional mechanism to conduct systematic assessments of judges' performance and ensure that those who are at fault are held to account. Under the Constitution and the laws in force, arbitrary detention and torture of suspects or detainees on remand constitute offences which are not time-barred from prosecution, and the perpetrators of such offences must be given their just punishment.

5. The courts impose the death penalty only for the most serious crimes. No extrajudicial execution has ever been carried out on a Yemeni or foreigner [in Yemen]. Moreover, the law strictly limits the scope of the death penalty, establishing judicial safeguards to curb its use, including the right of the President of the Republic, under the legally specified circumstances, to grant a pardon to persons sentenced to death. The Yemeni Criminal Code sets the age of full criminal responsibility at 18 years. It is illegal to incarcerate a minor in a penal institution; instead, the Department of Public Prosecutions must have young offenders placed in a welfare and rehabilitation facility.

6. Mention may be made of the judicial reform strategy, which encompasses various regulatory and legislative objectives and measures. The strategy provides inter alia for the transfer of the functions of the President of the Supreme Council of the Judiciary from the

Office of the President of the Republic to the President of the Supreme Court, and the laws on the judiciary are now being amended with a view to strengthening judicial independence. The Accountability Council of the Supreme Council of the Judiciary, which is responsible for disciplining judges in the cases referred to it, has been restructured. Included in the judicial reforms are measures to boost the monitoring and inspection role of judicial inspectors vis-à-vis the work of judges. Inspectors appraise judges' performance based on periodic and unannounced inspections and citizens' complaints, which they investigate by conducting desk and field research.

7. With regard to Yemen's efforts to deal with discrimination and violence against women, equal rights and duties are assigned to citizens under the Constitution. The Government has instituted a set of measures to tackle discrimination and violence against women, in particular the following:

(a) A team of legal experts was formed to review the domestic legislation on women and eliminate any discriminatory provisions that were incompatible with international treaties on women's rights. The following results were achieved:

(i) Act No. 6 of 1990 was amended to grant Yemeni women married to foreigners the right to transmit their nationality to their children in the same way as Yemeni men;

(ii) An article was added to the Police Act No. 15 of 2000 granting Yemeni women the right to serve in the police force;

(iii) The Social Insurance Act No. 26 of 1991 was amended so as to establish the same official retirement age for women and men;

(iv) Article 95 of the Diplomatic and Consular Corps Act was amended to grant Yemeni women the right to work with their husbands in the same mission abroad;

(b) The problem of violence against women is being addressed in a number of different ways, including under a strategy comprising various measures and objectives. In particular, a programme for the elimination of violence against women was established and a Yemeni network to combat violence against women was founded in 2003. The First Conference on the Elimination of Violence against Women was held in 2001, several studies have been conducted on domestic violence and other additional measures have been taken;

(c) The House of Representatives has set marrying age at 17 years, thereby rendering marriage of underage girls a legally punishable offence. The relevant legislation will enter into force once the procedures for adoption are completed;

(d) A gender strategy was established six years ago with the aim of achieving de facto equality between men and women.

8. The Cabinet decided to take up the question of establishing an independent national human rights body in accordance with the Principles relating to the Status of National Institutions (the Paris Principles) and meaningful action is being taken with a view to the achievement of this goal in the near future.

9. Notwithstanding the considerable efforts made by our country in the promotion and protection of human rights, many challenges and difficulties continue to hinder progress in attaining the ambitious outcome that we seek. A number of these challenges and difficulties are mentioned in the State party report which you have before you.

10. Lastly, we hope that everyone will have the opportunity to review the present report, which covers many issues and responds to many questions. We would be remiss if we were

to fail to commend the Human Rights Committee for its efforts to promote human rights principles across the world.

## **II. General status of the Covenant (art. 1)**

### **Local administration in Yemen**

11. Yemen has worked tirelessly to develop local administration (administrative units) and expand its functions and role so that it not only performs traditional administrative duties but also plays a wider role in the development of local communities and promotion of citizen's initiatives, consistent with the prevailing conditions of freedom.

12. In order to expand popular participation, following earnest discussions between political parties both in and outside parliament, objectives were set, in accordance with the Constitution, in relation to the nature of local administration. The Constitution provided the building bricks for the construction of a system in which power is devolved to the local level as part of the constitutional powers exercised by the people, who are the holders and source of power.

13. The Local Authority Act No. 4 was issued on February 2000 and its implementing regulation was issued on 21 August of the same year. Further to the Act and the regulation, the first local council elections were held in February 2001.

14. In accordance with the Constitution and the Local Authority Act, the local authority system is founded on administrative and financial decentralization and wider public participation in decision-making and the local management of economic, social and cultural development via elected councils. These councils are empowered to recommend programmes, plans and investment budgets for the administrative units and play their part in implementing development plans and programmes in accordance with the Act. They also ensure that the executive organs of local authorities are subject to public scrutiny and are held accountable for their actions.

15. Administratively, Yemen is divided into 22 governorates, including the Sana`a City governorate. The governorates are divided into 33 districts, which are in turn divided into 2,200 subdistricts and sections. In addition, there are 36,986 villages with 91,489 quarters and neighbourhoods. There are a total of 5,620 local government divisions (electoral wards).

### **Functions of the Ministry of Local Administration**

16. The Ministry of Local Administration, acting in accordance with the Constitution, the laws in force and the State's general policies, oversees the local authority system and determines what resources are needed to ensure that it works and is developed in furtherance of its goals. To this end, the Ministry performs a set of tasks and duties, of which the main ones are listed here below.

- Overseeing the running of the local authority system; reviewing and assessing how the system is applied in the administrative units; and dealing with any problems and obstacles encountered in the process
- Formulating general strategies, plans and policies to develop the local authority system, ease the burdens placed upon it and meet its needs, and monitoring implementation
- Presenting proposals on the coordination and development of Government policies and key public administration systems so as to ensure consistency and

complementarity between these policies and systems and thereby strengthen administrative and financial decentralization

- Making recommendations on systems for running local authorities, based on the terms of the Act and the requirements for its implementation
- Reviewing and analysing the administrative, economic and social conditions and reports and outputs of administrative units, and liaising with ministries and other centrally-located institutions on the delivery of technical services, essential administrative, human and material resources and operational supplies to further the work of local authority institutions
- Following up with centrally-located institutions involved in implementing development projects for administrative units
- Drawing up local council lists for each governorate and district, based on the norms and criteria specified in law and transmitting them to the Higher Committee for Elections to use as the basis for organizing elections
- Following up on and liaising with the Higher Committee for Elections on local council elections in the administrative units
- Setting up training plans and programmes for local council members and other local leaders, designing training programmes for administrative unit staff, and liaising with the institutions concerned on implementation
- Designing development plans and programmes for local leaders, together with training and briefings on the constitutional and legal rules on State administration, local administration and other areas of activity that have a bearing on their tasks and functions
- Organizing local council annual conferences, proposing agendas for them, following up on their decisions and recommendations, and preparing reports on implementation
- Proposing policies to strengthen communication between local authority institutions, local communities, community-based organizations and the local business sector, and following up on and monitoring implementation
- Raising awareness of the local authority system through the media, including through publications and booklets, and disseminating information about the system in Arab and international forums

#### **How local councils work**

17. Every local council in a governorate or district has its own headquarters, at which it holds meetings and keeps its documents, records and correspondence. The headquarters of a governorate-level local council is in the seat of the governorate, while that of a district council is in the administrative centre of the district.

18. In situations of force majeure, local councils may hold their meetings away from their headquarters, when requested to do so by at least one third of their members.

19. All local councils at both levels have sufficient numbers of staff to carry out their day-to-day work and perform secretarial tasks for them and for their special committees. The staff must be selected from among the civil servants of the administrative unit or the State administration.

20. Local councils in the governorates and districts hold ordinary sessions every three months, based on the dates specified in the following table.



Table 1  
**Local council sessions and session dates**

<i>Ordinary sessions</i>	<i>Session dates for district local councils</i>	<i>Session dates for governorate local councils</i>
First meeting	15 March	31 March
Second meeting	15 June	30 June
Third meeting	15 September	30 September
Fourth meeting	1 December	15 December

21. The duration of ordinary sessions is decided at the governorate and district level. Projects, plans, annual budgets and final accounts are discussed at the sessions, which last for from five days to a maximum of one week. Otherwise, each ordinary session will last for from three to five days, depending on the forecasts prepared by the administration of each council based on the subjects on the agenda for the session.

22. The special committees of local councils operating at the governorate and district levels consist in:

- A planning, development and finance committee
- A services committee
- A social affairs committee

#### **Structure of district local councils**

23. In addition to a president, who is appointed pursuant to the Act, district local councils operating at four different levels are structured as follows:

- In a district with a population of 35,000 and under, the local council has 18 members
- In a district with a population of between 35,000 and 75,000, the local council has 20 members
- In a district with a population of between 75,000 and 150,000, the local council has 26 members
- In a district with a population of over 150,000, the local council has 30 members

#### **Side conferences for local authorities in the governorates**

24. Initiatives have been launched in Yemen to involve citizens in State construction, development and reconstruction efforts, which are carried out in cooperation with the private sector, charities and cooperatives. In this way, a framework has been established to involve people in mobilizing and harnessing the resources and energies of citizens for use in the construction and development process in Yemen.

25. In 2009, the governorates ran side conferences for local authorities, at which in-depth discussions were held on ways of moving towards a system of local government with fully devolved powers. These conferences show how members of a single nation can work in full partnership with one another to deal with national and local challenges, issues and concerns in pursuance of strengthened security, stability and social peace, which are vital to expediting the overall development process.

26. The discussions at the conferences focused on the national strategy for local government, the national programme for implementation of the strategy, and development and services requirements in various domains.

**Challenges**

- Training programmes are not able to provide members of local council administrative bodies in all districts with capacity-building assistance that will teach them skills in areas such as preparing annual budgets, designing development plans and programmes and overseeing the work of executive bodies, including the implementation of development projects
- Services and infrastructure development need to keep pace with urban and population growth
- Governorates with meagre resources are not provided with sufficient central Government support and capital
- The organizational structure of the districts is incomplete and work on opening up branches of district executive bureaux has not been completed
- Technical staff in some executive organs have weak skills

**Aims**

27. The establishment of the local authority system was a strategic choice for the management of economic and social development and the expansion of popular participation in local and rural development. The Third Development Plan for Poverty Reduction focuses considerable attention on the administrative and financial decentralization experiment, which it seeks to build on by involving civil society and development partners in providing local authorities with support and assistance to enable them to build their own capacities and develop their own resources in meeting development needs and creating sustainable development such as to absorb surplus labour and diversify income sources in rural areas. This objective encompasses the following aspects:

- Promoting sustainable economic growth by improving the economic and social infrastructure in rural areas; and focusing on promising activities in the governorates and encouraging the private sector to invest in them
- Closing the gap between rural areas and urban centres
- Completing the legislative and institutional framework for local authorities with the aim of expanding their financial, administrative and development functions and assigning developmental responsibilities to senior officials in local authority structures
- Building human resources capacities in local authorities; redeploying manpower from central Government to local government in order to supply local authorities with the qualified staff that they need; and focusing attention on the training, planning and oversight functions of local authorities
- Creating an environment favourable to local authority involvement in development, by providing premises and equipment and giving the governorates a larger role in rural development, including in defining development indicators and goals for monitoring and assessment purposes; and also combating corruption and job selling
- Supporting the drive to establish populated economic centres over the medium to long term, as a means of dealing with the problem of population dispersal and encouraging people to move into secondary towns and coastal areas
- Strengthening women's role in rural development and narrowing the gender gap in education, health, inheritance and property rights

- Dealing with the depletion of water resources; managing reservoirs; channelling support to activities which help the rural poor, such as research on the results of anti-desertification measures; supporting rainwater harvesting and providing inputs for agricultural production, such as good quality seeds and fertilizers; improving livestock productivity and increasing its contribution to household income; and encouraging agricultural and fishing cooperatives

### Achievements in 2008

28. The Government amended the Local Authority Act to allow for governors to be elected by a body made up of local council members in the governorates. The first elections were held under this arrangement. A list was compiled of 70 pieces of legislation, including laws and regulations, which are incompatible with the Act. These instruments are in the process of being amended.

29. The National Strategy for Local Government was adopted pursuant to Cabinet Decision No. 411 of 2008. It will help to develop the institutional structure and lay the groundwork for the formulation of policies and plans of action and the delineation of the roles of central and local agencies and development partners. The Government has taken steps to complete the institutional and regulatory framework for local authorities so as to enable them to play their role in local development and the delivery of public services. To that end, a total of 37 administrative complexes had been constructed in the governorates and districts by the end of 2008, at a cost of 28 billion Yemeni rials (YRI). Technical studies have been carried out for 214 complexes and the construction of government complexes in the districts of Sa`dah governorate. Invitations to bid for the construction of complexes in the Aden and Ta`izz governorates were furthermore announced.

30. The Financial Resources for Local Administration Bill was drawn up and training plans were designed for 5,921 local council members and 2,124 tender committee members and technical officers. Local authorities absorb 30 per cent of the resources allocated each year to special funds (the Agriculture and Fisheries Promotion Fund, the Road Maintenance Fund and the Young People and Youth Fund).

31. The development projects carried out during the year focused on a number of sectors and areas of administration. Infrastructure sectors were in first place, accounting for 55 per cent of project spending, followed by production sectors at 26 per cent, the human resources development sector at 14 per cent and the public administration and Government services sector at around 4.7 per cent. These figures are set out in the following table.

Table 2

#### Administration and development sectors and areas

<i>Administration and development sectors and areas</i>	<i>No. of projects</i>	<i>Costs (in Yemeni rials)</i>	<i>Percentage</i>
1. Production sectors	488	108 010 518	26
2. Human development sector	2 077	58 464 970	14
3. Infrastructure sector	1 662	225 858 895	55
4. Social development sector	41	1 316 153	0.3
5. Other services	327	198 059 932	4.7
<b>Total</b>	<b>4 595</b>	<b>413 456 468</b>	<b>100</b>

## Article 2

### Legislative and institutional measures

#### *Legislative measures*

##### Harmonizing domestic laws with international instruments

32. The Yemeni Government has taken numerous steps to review domestic laws and bring them into line with international human rights treaties; several general and special committees have been established for the purpose. In particular, by Cabinet Decision No. 29 of 2004, a legal committee was formed to review domestic laws and legislation and bring them into line with the international human rights treaties to which Yemen is a party.

33. With regard to legislative reforms on women's issues, several legal committees have been established since 2001 to review the relevant domestic laws. The Cabinet approved most of the amendments proposed and decided to refer them to the Ministry of Legal Affairs in preparation for their being submitted to the House of Representatives for discussion and adoption.

34. With regard to children, efforts were made to: improve and systematize the provisions of domestic laws on children's rights; eliminate any inconsistencies between them; place these provisions in a single integrated system; add other or better provisions offering maximum protection for these rights; and create a system of legislation on children's and young people's rights consistent with international and regional human rights instruments. Accordingly, a matrix of laws on children was drawn up, with support from the United Nations Children's Fund (UNICEF) bureau in Sana'a, and legal and awareness-raising processes to further the implementation of these laws were set in motion.

##### Ministry of Human Rights initiative on a comprehensive view of legislation and the criminal justice system in Yemen

35. With regard to legislative and institutional reform of the criminal justice system, the Government, in cooperation with the Danish Institute for Human Rights, initiated a comprehensive review of legislation and the workings of the criminal justice system in Yemen based on a legal analysis of Yemen's criminal justice laws. The review was carried out in 2007 and 2008. An analytical paper was produced, describing the existing situation with respect to the observance of human rights under the criminal law of the Republic of Yemen, including in connection with the Convention against Torture. The paper was the starting point for the holding of a dialogue conference, at which Yemeni Government decision makers and officials discussed how to create a mechanism for the full application of human rights in the framework of Yemeni criminal law and finalized recommendations on public awareness programmes to promote the observance of these rights in keeping with the rule of law.

### **Legal analysis of Yemen's criminal justice legislation**

36. The legal analysis consisted in a review of domestic legislation and regional and international instruments on criminal justice. The aim was to identify loopholes and propose legal and institutional reforms that would bring domestic law provisions up to the standard of international law.

37. A list was compiled of 34 rights pertaining to a range of criminal justice principles designed to ensure that the rights of both accused persons and victims are protected. The rights in question are those afforded to individuals under the Yemeni criminal justice system and can be broken down into four main groups.

(a) *General principles*

38. Ten rights are included under this heading: the right to life; equality before the law; the right not to be subjected to torture; the principle of *nulla poena sine lege*; the principle of the non-retroactivity of laws; the right of legal recourse; the right to a fair trial; non-discriminatory treatment; the right not to be subjected to cruel, inhuman or degrading treatment when under arrest, standing trial or serving a sentence; the right to fair compensation; freedom of belief and religion; and freedom of opinion and expression.

(b) *During detention and an investigation*

39. Seven rights come under this heading: the right not to be detained or arrested without any legal justification; the right to a defence; the right of the accused to be informed of the charges against him; the prohibition of arbitrary detention; the right upon arrest to notify a person of one's choosing about what has happened; the right to be detained or imprisoned in a legally designated facility.

(c) *During trial*

40. This heading includes personal criminal liability and the right of appeal.

(d) *While serving a sentence*

41. Fourteen rights come under this heading: the maintenance of a logbook containing details about each prisoner; separation of different categories of prisoners; personal hygiene; access to food and water; physical exercise; medical services; non-use of physical restraint devices; information ensuring the right of prisoners to make a complaint; communication with the outside world; access to books; storage of prisoners' belongings; reporting of deaths, illnesses, transfers, etc.; moving prisoners; developing prisoner's social contacts; and providing post-release care.

42. The legal analysis paper identifies the articles of the Constitution and the main domestic laws and regulations on criminal justice. It examines each article and compares the provisions in the analysis with the corresponding entry in the list of rights. The laws reviewed were: the Code of Offences and Penalties; the Code of Criminal Procedures; the Department of Prisons Regulation Act; the implementing regulation for the Department of Prisons Regulation Act; the Judicial Authority Act; the Civil Code; the Code of Pleadings; the Law Profession Regulation Act; the Children's Rights Act; the Juvenile Welfare Act; the Civil Code; the Disabled Persons Welfare Act; the Abduction and Highway Robbery Act; the Code of Military Offences and Penalties; the Press and Publications Act; the implementing regulation for the Juvenile Welfare Act; and the Act to Counter the Trafficking and Illegal Use of Drugs and Psychotropic Substances. The analysis also looked at how far the principle of equality before the law was applied to women, children and persons with disabilities.

43. The analysis covered the following instruments:

- (a) The Universal Declaration of Human Rights;
- (b) The International Covenant on Civil and Political Rights;
- (c) The International Convention on the Elimination of All Forms of Racial Discrimination;
- (d) The Convention on the Elimination of All Forms of Discrimination against Women;
- (e) The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(f) The Convention on the Rights of the Child.

44. A number of problems and loopholes resulting from discrepancies between domestic laws and rights definitions and between regional and international instruments and rights definitions were identified. Legislation where there were some loopholes and problems was also identified. Existing policies and strategies to overcome problems identified in the criminal justice system were identified. Several comments and recommendations were included in the analysis paper on ways of addressing the problems and gaps in the legislation.

#### **First Dialogue Conference on Criminal Justice and Yemeni Legislation**

45. The First National Dialogue Conference on Criminal Justice and Yemeni Legislation, which was organized by the Ministry of Human Rights in cooperation with the Danish Institute for Human Rights, was held in Sana`a on 10 and 11 February 2008 under the auspices of the Prime Minister. The Conference was attended by experts from over 50 government institutions and NGOs (judges, members of the Department of Public Prosecutions and the police, lawyers, academics and civil society representatives). The Conference produced a set of recommendations on legal and institutional reform in Yemen geared towards ensuring the proper application of criminal justice principles and standards. The recommendations supplemented those already contained in the legal analysis paper that had been produced prior to the Conference.

#### **Conference recommendations**

46. It is important at this juncture to review the Conference recommendations, which encompass general recommendations, recommendations on amending certain domestic laws and recommendations on prison reform.

##### **A. General recommendations**

- Action should be taken to implement Cabinet Decision No. 29 of 2004, concerning the establishment of a committee to review the laws and legislation in force in the light of the human rights treaties to which Yemen is a party
- Domestic provisions should be systematized and any found to be incompatible with the international instruments which have been ratified should be repealed
- The independence and impartiality of judges should be strengthened. In this connection, a code of conduct for members of the judiciary should be drawn up and the principle of judicial and personal immunity of judges should be given overt recognition
- Existing criminal law procedures should be revised in order to ensure that justice is served, that the human right to presumption of innocence is upheld and that defendants are afforded humane treatment in recognition of their personal dignity
- Legislation should be enacted on standards of conduct for law enforcement officials in connection with arrests, searches and surveillance
- Law enforcement officials should be made aware of the main rules and principles relating to the observance, protection and defence of human rights, which should be taken as the principal standard for determining conduct and the treatment to be afforded to all persons without discrimination
- Special attention should be paid to children, persons with special needs, the poorest groups and those who need to be given special consideration when they turn to the courts in order to defend their rights

- The laws on criminal justice should be disseminated via the media and national seminars and conferences
- The Ministry of Human Rights should follow up on the implementation of the recommendations set out in the closing statement [of the Conference] and of the recommendations in the legal analysis paper

B. Recommendations on amending domestic laws

- Articles defining the terms “the right to life”, “torture” and “racial discrimination” should be added to the Code of Offences and Penalties
- The scope of capital punishment as a discretionary penalty should be limited so as to ensure that it is only imposed for the most serious crimes
- Article 42, paragraph 11, of the Code of Offences and Penalties, concerning payment of blood money (*diyyah*), should be amended to guarantee women the right to equal treatment in law, in conformity with the Islamic sharia
- In accordance with article 48 of the Constitution, physical, psychological or mental torture should be added to the list in article 38 of the Code of Criminal Procedures of offences which are not time-barred from prosecution
- An article should be added to domestic legislation stipulating that victims of physical and mental torture must be compensated by the State
- Tougher disciplinary sanctions should be introduced for any public servant who exploits his position or office to carry out torture; the sanctions should include a maximum penalty of termination of employment
- Article 232 of the Code of Offences and Penalties should be amended to allow both male and female defendants the right to benefit from consideration of the mitigating factors specified in the article
- Investigation and trial procedures should be declared null and void if the accused or a witness — who is not familiar with Arabic — is a foreigner who was not provided with the services of an interpreter
- The parts of the Code of Offences and Penalties which refer to restrictions on freedom of opinion in connection with publishing offences should be amended to make them clearer and more explicit
- A provision should be added to the Code of Criminal Procedures, the Prisons Regulation Act and its implementing regulation explicitly stating that the accused has the right to meet with his or her lawyer alone in a suitable place
- A provision should be added requiring the competent authorities to inform accused persons of developments in the investigation and evidence-gathering stages of their case and also requiring them to inform them of their legal rights upon arrest
- Domestic legislation should be amended so as to set the age of majority at 18 years, in line with international treaties

C. Recommendations on prisons

(a) A study should be carried out of the current state of prisons, and proposals on plans to develop penal institutions should be made, taking into account the following:

- (i) Existing laws should be put into effect and prison legislation developed, in keeping with the international Standard Minimum Rules for the Treatment of Prisoners;

- (ii) Prison staff should be given training in various areas of specialization;
- (b) International specifications for the construction of prisons should be observed;
- (c) The Standard Minimum Rules for the Treatment of Prisoners should be applied and the inclusion of rule 32, which places an absolute prohibition on the use of reduction of diet as a disciplinary sanction in prisons, should be reviewed;
- (d) New provisions should be included in the Prisons Act and its implementing regulation to ensure consistency with international norms. Articles 9, 24, 27, 30 and 32 of the Prisons Regulation Act and article 84 of its implementing regulation should be revised;
- (e) Steps should be taken to keep untried prisoners separate from convicted prisoners and civil prisoners separate from persons imprisoned by reason of a criminal offence;
- (f) Instruments of restraint, such as handcuffs, chains, irons and straitjackets, should never be applied as a punishment and the rules on exceptional cases should be defined;
- (g) Care should be taken to provide for physical and moral rehabilitation in prison and the role of the mosque in prisoners' reform and rehabilitation should be strengthened;
- (h) Attention should be given to women who are released from prison in order to guarantee their rights and provide the necessary means for their social reintegration.

**Establishment of a committee to review the recommendations contained in the closing statement adopted by the First Dialogue Conference on Criminal Justice and Yemeni Legislation**

47. By Cabinet Decision No. 69 of 2008, a committee was established to review the recommendations set out in the closing statement adopted by the First Dialogue Conference on Criminal Justice and Yemeni Legislation. The committee began its work on 28 May 2008, analysing the recommendations emanating both from the Conference and the legal analysis exercise and incorporating them, in cooperation with the Danish Institute for Human Rights, into a single programme consisting of six projects.

48. This programme encompasses projects involving important analytical activities that can be carried out (project 1); initiatives that can be implemented immediately (project 2); projects with a significant link to existing reform programmes in Yemen (projects 3 and 4); and projects related to the need to analyse and reform the legal system (projects 5 and 6). The second national dialogue conference on criminal justice is due to be held once a methodology for implementing the recommendations has been defined. The expectation is that the conference will take place some time during the final quarter of 2009.

**Second and third national dialogue conferences on criminal justice**

49. The project structure provides the framework for the second national dialogue conference on criminal justice in Yemen. The Government's proposed initiatives for the implementation of the recommendations of the First National Dialogue Conference and of the analysis, as incorporated into the six projects, will be presented at the conference. The purpose of the conference is to discuss the Government's proposed initiatives, to solicit feedback and suggestions and to secure wide-ranging commitment from stakeholders, including decision makers, before detailed planning begins. On the basis of the second conference, the programme will be finalized and the detailed planning will begin.



50. The event will be followed by a third national dialogue conference on criminal justice, at which a paper on the reform programme and related projects will be presented for discussion to decision makers and other key stakeholders, including donors, with a view to ensuring the effective and efficient implementation of the reform programme.

### **Institutional measures**

51. Further to the recommendation on the establishment of an independent national human rights institution, as contained in the concluding observations which the Human Rights Committee adopted following its consideration of Yemen's fourth periodic report,<sup>1</sup> the Ministry of Human Rights consulted the bureau of the Office of the United Nations High Commissioner for Human Rights (OHCHR) on the key arrangements for the establishment of such an institution. The Ministry is encouraging civil society organizations to work with the Government in order to bring this important rights-based project to fruition. In this connection, in July 2006, a meeting was held on the national human rights capacity-building project being run by the United Nations Development Programme (UNDP), together with a workshop on national human rights institutions. This matter is currently being discussed with the European Union.

52. In order to develop its mechanisms for dealing with communications and complaints, the Ministry of Human Rights, in cooperation with the UNDP human rights capacity-building project, set up a very simple electronic and manual documentation system for processing complaints. Through this mechanism, the public administration received some 1,428 complaints (see tables) from 2005 to 2006. Most of the complaints were addressed and some were put on file, either because the matter fell outside the Ministry's purview or the papers and supporting documentation were incomplete. In all events, complainants were issued with guidance and advice on the legal avenues for resolving their cases. A total of 145 communications were received and all were processed.

Table 3

### **Number and category of complaints and communications**

<i>Complaint category (rights involved)</i>	<i>Related right</i>	<i>No. of complaints and communications</i>	<i>Responses of the competent authorities</i>
Personal freedom	Unlawful detention	370	193
	Denial of private rights	7	
	Security	6	
Education	Access to education	18	6
Equality before the law	Legal recourse	37	17
	Fair trial	4	
	Enforcement of court judgements	75	
	Utilization of different levels of judicial proceedings	4	
Participation in public life	Access to public employment	25	

<sup>1</sup> Concluding observations adopted by the Committee on 21 July 2005, following its 2282nd and 2283rd meetings: "The Committee ... notes that such an institution has not yet been created ... The State party should work towards establishing a national human rights institution in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles)" (CCPR/CO/84/YEM, para.7).

<i>Complaint category (rights involved)</i>	<i>Related right</i>	<i>No. of complaints and communications</i>	<i>Responses of the competent authorities</i>
Work	Martyrs' rights	10	
	Non-suspension of salary	16	
	Arbitrary dismissal	17	
	Fair treatment by an employer	5	
Physical and mental health	Treatment for incurable conditions	38	No reply
	Access to government health services	7	
	Mental health-care services	12	
Defendants	Legal aid	360	
Adequate living standard	Social welfare	2	
	Access to housing	32	
Refugees	Protection	41	
	Nationality	11	
	Health	8	
	Education	33	
	Asylum	12	
Property	Resettlement in a third country	6	
	Protection of private property	22	9
	Compensation for expropriation of property in the public interest	7	
	Compensation for natural disasters	7	
Returnees from exile	Access to rights in country of exile	21	
	Right to live in country of exile	3	
Children	Survival and development	3	
	Expression and opinion	4	1
	Access to information	1	
Prisoners	Access to financial assistance for impoverished prisoners	44	6

### **Raising public awareness of human rights**

53. With regard to advice and awareness-raising, there are a number of media programmes and publications that seek to raise awareness of the law by offering human rights advice and guidance, providing information on judicial activities and educating the public about judicial and legal matters so as to achieve the judiciary's goal of strengthening the justice system. These public information channels include television and radio programmes and press articles by various relevant government bodies. The main ones are described here below.

- (a) The Ministry of Justice publishes a specialist monthly newspaper on judicial affairs and the Ministry of Human Rights publishes the Yemeni Journal of Human Rights;

(b) Four books containing a series of laws on civil, criminal, personal, labour, procedural and substantive issues and laws regulating various aspects of judicial proceedings were printed and published. They were then distributed to several relevant institutions. In addition, two books containing a series of laws on the judiciary and a set of substantive and procedural laws on judicial matters were printed and distributed;

(c) Libraries were set up in appeal courts and commercial divisions. A total of 19 libraries with a selection of approximately 10,000 titles were established as an important reference source for judicial personnel;

(d) The Yemeni courts are issued with copies of the Official Gazette containing laws and decisions and amendments thereto, for judges to review and refer to as necessary;

(e) Five hundred copies of compact discs containing the texts of various regulatory and procedural laws were produced in cooperation with UNDP and distributed to court judges and prosecutor's offices;

(f) Internet sites were created for ministries and Government offices such as the Ministry of Justice, the Office of the Public Prosecutor, the Ministry of the Interior and the Ministry of Human Rights. The public and accused persons can use these sites to gain access to information. The Ministry of Human Rights website contains all the national human rights reports which Yemen has submitted to international bodies, together with the observations of several of these bodies on Yemen's human rights treaty reports;

(g) A plan was drawn up to improve awareness of the justice system through, inter alia, a weekly television programme broadcast on a satellite channel and a weekly public radio programme;

(h) The 2004 national human rights report by the Ministry of Human Rights was distributed to various government institutions, civil society organizations, political parties and organizations, newspapers, prisons and social welfare institutions.

### **Difficulties**

54. A number of difficulties hamper the implementation of the Covenant. We have summarized them hereunder.

(a) The prevalence of poverty in general, particularly in rural areas and among women, is a problem which has the most devastating impact on human rights and freedoms. Moreover, poverty is a structural issue, which impedes development and innovation in the human rights domain; existing efforts are focused on providing a minimum level of rights and a decent living, while demand for a qualitative improvement in public and private rights and freedoms is growing;

(b) The population in Yemen is unevenly distributed; 68 per cent of the population is concentrated in the central highlands, as compared with 13 per cent in the southern and eastern coastal plains, 12 per cent in the Tihamah plain and 5 per cent in the desert areas. This fragmented situation makes it difficult to deliver basic services to all population centres, in particular to provide them with courts and prosecutor's offices;

(c) The existing training programmes for senior police officers and prison staff on the human rights enshrined in international treaties are inadequate;

(d) Owing to a lack of resources, not enough funding is allocated to do the construction and renovation work that prisons need and to supply prisoners with their full needs and rights;

(e) There are not enough statistics, data or studies on human rights;

(f) Oversight mechanisms for penal institutions are not effective;

(g) A large cross-section of society has no awareness of rights and duties, owing to widespread illiteracy.

### Article 3

55. The Yemeni Constitution assigns equal rights and duties to men and women, and the right to political participation and involvement in decision-making is one of the foremost rights guaranteed to women as Yemeni citizens.

56. Nevertheless, success with the advancement of women's rights remains circumscribed in practice, even though democratic life has evolved and women first became active in politics in the early part of the past century.

57. Women's participation in public life is important for change and development – a fact which the State's political leadership, political parties and decision makers understand. Improving women's situation and political participation is one of the greatest challenges. Indeed, it is viewed as a way of helping women to overcome the obstacles to their fuller participation in political life and decision-making, since it would ensure that effective measures were taken to allow women access to genuine representation rather than symbolic representation, thereby ensuring justice in the political process.

#### Representation in the highest political and administrative positions in the State

58. Out of 33 ministers in the current Government, 2 are women: the Minister for Social Affairs and Labour and the Minister for Human Rights. This is a relative improvement over the situation in previous Governments but still fails to reflect the role of women in wider society and the desire to have more women making an active contribution to the decisions which affect their future.

59. What is striking about women's representation in administrative and political positions is that the further one gets from the top of the State administrative pyramid the larger the role that women play: there are 2 women in the Cabinet, 6 holding posts at ministerial level, 25 serving as undersecretaries of State and 186 in director-general positions.

60. Overall, there are around 229 women in the upper echelons of the State, as compared with 7,546 men, i.e., 3 women for every 100 men. This is a low level of participation.

#### Appointments to positions of leadership in 2008

61. The following table contains data, disaggregated by sex, on appointments to senior positions in 2007 and 2008.

Table 4

#### Decisions on high-ranking posts, by sex, 2007 and 2008

Leadership position	2007			2008		
	Women	Men	Female/ male ratio	Women	Men	Female/ male ratio
Above director-general level	4	1 693	0.2%	6	120	5%
Director-general level	23	468	4.9%	18	321	5.6%
<b>Total</b>	<b>27</b>	<b>2 161</b>	<b>2.3%</b>	<b>24</b>	<b>441</b>	<b>5.4%</b>

62. The above table clearly shows that the number of women appointed in 2008 was low compared with the previous year, notwithstanding the sharp fall in the number of appointments of men. The gender gap remains wide, despite a relative improvement. In 2000, 100 men were appointed for every 2 women, as contrasted with 100 men for every 5 women in 2008.

63. This improvement does nothing to bridge the wide chasm that exists between the number of men and women in higher office. It is hoped that the situation will improve in the next few years to reflect more closely the kind of figures mentioned by the political leadership. In any case, the female participation rate in the House of Representatives needs to be brought up to at least 15 per cent. This would go a long way to ensuring equity for women and would serve as a model in all spheres where women suffer from discrimination as regards their representation.

#### **Women's representation in the House of Representatives, the Advisory Council and local councils**

64. The gap in the representation of men and women has remained wide in recent years, as shown by the fact that there is 1 woman but 300 men in the House of Representatives and 2 women and 190 men in the Advisory Council. This situation is an improvement on the previous state of affairs; there used to be only 2 women, both of whom had gained their seats by means of appointment. The following table shows women's representation in three types of assembly.

Table 5

#### **Women's representation in the House of Representatives and the Advisory Council**

<i>Rank</i>	<i>Women</i>	<i>Men</i>	<i>Total</i>	<i>Female/male ratio</i>
Members of House of Representatives	1	300	<b>301</b>	0.3%
Members of Advisory Council	2	109	<b>111</b>	1.8%
Members of local councils	37	7 000	<b>7 037</b>	0.5%

65. Clearly, as the Advisory Council is made up of members who are appointed, the level of representation may seem better than in elected councils. The figures suggest that there is inadequate support for women in political parties, reflecting the wider social culture. Moreover, the existing policy, the high female illiteracy rate and low levels of political awareness among women prevent women from gaining places in elected councils.

66. There is less competition for local council seats than there is for the House of Representatives, since local councils have a smaller constituency and geographical scope and there is a greater chance of electoral success. Nevertheless, only 37 women hold seats on local councils, as compared with 7,000 men.

#### **Ensuring women's political participation**

67. The Women's National Committee submitted a proposal on a draft amendment to the Elections Act designed to establish a system of temporary positive discrimination in favour of women. The amendment proposes that only women will be allowed to compete for seats in particular wards. The proposal is to target 15 to 30 per cent of electoral wards and seats in the House of Representatives.

68. The President of the Republic presented an initiative on developing women's political participation, although issues relating to mechanisms and representation are still under discussion.

Table 6

**Number and percentage of female and male candidates in elections to the House of Representatives**

<i>Elections</i>	<i>Women candidates</i>		<i>Men candidates</i>		<i>Total candidates</i>		<i>Women elected</i>	<i>Men elected</i>
	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>		
1993	42	0.87	3 124	99.2	3 166	100	2	299
1997	19	1.4	1 292	98.6	1 311	100	2	299
2003	11	0.8	1 385	99.2	1 396	100	1	300

**Women in the judiciary**

69. There are still only a few women in the judiciary; this vital area tends to be dominated by men, as the following table clearly shows.

Table 7

**Women's representation in the judiciary in 2008**

<i>Leadership/functional status</i>	<i>Women</i>		<i>Men</i>		<i>Female/male ratio (/100)</i>
	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>	
1. High court president	-	-	2	0.1	-
2. Prosecutor-General	-	-	1	0.0	-
3. Public attorney (I)	1	0.7	26	1	4
4. High court judge	-	-	52	2	-
5. District appeal court judge	6	4	172	8	4
6. Chief public prosecutor (a, b and c)	19	13	80	4	24
7. First instance court judge (a, b and c)	15	10	585	26	3
8. Deputy public prosecutor (a and b)	31	21	231	10	13
9. Assistant judge (a and b)	41	28	521	23	8
10. Assistant public prosecutor (a and b)	32	22	587	-	-
<b>Total</b>	<b>145</b>	<b>100</b>	<b>2 257</b>	<b>100</b>	<b>6</b>

**Women's representation in the diplomatic corps**

70. Even though women are represented to some extent in the higher ranks of the diplomatic corps, the number of women in diplomatic positions is still quite low.

Table 8

**Women in diplomatic posts in 2008**

	<i>Women</i>		<i>Men</i>		<i>Female/male ratio (/100)</i>
	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>	
Ambassador	1	2.5	104	22	1

	<i>Women</i>		<i>Men</i>		<i>Female/male ratio (/100)</i>
	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>	
Minister plenipotentiary	2	5	64	13	3
Counsellor	10	25	102	27	10
First secretary	6	15	96	20	6
Second secretary	1	2	19	4	5
Third secretary	11	28	73	15	15
Diplomatic attaché	9	23	19	4	47
<b>Total</b>	<b>40</b>	<b>100</b>	<b>477</b>	<b>100</b>	<b>8</b>

Table 9

**Legal articles on women's issues adopted by the Cabinet at its thirty-first session held on 7 August 2007**

<i>No.</i>	<i>Proposed text submitted by Women's National Committee</i>	<i>Text adopted by Cabinet</i>
1.	<p>Act No. 2 of 1991, as amended, concerning the diplomatic and consular service.</p> <p>Amendment:</p> <p>Article 90</p> <p>(a) A husband and wife employed by the Ministry may be appointed to serve in two different missions under the conditions specified in the regulation;</p> <p>(b) A husband and wife may be appointed to serve in the same mission pursuant to a decision of the Minister and with the committee's approval, if the expertise of both spouses is needed by the foreign service. In this case, allowances and benefits shall only be given to one of the two spouses;</p> <p>(c) In either of the cases mentioned in the two preceding paragraphs, the appointment shall only be made in keeping with the priority list for appointments to accredited missions at the Ministry.</p>	<p>Cabinet Decision No. 245 of 2007, approving the draft amendment to article 90 of Act No. 2 of 1991, as amended, concerning the diplomatic and consular service. The proposed amendment, as submitted, was approved, together with an article added by the Cabinet, which reads as follows:</p> <p>Article 82</p> <p>The Public Pensions Act shall apply to members of the diplomatic corps, having due regard to the following:</p> <ul style="list-style-type: none"> <li>• Members of the diplomatic corps shall take retirement when they reach the age of 60 or have completed 35 years of actual service.</li> </ul>
2.	<p>Police Act No. 15 of 2000</p> <p>Amendment:</p> <p>Article 158</p> <p>(a) Conducting interviews with women detainees in police stations and centres;</p> <p>(b) Searching women in places where precautions must be taken, such as at airports and in other ports of arrival and departure in the Republic of Yemen;</p> <p>(c) Receiving women who have been sentenced to deprivation of liberty and sent to</p>	<p>Cabinet Decision No. 146 of 2007, approving the amendment to article 90 of the Police Act No. 15 of 2000</p> <p>The proposed text was approved as submitted.</p>

<i>No.</i>	<i>Proposed text submitted by Women's National Committee</i>	<i>Text adopted by Cabinet</i>
	<p>prison;</p> <p>(d) Guarding and supervising women prisoners and monitoring their behaviour;</p> <p>(e) Taking steps to deal with women prisoners, disturbances and infringements of prison regulations;</p> <p>(f) Any other tasks which are assigned to them and which their work requires them to do.</p>	
3.	<p>Act No. 14 of 2002, concerning the Civil Code Amendment:</p> <p>Article 61</p> <p>Boys and girls who prove capable of discretion and maturity of mind before they come of age may be granted permission by their guardian or testamentary tutor to manage some of their own property. Otherwise, where this is not possible, they may be given some choice, depending on their capacities.</p>	<p>Cabinet Decision No. 247 of 2007, approving the draft amendment to article 61 of Act No. 14 of 2002, concerning the Civil Code</p> <p>The proposed text was approved as submitted.</p>
4.	<p>Personal Status Code No. 20 of 1992, as amended by Act No. 27 of 1998 and Act No. 24 of 1999</p> <p>Amendments to article 7 and addition of paragraph 6:</p> <p>[Marriage shall be concluded under the following conditions]:</p> <ol style="list-style-type: none"> <li>1. It shall take place in one sitting.</li> <li>2. The proposal shall be presented by the guardian of the groom or his representative or an authorized person who is male and not a direct blood relative, or a person acting on his behalf, or his representative.</li> <li>3. Acceptance of the proposal overrules any objection subsequently made by an authorized person who is not a direct blood relative or a person representing him in accordance with the sharia or with his permission.</li> <li>4. At the time of the contract, the bride and groom shall be identified by their first or family name, or a gesture or any other distinguishing feature.</li> <li>5. The proposal and acceptance shall be final, consistent with each other as to the terms and not subject to any time limit. Any condition which has no bearing on the legitimate intent of a spouse or that is incompatible with the contract shall be null and void.</li> <li>6. At the time of the contract, both the bride and the groom shall be free of any of the impediments</li> </ol>	<p>Cabinet Decision No. 248 of 2007, approving the draft amendment to some articles of the Personal Status Code No. 20 of 1992, as amended</p> <p>The proposed text was approved as submitted.</p>



<i>No.</i>	<i>Proposed text submitted by Women's National Committee</i>	<i>Text adopted by Cabinet</i>
	to marriage listed in section III of this part.	
	Article 11 No marriage of an insane person shall be contracted.	The proposed text was approved as submitted.
	Article 12 A man may take up to four wives, subject to the following conditions: 1. He is able to treat them fairly, otherwise he may take only one wife; 2. He is capable of supporting his wives; 3. He informs the woman that he is married; 4. He informs his wife or wives that he wishes to marry. If he conceals his new marriage or neglects to inform his wives of it, the first wife or any of the first wives may ask for a divorce or an annulment on grounds of damage.	The proposed text was approved as submitted.
	Article 14 The person responsible for concluding the contract, the groom and the guardian of the bride shall register the marriage contract with the competent authority in the proper register within one month of the marriage. Registration of the document by one of these persons shall be sufficient to relieve the others of this duty, provided that the document contains the correct information, such as the age of the spouses, their identity card numbers, if any, and the amount of the nuptial gift, whether paid at the time of the marriage or thereafter.	The proposed text was approved as submitted.
	Article 76 Two witnesses shall provide explicit verbal testimony as evidence that a man has returned to his wife after divorcing her.	The proposed text was approved as submitted.
	Article 87 The waiting period for a woman after an irrevocable divorce is governed by six rules, namely: 1. No remarriage to the former spouse. 2. No inheritance. 3. It is possible to go out without permission. 4. There is no obligation to remain at home. 5. Maintenance shall be paid. 6. The man may marry a close blood relative of the divorced woman.	The proposed text was approved as submitted.

<i>No.</i>	<i>Proposed text submitted by Women's National Committee</i>	<i>Text adopted by Cabinet</i>
	<p>Article 262</p> <p>If there is no last will and testament, the mother shall serve as testamentary tutor for her minor children and their property after the death of their father. After her death, precedence shall be given to the testamentary tutor. If the legatee dies, precedence shall be given to the father, then his testamentary tutor, then the grandfather, then his testamentary tutor and then the judge.</p>	The proposed text was approved as submitted.
	<p>Addition</p> <p>Article 7 bis: Two persons who are engaged or contracted to marry one another shall have the right to undergo premarital medical tests in order to ensure that they are free from any potentially dangerous hereditary or infectious diseases.</p>	The proposed text was approved as submitted.
	<p>Article ( ) A divorced woman entrusted with the care of her child shall be allowed to remain in the marital home with the child after her divorce, unless the former husband provides her with another suitable home. If the period of care ends or the divorcee remarries, the former husband may claim back the home.</p>	The proposed text was approved as submitted.
	<p>Article ( ) If a husband divorces his wife and a judge decides that the husband acted arbitrarily, without good reason, and that the wife will be destitute as a result, the judge may order the former husband to pay her compensation commensurate with the nature and gravity of the arbitrary act. The compensation shall be the equivalent of one year's maintenance that would be paid to other women in a similar situation, in addition to maintenance during the waiting period. The judge may order the compensation to be paid in a single instalment or on a monthly basis, as the case may be.</p>	The proposed text was approved as submitted.
	<p>Article ( ) A husband may not return to a wife whom he has divorced, if he intends to do harm by so doing.</p>	The proposed text was approved as submitted.
	<p>Article ( ) A document reversing the divorce shall be deposited with the competent authority.</p>	The proposed text was approved as submitted.
	<p>Article ( ) A marriage shall not be concluded between two persons with an age difference of more than 20 years, unless the woman is at least 35 years old.</p>	The proposed text was approved as submitted.
	<p>Article ( ) A child shall be recognized as the offspring of a man who forces a woman to have sexual intercourse with him or rapes her after marrying her.</p>	The proposed text was approved as submitted.

No.	Proposed text submitted by Women's National Committee	Text adopted by Cabinet
	Article ( ) The child's filiation shall be established based on the existence of a non-documented marriage.	The proposed text was approved as submitted.
	Article ( ) Personal status issues shall be deemed urgent matters.	The proposed text was approved as submitted.
	(a) A man who pronounces a divorce shall deposit the divorce deed with the competent authority;	
	(b) The competent registrar shall inform the divorced woman of her divorce within seven days of registration and shall provide her with a copy of the deed.	
5.	Decree in Act No. 12 of 1974, concerning offences and penalties, as amended	Cabinet Decision No. 249 of 2007, approving the draft amendment to some articles of Presidential Decree on the Code of Offences and Penalties, as amended
	Amendment:	
	Article 232	The proposed text was approved as submitted.
	Where a man kills his wife and the person with whom he catches her in the act of having sexual intercourse or where a woman kills her husband and the person with whom she catches him having sexual intercourse, or if either spouse assaults the other causing death or a disability, the penalty of retaliation ( <i>qisas</i> ) shall not be applied. The husband or wife who committed the act may face a penalty of from 6 months to 1 year in prison or a fine of 5,000 Yemeni rials. The same sentence may be imposed on a person who comes upon an ascendant, a descendant or a sibling engaging in sexual intercourse outside marriage.	
	Article 272	The proposed text was approved as submitted.
	A term of from 5 to 10 years' imprisonment shall be imposed on anyone who engages in depravity or prostitution.	
	Article 42	The proposed text was approved as submitted.
	Blood money and indemnities for bodily wounds shall be the same for women as for men.	
6.	Civil Pleadings and Enforcement Code No. 40 of 2002	Cabinet Decision No. 250 of 2007, approving the draft amendment to article 97 of The Civil Pleadings and Enforcement Code No. 40 of 2002
	Amendment:	
	Article 97	The proposed text was approved as submitted.
	The court in the place where the respondent or plaintiff resides shall have jurisdiction in the following cases:	
	1. Maintenance cases.	
	2. Cases concerning dissolution on grounds of	

<i>No.</i>	<i>Proposed text submitted by Women's National Committee</i>	<i>Text adopted by Cabinet</i>
	failure to pay maintenance.	
	3. Cases concerning care of young children, if brought by the mother.	
7.	Regulation of Prisons Act No. 48 of 1991, as amended	Cabinet Decision No. 251 of 2007, approving the draft amendment to the Regulation of Prisons Act No. 48 of 1991
	Amendment:	
	Article 32 (6)	The proposed text was approved as submitted.
	(a) Prisoners entering prison for the first time shall be separated from those who have previously served time;	
	(b) Prisoners who have committed particularly serious offences shall be separated from other prisoners;	
	(c) Foreign prisoners shall be separated from Yemeni prisoners;	
	(d) Juvenile prisoners shall be separated from adult prisoners;	
	(e) Female prisoners shall be separated from male prisoners;	
	(f) Women imprisoned for religious or civil offences shall be separated from those imprisoned for criminal offences.	
	Article 29	The proposed text was approved as submitted.
	When children are allowed to remain in institutions with their mothers, measures shall be taken to establish a nursery to provide for their care.	
8.	Insurance and Pensions Act No. 25 of 1991, as amended	Cabinet Decision No. 252 of 2007 approving the draft amendment to the Insurance and Pensions Act No. 25 of 1991
	Amendment:	
	Article 20	The proposed text was approved as submitted.
	(a) Retirement shall be compulsory for insured men and women when they reach the age of 60 and shall be optional for women at the age of 55;	
	(b) Those covered by this Act shall have completed 35 full years of actual service.	
	Additional article	
	Article 60 bis	The proposed text was approved as submitted.
	The husband or wife may combine their own retirement pension with that of the spouse.	
9.	Social Insurance Act No. 26 of 1991	Cabinet Decision No. 253 of 2007, approving the draft amendment to the Social Insurance Act No. 26 of 1991
	Amendment:	

<i>No.</i>	<i>Proposed text submitted by Women's National Committee</i>	<i>Text adopted by Cabinet</i>
	<p>Article 2</p> <p>Retirement age: it is the age at which an insured man or woman retires. It is compulsory when the insured person reaches the age of 60. It is optional for women from the age of 55.</p>	The proposed text was approved as submitted.
	<p>Article 57</p> <p>(a) If the insured person has been paying contributions for one year or more, the Institute shall pay compensation in a single instalment in the following cases: where a married, widowed or divorced woman resigns and requests such a payment, on condition that the payment is not made more than once.</p>	The proposed text was approved as submitted.
	Additional article	
	<p>Article 74 bis</p> <p>The husband or wife may combine their own retirement pension with that of their spouse.</p>	The proposed text was approved as submitted.
10.	Labour Code No. 5 of 1995, as amended	
	Amendment:	
	<p>Article 45</p> <p>1. Working women who are pregnant are entitled to 60 days' maternity leave on full pay.</p> <p>2. Under no circumstances may a working woman be employed during maternity leave.</p> <p>3. Working women who are pregnant shall be given 20 days, in addition to the number of days mentioned in paragraph 1, in the following cases:</p> <p>(a) Where the delivery was difficult, as attested by a physician;</p> <p>(b) Where the woman gives birth to twins.</p> <p>4. Under no circumstances may a working woman be dismissed during her maternity leave.</p>	The proposed text was approved as submitted.
	<p>Article 47</p> <p>A person who employs women shall display the regulations on women's employment in a conspicuous area of the workplace and shall set aside a place for women to pray and take the rest breaks specified by law.</p>	The proposed text was approved as submitted.
	<p>Article 47 bis</p> <p>Employers shall take such precautions as are necessary to protect working women who are pregnant from any risks to their health or pregnancy. This shall be without prejudice to the right of working women to treatment and compensation. For example, they shall be protected</p>	The proposed text was approved as submitted.

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<i>No.</i>	<i>Proposed text submitted by Women's National Committee</i>	<i>Text adopted by Cabinet</i>
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from:

1. Risks from machinery or harmful or hazardous emissions.
2. Risks from vibrations and noise.
3. Risks from increasing or decreasing air pressure.

Article 48 bis

The proposed text was approved as submitted.

Any male or female worker who marries shall be entitled to 15 days' marriage leave on full pay, which shall not be deducted from his or her regular leave entitlement, provided that this is the worker's first ever marriage.

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#### **Article 4**

71. The legal position on this article was explained in the previous report.

#### **Article 5**

72. The legal position was explained in the previous report.

#### **Article 6**

##### **Paragraph 1 (right to life) and paragraph 2 (death penalty)**

###### *Legislative measures*

73. The previous report outlines the judicial and legal safeguards which must be applied when a death sentence is imposed. The legal analysis paper on how far domestic legislation is consistent with the principle of the right to life includes the recommendation on the death penalty which the Human Rights Committee makes in its concluding observations on Yemen's fourth periodic report.<sup>2</sup> The analysis paper and its recommendations were discussed at the First National Dialogue Conference on Criminal Justice and Yemeni Legislation held on 10 and 11 February 2008 under the auspices of the Prime Minister. The Conference was attended by experts from over 50 government institutions and NGOs (judges, members of the Department of Public Prosecutions and the police, lawyers, academics and civil society representatives). The Conference produced a set of recommendations on institutional and legal reform in Yemen, including one on limiting the scope of capital punishment as a discretionary penalty, by confining its use only in regard to the most serious crimes. A study is expected to be carried out on how best to implement these recommendations (see the explanation provided on article 2).

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<sup>2</sup> CCPR/CO/84/YEM, para. 15: "The State party should limit the cases in which the death penalty is imposed, ensure that it is applied only for the most serious crimes, and officially abolish the sentence of death by stoning."

74. The penalty of stoning has not been used in Yemen for centuries. Moreover, although the penalty is included in the Criminal Code, it is virtually impossible to apply, given the number of exceptions listed in article 266 of the Code.

## Article 7

### Procedures and measures

75. Yemen has instituted several procedures in accordance with this article, as was explained in detail in Yemen's report of 2009 on the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT/C/YEM/2). Attention should be drawn to the main recommendations of the First National Dialogue Conference on Criminal Justice and Yemeni Legislation, to which reference was made in the section of this report on article 2 of the Covenant. The Government, in cooperation with the Danish Institute for Human Rights, is considering how these recommendations can be put into effect. The recommendations are as follows:

(a) A provision defining torture in accordance with the Convention against Torture should be added to the Code of Offences and Penalties so as to guarantee the proper application of the relevant legal provisions on this subject;

(b) The offences of physical, psychological or mental torture should be added to the list in article 38 of the Code of Criminal Procedures of offences which are not time-barred from prosecution in accordance with article 48 of the Constitution;

(c) A provision should be added to domestic legislation explicitly stating that victims of physical and mental torture must be paid compensation by the State and by the perpetrators of the torture, in addition to any blood money (*diyah*) and indemnities for bodily injury (*arsh*) that may be due to them;

(d) Tougher disciplinary sanctions should be imposed on any public servant who exploits his or her position or authority to carry out or have others carry out acts of torture, and a maximum penalty of termination of employment should be included in these sanctions.

76. The Ministry of Human Rights carried out a programme of visits to judicial institutions, security offices, public prosecutor's offices, central prisons and detention centres in the governorates of Hajjah, Hudaidah, Ta'izz, Hadramawt and Sana'a City, where the team met with security chiefs, court judges, investigating judges, criminal investigation officials and police station chiefs. Interviews were conducted with detainees to verify their legal and health status and identify possible cases of torture. All the interviews were transcribed onto forms specially prepared for the purpose (see Yemen's second periodic report on the Convention against Torture (CAT/C/YEM/2)).

77. The following table shows the torture cases that were reported to the Ministry of Human Rights and the action taken in 2007 and 2008.

Table 10

#### Cases of torture reported to the Ministry of Human Rights and action taken

<i>Item</i>	<i>Authority taking the action</i>	<i>Subject</i>	<i>Action taken</i>	<i>Year</i>
1.	Department of Public Prosecutions	Torture	Referred to the prosecutor's office at the Sana'a City appeal court for investigation	2007

<i>Item</i>	<i>Authority taking the action</i>	<i>Subject</i>	<i>Action taken</i>	<i>Year</i>
		A killing by local assembly soldiers	Referred to the prosecutor's office at the Sana`a City appeal court for investigation	
		Torture at the criminal investigation department of Amran governorate	Referred to the prosecutor's office at the governorate's appeal court for investigation	
2.	Ministry of the Interior	Complaints from inmates of Habrah Prison about inhuman treatment	Referred to the Sana`a City security director, and field visit carried out by the Ministry of Human Rights	2008
		Torture at Rada` Prison	Referred to the Baida` security director for investigation	
		Police cover-up of a battery case	Referred to the Sana`a security director for investigation	2007
		Revenge attack by the police	Referred to the Sana`a City security director for investigation	
		Physical torture, attempted rape and stripping at Siyah police station	Referred to the Sana`a City security director for investigation	
		Torture at the Amran governorate criminal investigation department	Referred to the Amran security director for investigation	
		Complaints from chiefs of the Bani Hasan and Bani Matyan tribes about torture and unlawful detention	Referred to the Hadramawt security director	
		Torture at the Sana`a City investigations department	Referred to the Sana`a City security director	

### **Harmful traditional practices**

78. Female genital mutilation is a custom practised in several governorates. The inhabitants of these governorates consider it an important part of their lives, because of its religious and cultural associations.

79. Traditional practices such as female genital mutilation do great harm to girls' physical and psychological health. Indeed, at the International Conference on Population



and Development held in Cairo in 1994, female genital mutilation was recognized as being prejudicial to women's health and reproductive rights.

80. Studies show that the problem is quite widespread in a number of governorates, including Hudaidah, Aden, Ta`izz, Hadramawt, Mahrah, Ibb and Sa`dah. Yemen has taken various measures to deal with female genital mutilation, including through a Ministry of Health decision which prohibits the performance of the procedure in clinics, health centres and hospitals.

81. In 2008, the Supreme Council for Motherhood and Childhood, in cooperation with relevant organizations and with the support of UNICEF, developed a national plan for the elimination of the practice of female genital mutilation. The plan was designed drawing on national and international expertise, and various social groups and sectors from target areas were involved, including imams, mosque preachers and spiritual counsellors.

82. Articles prohibiting female genital mutilation were added to the draft text amending the Children's Rights Act and scientific studies on female genital mutilation, its consequences and ways of combating the practice were conducted.

83. A large number of seminars and training and awareness-raising courses highlighting the problem and the damage which these practices do have been organized by the Supreme Council for Motherhood and Childhood, the Women's National Committee, the Ministry of Health and the Yemeni Women's Union.

84. The Supreme Council for Motherhood and Childhood, the Women's National Committee, and the Yemeni Women's Union worked with non-governmental associations to carry out awareness campaigns in the governorates of Aden, Hudaidah, Hadramawt, Mahrah and Sana`a City. The Women's National Committee visited the governorate of Sa`dah (the districts of Haydan and Saqin), and the awareness campaigns met with some response.

## Article 8

### Paragraph 1: Child trafficking

85. With regard to the Committee's recommendation, in paragraph 17 of the concluding observations, concerning child trafficking,<sup>3</sup> the problem of child smuggling in Yemen, in terms of the motives, aims and means used, is very different from the problem in Western States, the Americas and the Far East. The circumstances and the factors at play are entirely different from the situation that is known to obtain in certain countries which are notorious for child trafficking. A review and an analysis of the reports issued by the Harad Reception Centre, together with the findings of a study conducted in 2004, suggest that approximately 90 per cent of child smuggling cases in Yemen involve the exploitation of children in goods smuggling operations. The other 10 per cent of cases involve children being exploited as beggars in the Kingdom of Saudi Arabia. A child may be exposed to various adverse psychosocial effects and risks during the outward and return journey, while staying in the border areas of neighbouring States or upon return to the home region. The Yemeni Government takes the view that this phenomenon is largely a matter of irregular migration by children and is not child trafficking.

<sup>3</sup> CCPR/CO/84/YEM, para. 17: "The Committee is concerned about reports of trafficking of children out of Yemen and of women coming to or through the country, as well as the practice of expelling trafficked persons from the country without appropriate arrangements for their care. The State party should increase its efforts to combat such practices ... More detailed information ... should be included in the next periodic report."

86. The reports produced by the Harad Reception Centre show that, between May 2005, when the Centre began operating, and August 2006, a total of 862 children, all of them boys, were taken in by the Centre after being returned to Yemen by the Saudi Arabian authorities. In 2007, the Centre received a total of 622 children, also all boys. This figure is a measure of public awareness of how serious this issue is and what problems a child may face in connection with smuggling. The Government has made numerous efforts to combat this phenomenon, as described below.

### **1. Plans and strategies**

87. The National Strategy for Children and Young Persons 2006–2015 was adopted in August 2007. A plan for the implementation of the strategy was adopted in October 2007. The plan focuses on Millennium Development Goal No. 3 and the Convention on the Rights of the Child and takes 12 thematic areas as priorities for children and young persons. A component on protecting deprived children is included in one of these areas and entails the following measures:

(a) Creating a database that will help to promote understanding of the situation of deprived children;

(b) Developing shared concepts and promoting joint action (government institutions and civil society organizations) in order to help deprived children;

(c) Introducing social welfare measures;

(d) Strengthening judicial reform and improving laws on young persons by, for example, raising the age of criminal responsibility and establishing provisions on diversionary measures;

(e) Endeavouring to eliminate violence against children by monitoring and documenting cases and rehabilitating and reintegrating victims.

88. A national plan to combat child trafficking was drawn up and approved by the Supreme Council for Motherhood and Childhood at an annual meeting held on 23 August 2008 under the chairmanship of the Prime Minister. The plan regulates all the activities which all governmental and non-governmental organizations are required to carry out in implementing programmes to protect children from being exploited in smuggling. The plan envisages a number of interventions, focusing on:

(a) The development of legislation and laws;

(b) Strengthened coordination, cooperation and partnerships;

(c) The development of initiatives and programmes to prevent the spread of this phenomenon;

(d) Protection measures;

(e) Training, capacity-building and the acquisition of know-how;

(f) Awareness-raising and the dissemination of information.

### **2. Development of legislation**

89. Amendments to bring the laws on children's rights into line with the Convention on the Rights of the Child and other international standards were drafted. In addition, amendments were introduced in order to establish provisions explicitly criminalizing and punishing child smuggling, the exploitation of children in begging and the sexual exploitation of children. A new section (section 4) was added to the Code of Offences and

Penalties under the title “Child exploitation offences”. The section consists of three subsections, one of which refers to child smuggling.

- Article 262: A term of up to 5 years’ imprisonment shall be imposed on any natural or legal person that transfers a child under the age of 18 to another State for the purpose of the illegal exploitation of that child. The penalty shall be a term of up to 7 years’ imprisonment if the perpetrator uses deception or force. A term of from 3 to 10 years’ imprisonment shall be imposed if the transfer was accompanied by a sexual assault or by an act causing bodily harm. This shall be without prejudice to the infliction of the fixed penalty under Islamic law or the penalties of retaliation or payment of blood money or an indemnity for bodily injury, as the case may be.
- Article 262 bis 1: A penalty of up to 5 years’ imprisonment shall be imposed on a parent who knowingly hands over a child below the age of 18 to another person in order to have the child taken across the national border to another State. The penalty shall be doubled in the event of a repeat offence or if the child who is handed over is a girl or is below the age of 10. This provision shall apply likewise to legal guardians and testamentary tutors.
- Article 262 bis 2: A term of up to 3 years’ imprisonment shall be imposed on any person who participates in the preparation, facilitation, commission or instigation of any of the offences listed in the two preceding articles of this section. The penalty shall be a term of up to 5 years’ imprisonment, if the accessory to, or instigator of, the offence is a public official abusing his or her office or a person responsible for the child’s education or supervision.
- Article 262 bis 3: In accordance with the provisions of this Code on participation in an offence, the person effecting the transfer, the person receiving the child and the accessory to, and instigator of, the offence shall be deemed as participants in any offence which is committed against a child or which occurs during transfer or in the country of destination.

90. It is worth noting that the Republic of Yemen acceded to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography by Act No. 20 of 2004. The ratification Act was published in issue No. 16 of the Official Gazette in 2004. Yemen submitted its initial report on the implementation of the Optional Protocol to the Committee on the Rights of the Child in January 2008.

### **3. Strengthened coordination and partnerships**

91. A technical committee representing the relevant ministries was formed to deal with child smuggling. The committee reports directly to the competent ministers and meets every month. Its work is overseen by the Supreme Council for Motherhood and Childhood. A number of consultative meetings have been held with the Saudi side. The first meeting took place in Riyadh in June 2006, the second in Sana`a in July 2006 and the third in October 2007 in Riyadh.

### **4. Studies**

92. A field study on child smuggling, entitled “Study on the situation in the governorates of Hajjah and Mahwit”, was carried out in 2004. Two rounds of discussions on the findings of the study were held with all governmental and civil organizations, relevant international organizations and the Government, private and foreign media. A feasibility study on social reintegration programmes was conducted from 2005 to 2006. An evaluative study on the problem of child smuggling is due to be carried out in 2009.

## 5. The media and awareness-raising

93. This area covers a range of awareness activities and programmes, which are carried out by government agencies and partner civil society organizations, as described below:

(a) Discussions and media events have been organized in the broadcast and print media to raise awareness of the problem, the dangers involved and ways to prevent it. Radio programmes and messages are continuously aired on Hajjah and Fadliyah Radio and on Radio Sana`a, and a number of articles and media reports on the problem have been published;

(b) A documentary film on the problem of child smuggling was produced for use in awareness-raising in schools, among families and in target communities;

(c) Consultations were held with the Department of Civil Status and Civil Registration on mechanisms for improving and developing the birth registration system. This will help to curb the practice of forging children's and smugglers' identity documents;

(d) The Department of Moral Guidance at the Ministry of the Interior has run awareness campaigns for police officers on child smuggling. These campaigns have helped to sensitize police officers to the methods used, the factors at play and the forms that child smuggling takes, making for improved controls and more success in intercepting child smugglers;

(e) An animated film was produced on the impact and dangers of child smuggling;

(f) Awareness campaigns have been carried out locally in targeted regions and districts;

(g) Children are involved in campaigns to raise awareness of this problem in certain districts;

(h) An awareness workshop for children was held to discuss child smuggling and to design a wall poster including children's drawings;

(i) Efforts are coordinated with the House of Representatives to help curb the problem and to mobilize parliamentary support for the fight against child smuggling;

(j) A publication containing children's drawings, which uses the slogan "No violence and no smuggling", was produced.

## 6. Development and improvement of security and judicial measures

94. The Ministry of the Interior and its security posts in urban and border areas have stepped up controls and surveillance and have managed to intercept would-be child smugglers before they reach the border. A total of 368 persons were caught in the first half of 2007, and cases of children who were returned to airports and border crossings were recorded and documented.

95. The competent agencies have tightened up the procedures for including children in adults' passports, particularly children who come from areas known for child smuggling.

96. Branches of the Ministry of the Interior have referred a number of persons accused of child smuggling to the Department of Public Prosecutions and the courts. A total of 94 such persons were referred in 2004, as compared to 154 in 2006 and 6 in 2007.

97. Child smuggling cases are treated by the Department of Public Prosecutions and the courts as urgent matters, and a number of convictions have been handed down to child smugglers (terms of imprisonment ranging from 6 months to 3 years). In 2005, 22 individuals were convicted of child smuggling.

## 7. Protection, psychological rehabilitation and reintegration of child victims of smuggling

98. Social protection centres for children have been established in the regions of Harad and in Sana`a City. These centres offer assistance, psychosocial support and reintegration assistance to child victims of smuggling who are sent back from the Kingdom of Saudi Arabia overland (through Harad) or by air (Sana`a Airport) or who are intercepted by the security services during smuggling operations. The following table shows the numbers of children received by the Harad Centre.

Table 11  
Number of children received by the Harad Centre

<i>Years</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>
No. of children expelled	386	457	622
No. of children intercepted while being smuggled	6	18	69

99. The Sana`a and Harad centres provide rehabilitation services to child victims. In 2008, the Harad Centre received 500 children and the Sana`a Centre received 83 children, of whom 60 were placed with families, 12 were offered vocational training, 4 absconded and 6 are still at the Centre. The children were provided with assistance and returned to their families after guarantees have been given that the children would be cared for and protected from exploitation. Children without families were placed in orphanages in their governorate of origin. Commitments to keep the children in a safe environment were honoured through aftercare programmes for child victims.

100. Under the Access-MENA project, children have been given assistance to enable them to integrate into schools and to stop them from dropping out of education. School uniforms and school bags were issued to 4,101 students and cultural leisure centres for young people, offering programmes and activities designed to attract children to education and help them to complete their schooling, were set up at the schools concerned. Psychological assistance and advice was dispensed in order to protect children from smuggling, and targeted schools were renovated and supplied with their own electricity generators. A youth cultural centre was established in the Aflah al-Sham district, with funding from UNICEF. Teams were formed to offer protection and to create a safe environment for children in that particular district, as it is here that most child smuggling cases occur.

101. The running of the Harad Reception Centre was entrusted to a non-governmental organization, thus boosting the active participation of prominent civil society organizations in child protection programmes. In addition, a child protection team was established at the subdistrict level in the Aflah al-Sham district, in the governorate of Hajjah, as an experiment that could be extended to other districts if it proves successful. A sports and leisure centre for children was established in the district and supplied with equipment and facilities, as a contribution to awareness-raising for young people in the area and to dissuading children from leaving the district.

## 8. Training and capacity-building

102. Several training programmes for specialists have been run on combating child smuggling. UNICEF supported a training programme run by the International Organization for Migration (IOM) for staff of a centre which offers protection to smuggled children. The training, which was provided to managers of the centre and social workers from social welfare centres and safe childhood centres, focused on the following subjects: protection and psychological recovery; social reintegration; employment procedures in centres and

institutions established to protect smuggled children; and developing skills in identifying child victims of smuggling. A total of 120 individuals received training, with support from UNICEF and IOM.

103. More than one training course on dealing with child smuggling has been run for members of the police who work at entry and exit points. Under the Access-MENA project, training courses were run for head teachers and social workers in eight schools in the governorate of Hajjah, which had been targeted under a programme to combat child trafficking in five districts. Training on child-centred methodologies was provided to 15 trainers who work in the target areas. These trainers in turn trained 189 teachers in selected schools.

#### **Paragraph 2: Forced labour**

104. Article 12 of the Prisons Regulation Act states: “The prison administration shall organize prison work in conditions which approximate work conditions outside the prison, in terms of the type of work, the means by which it is performed and the tools and equipment used.” Article 13 stipulates that work must be part of the execution of the penalty but not part of the penalty itself. The work should be regarded as necessary in order to preserve the welfare of the prisoner and serve the interests of society. Article 14 states that work should occupy not less than four and not more than six hours a day. Prisoners may not be set to work on official and weekly holidays. Article 15 states that it is forbidden to set prisoners who are remanded in custody to work.

105. Article 17 states that the purpose of prison work must be to rehabilitate prisoners and provide them with vocational training in order to assist with their social reintegration and to turn them into upstanding citizens. Article 18 provides that industrial safety measures must be put in place in prison workplaces in accordance with the practice in effect in workplaces outside prison.

106. Article 19 states that prisoners are entitled to be paid for the work that they do and to receive compensation for occupational injuries in accordance with the Labour Code. Pay and rewards are determined by the Minister, in coordination with the Minister for the Civil Service and the Minister for Labour and Vocational Training.

### **Article 9**

#### **A. Legislative measures**

##### **Paragraph 1: Right to freedom and security**

107. In addition to the explanation provided in the previous report, we should like to state that the domestic laws include several safeguards and procedures which law enforcement officials are expected to apply in order to guarantee this right. Article 53, paragraph 8, of the Judicial Authority Act states: “The Department of Public Prosecutions shall oversee and inspect detention centres, prisons and juvenile reformatories in order to verify the lawfulness of inmates’ imprisonment and detention.”

108. Article 11 of the Code of Criminal Procedures No. 13 of 1994 states: “Personal freedom is guaranteed. No citizen may be charged with an offence or deprived of his liberty except by order of the competent authorities and in accordance with the present Code.” Article 13 provides: “Anyone who has information about a person who has been arrested and imprisoned without legal justification or in a place not designated for the purpose shall bring the matter to the attention of a member of the Department of Public Prosecutions. The member of the Department of Public Prosecutions shall go immediately to the location and release the person being held illegally. If he finds evidence that the imprisonment is lawful,

he shall transfer the person without delay to a penal institution and in all events shall write a report on the action taken.”

109. Article 72 of the Code states: “The arrest warrant shall be a written document signed by the issuing authority. It may be a verbal warrant, provided that it is served in the presence of the person who ordered its issuance. In all other cases, the person making the arrest shall bear responsibility for the arrest.” Article 106 states: “The officer in charge of the police station shall register all cases of arrest and enforcement which are handled by the station in a special logbook containing details of the name and rank of the person who carried out the arrest or enforcement measure, the means used, the date, time and grounds for the arrest, and when the measure ended. A copy of the record of all arrest and enforcement entries and related information shall be made each day and forwarded to the Department of Public Prosecutions without delay.”

110. Forceful entry into a home in order to search for a wanted person when serving an arrest warrant is only permitted under the circumstances listed in article 173, namely:

- (a) Authorization has been given by the Department of Public Prosecutions or a court;
- (b) The wanted person committed a crime witnessed by a third party;
- (c) The wanted person is accused of a serious offence, for which he or she has not yet been arrested, and it is feared that the person will escape, or the person is a fugitive from justice;
- (d) The wanted person refuses to surrender to the authority serving the warrant or resists arrest;
- (e) The law or arrest warrant clearly states that the person is to be arrested wherever he or she may be found.

111. As stated in article 174 of the Code, a court or an investigating officer may arrest or summon any person to appear, if there is strong enough evidence to charge that person with an offence. According to article 175: “If the accused person fails to appear for no good reason after having been summoned to do so, or if it is feared that he may flee, or if he has no known address, or there are witnesses to the crime, the investigator may issue a warrant for that person’s arrest, even if the offence is not one for which a person may be remanded in custody.”

112. Article 192 of the Code states: “All Department of Public Prosecutions officials shall visit the prisons in the area subject to their jurisdiction and ensure that no prisoners are being held there illegally. They may also consult and make copies of prison logbooks, arrest warrants and detention orders, talk to any prisoner and listen to any complaints that prisoners may wish to make. The governors of these institutions shall render all necessary assistance and provide these officials with whatever information they request.”

113. Similarly, article 8 of the Department of Prisons Regulation Act states that no person may be imprisoned or admitted to prison without a warrant for the execution of a court judgement which has been duly signed by the competent judge or without a detention order which is written on the proper form and has been signed by the legally competent public prosecutor’s office and sealed with an official seal bearing the State insignia of the authority concerned. Article 10 provides that only persons sentenced to imprisonment pursuant to a valid court judgement may be admitted to prison. The only exception allowed is where persons accused of a particularly serious crime are placed in pretrial detention on a warrant issued by the Department of Public Prosecutions during an investigation or by a competent court during trial. Article 4 of the implementing regulation for the Prisons Regulation Act requires prison governors to verify that judgements, orders or decisions on

imprisonment or release have been issued by the legally competent authority and have been drawn up in accordance with the formal requirements stipulated in law.

114. As explained in the previous report, the Code of Offences and Penalties affords many forms of protection to safeguard citizens' rights. The Code contains clear and explicit provisions prohibiting assaults on persons and prescribing punishments for public officials who abuse their powers to infringe the rights and freedoms of others (arts. 166–169 and 246). Article 247 of the Code provides: "A penalty of up to 3 years' imprisonment or a fine shall be imposed on any person who fits out, lends, leases or provides premises for use as an illegal place of imprisonment or detention, without that person participating in the arrest, imprisonment or detention."

115. Article 41 of the Department of Prisons Regulation Act states: "A penalty of not less than 5 years' imprisonment and/or a fine of not less than 10,000 rials shall be imposed on anyone who admits a person to a prison without a written order from the competent court or the Department of Public Prosecutions."

116. The Code of Criminal Procedure contains several articles on the measures to be taken to deal with wrongful acts committed by law officers. Article 85 stipulates that law officers operate under the authority and supervision of the Public Prosecutor. The Public Prosecutor may ask the competent authority to investigate any case where a person commits a breach of duty or an act of omission. He may ask for disciplinary proceedings to be brought. This is all without prejudice to the institution of criminal proceedings.

117. According to article 86 of the Code, if the Public Prosecutor deems a law officer to have committed a grave breach or to have been given too lenient a punishment, or if the administrative authority concerned fails to respond to a request to investigate the law officer, the matter may be referred to an appeal court for a decision on whether to divest the officer of his functions. This is all without prejudice to the institution of criminal proceedings. The court, acting on its own motion or at the request of its president, may decide to take up a case of which it is seized and may divest a law officer of his functions under the conditions laid down in article 85 of the Code.

118. Article 87 of the Code states that a court of appeal must carry out a preliminary investigation into cases laid before it under article 86. It must listen to the statements of the representative of the Public Prosecutor and of the law officer against whom the complaint has been brought. The law officer must be notified in advance of the allegations of breach of duty which feature in the complaint. The officer may be represented by a lawyer. All these procedures must be conducted in the courtroom.

119. With regard to the revocation of a law officer's functions, article 88 of the Code of Criminal Procedure states that, without prejudice to any disciplinary sanctions which have been imposed on a law officer or which may be imposed by superiors in the administration, governorate-level courts of appeal may issue officers with a warning or may order that they be divested of their functions, on a temporary or permanent basis, either in their area of jurisdiction or throughout the Republic of Yemen. Article 89 stipulates that a law officer who is divested of his full functions shall face automatic dismissal. Where the measure applies only in a particular jurisdiction, the officer shall be transferred from that jurisdiction. Under article 90, the authorities in the jurisdiction of the court of appeal and the Public Prosecutor must be informed of court rulings which find against a law officer.

#### **Paragraph 2: Informing the accused of the reasons for his arrest**

120. The legal position regarding this paragraph was explained in the previous report.



**Paragraph 3: Procedures and guarantees in connection with pretrial detention**

121. In addition to the information provided in the previous reports submitted to the Committee, reference is made to article 105 of the Code of Criminal Procedures, which states: “In the situations mentioned above, the law officer shall immediately take the arrested person’s statement and within 24 hours shall forward it, together with his own report on the events, to the Department of Public Prosecutions. The Department of Public Prosecutions shall take action on the matter within 24 hours of receiving the statement and the report. Otherwise, the person shall be released forthwith.” Article 196 of the Code states that warrants for detention and orders for release issued during investigations and trials must be executed by the Department of Public Prosecutions.

122. Article 184 of the Code states: “An accused person may only be placed in pretrial detention after being questioned in accordance with the law or after having absconded, where the detention is deemed to be in the interests of the investigation or necessary to prevent the person from absconding, or where it is feared that the person may interfere with the investigation. This is all subject to fulfilment of the following conditions:

“(a) There is sufficient evidence to bring charges;

“(b) The offence is punishable by more than 6 months’ imprisonment, or the accused has no known address in the Republic and the offence is punishable by imprisonment;

“(c) The accused is over 15 years of age;

“(d) The identity of the accused has not been established.

“An accused person who previously absconded and for whom a custody order was issued shall be questioned within 24 hours of being arrested.”

123. Article 185 of the Code states: “Pretrial detention shall not be used with respect to media offences, except where they involve obscenity or encouragement of depravity.”

124. Article 186 of the Code provides that a detention order issued by the Department of Public Prosecutions must be in written form and bear the signature of the competent member of the Department and the official insignia of the Republic. The order must contain numerous pieces of information, including the three parts of the prisoner’s name, his address and the case number, a description of the offence, the name and rank of the issuer of the order, the term of pretrial detention and the date on which the accused was referred for a decision to the authority ordering the detention.

125. Article 9 (3) of the Covenant states: “It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.” In keeping with these provisions, article 194 of the Code of Criminal Procedures states: “The Department of Public Prosecutions, acting on its own motion or at the request of a person being held in pretrial detention, may order the release of that person at any time, on or without bail, provided that the person undertakes to present himself whenever requested to do so and not to refuse to comply with any judgement that may be handed down against him.” Article 195 of the Code states: “A person accused of a non-serious offence shall be released after the seven-day period, to which reference is made in article 189, has elapsed since the date of his interrogation, provided that the person has a fixed address in Yemen and the maximum penalty for the offence is 1 year’s imprisonment. This article shall not apply to persons who have previously served terms of more than 1 year in prison or who are repeat offenders.”

126. Article 205 of the Code furthermore states: “When the accused is referred for trial, his release if in prison or imprisonment if on release shall be decided by the court to which

the person is referred by the Department of Public Prosecutions. The court shall not have the power to extend the detention period for more than half the maximum prescribed term. If the court is ruled incompetent to hear the case, it shall be the court which pronounced judgement in chambers that shall have competence to hear the request for imprisonment or release pending action by the Department of Public Prosecutions in the criminal proceedings.”

127. The Code specifies the measures that the Department of Public Prosecutions is required to take upon concluding an investigation. Article 218 provides: “If, upon concluding an investigation, the Department of Public Prosecutions finds that the act is not legally punishable or has not been proven, it may issue a reasoned decision ruling out any future criminal proceedings. If the perpetrator of an offence is not identified or the evidence against the accused is too weak, it shall issue a reasoned decision stating that no criminal proceedings are to be taken for the time being. The accused in detention shall be released, unless he was detained on any other ground. The decision of the Department of Public Prosecutions shall be communicated to the parties in both situations. If one of the parties dies, the communication shall be delivered to the heirs, collectively, at the party’s place of residence.” Article 221 of the Code states: “If, upon investigation, the Department of Public Prosecutions finds that a criminal offence has been committed and there is strong evidence against a suspect, it shall bring a criminal prosecution before the competent court.” Article 472 of the Code provides: “An accused person in detention shall be released, if he is acquitted, discharged or found not to be liable for the offence, or if a sentence cannot be imposed or does not involve deprivation of liberty, or if a suspended sentence is handed down, or if the person has already spent the term imposed in the sentence in pretrial detention.”

128. Article 11 of the Department of Prisons Regulation Act states: “Having due regard to the provisions of the Code of Criminal Procedures on the release of prisoners, the Department of Prisons shall take the following measures: (a) release prisoners on the morning of the day when the prison term specified in the sentence expires; (b) release detainees on remand when the period of remand specified in a written order issued by the authority which ordered the detention expires.”

**Paragraph 4: Right of anyone who is deprived of his liberty by arrest or detention to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful**

129. Under the Constitution and the laws in force every person who is deprived of his liberty by arrest or detention is entitled to take proceedings before the Department of Public Prosecutions and the various State agencies in order to obtain a ruling on the lawfulness of his detention and an order for release if the detention is not lawful. According to article 49 of the Constitution: “The right to defend oneself in person or through counsel is guaranteed at all stages of investigations and proceedings and before all courts, in accordance with the law.”

130. Under article 225 of the Code of Criminal Procedures, an accused person may challenge a pretrial detention order, and all parties may mount a challenge on questions of jurisdiction. A challenge will not interrupt an investigation and a finding of lack of jurisdiction will not invalidate the investigation process. Article 226 stipulates that the Department of Public Prosecutions alone may challenge an order to release an accused from pretrial detention.

131. With a view to affording pretrial detainees the opportunity to challenge detention orders, a provision was established in article 4 of the Prisons Department Regulation Act requiring prison governors to take receipt of all judicial documents on prisoners and to give them to the prisoners as soon as they receive them. Governors are also required to receive

prisoners' petitions and any other requests addressed to the courts or the Department of Public Prosecutions, logging them in the proper logbook and transmitting them without delay to the relevant authorities.

132. Article 204 of the Code of Criminal Procedures states: "When a release become effective, a member of the Department of Public Prosecutions shall issue the release order to the governor of the penal institution where the accused is being held and he or the person acting in his stead shall release the accused without delay, unless the accused is being held on another ground, in which case a note to that effect shall be made in the file."

#### **Paragraph 5: Right to compensation**

133. In previous reports reference is made to the right of the accused to compensation for any arbitrary treatment. In addition, article 63 of the Code of Criminal Procedures states: "The accused may claim damages before a court for harm caused by civil proceedings, if there is a case to answer."

134. Article 47 of the Civil Code states: "Any person whose civil rights are infringed shall be entitled to ask for a cessation of the infringement and compensation for the damage suffered." Article 304 provides: "A person responsible for any unlawful act or omission which harms another person, whether it be intentional, quasi intentional or accidental, shall compensate the injured party for the harm done. This shall be without prejudice to the penalties prescribed for offences under the laws in force."

135. Article 144 of the Code of Pleadings states: "Civil proceedings against judges and members of the Department of Public Prosecutions may be brought by filing a claim for damages. The claim shall be lodged and considered in accordance with the procedures specified in this section."

136. Article 153 (3) of the Code states: "If the adjudicating body upholds the complaint, it shall award the plaintiff appropriate damages and legal costs, overturn the contested judgement and any related judicial measure, order the suspension of the judge or the member of the Department of Public Prosecutions and refer that person to the Supreme Council of the Judiciary for the imposition of whatever penalty that the latter may deem appropriate. It shall likewise order the return of the surety." It is clearly stated in article 199 of the Code that a defendant may seek damages for any injury arising from the filing of a suit or a procedure in a suit.

#### **B. Executive measures (progress achieved)**

137. We shall outline below a raft of measures which have been taken by the competent authorities to enforce domestic laws. One notable example is the Ministry of Human Rights initiative providing for a comprehensive review of domestic legislation and the functioning of the Yemeni criminal justice system. Details of the initiative are found in the section of this report which deals with article 2 of the Covenant.

#### **Training programmes**

138. The competent Government authorities and civil society organizations have organized numerous training programmes for law enforcement personnel who are members of the criminal investigation service. In 2008, for example, over 615 internal and external training courses were held for the police and attended by a total of 30,504 officers and other members of the police force, including 530 women. Moreover, a security research and studies centre was established.

**Public services**

139. In order to create confidence and cooperation between the police and citizens and modernize security services to match the needs of the public, two field surveys were carried out, the first involving a sample of 6,000 citizens who were asked for their opinion about the police and the services which they receive. In the second survey, more than 640 members of police units working in administration and in the field were asked for their views about their work, their job satisfaction levels and the quality of the services that they provide to the public. The results of the field surveys were discussed at an annual meeting attended by 19 senior Ministry of the Interior officials, and a plan of action will be implemented in 2009.

**Inspections of custody and detention facilities**

140. In 2006, 4,214 inspections of detention facilities and prisons were conducted by public prosecutor's offices at courts of appeal and courts of first instance.

**Accountability in practice**

141. In 2006, the Office of the Public Prosecutor followed up on allegations concerning violations of the human right to security and life. Twenty-two cases were referred to the judicial authorities. In other cases, disciplinary tribunals in the institutions concerned issued legal decisions on the allegations.

142. In 2007, the Office of the Public Prosecutor followed up on 29 cases in which law enforcement officials had been accused of infringing the right to security and the right to life.

143. Fourteen individuals were referred to the courts and disciplinary tribunals. Seven policemen were dismissed and seven police officers and others were referred to the Department of Public Prosecutions.

**Actual cases**

144. An example may be provided of legal action taken in a case involving a police officer. On 30 May, the criminal division of the Ta'izz West Court decided to refer a Ta'izz police station chief (A.A) to the Department of Public Prosecutions for questioning in connection with a charge of infringing the rights and freedoms of the victim (M.A.S.), by depriving him of his liberty and insulting and threatening him. The court had accepted the petition filed by the victim.

**Awareness-raising**

145. A website was created for the Department of Public Prosecutions on 16 August 2006. The website contains collections of Yemeni legislation, including the Constitution and a full set of laws and implementing regulations, which the Department has compiled and had printed in booklet form. The site also contains a search engine with a word search function that visitors can use to look for the articles of legal texts. The article number, title of the law and the volume in which the law is found is also included, together with a collection of bilateral, regional and international treaties and books and circulars issued by the Office of the Public Prosecutor. Annual reports on the work of the Department, beginning with report No. 1, are also found there. Visitors can use the site to send in complaints and communications, to which replies are sent by e-mail. An overview of the departments and administrative divisions of the Office of the Public Prosecutor is provided, together with a description of their functions.

### Countering terrorism

146. With reference to paragraph 13 of the Committee's concluding observations,<sup>4</sup> Yemen has been the victim of terrorist acts which targeted the country's security and stability and struck at its vital economic and social infrastructure. Since Yemen has been subjected to many terrorist acts, the security services have put security precautions and measures in place to eradicate and combat terrorism and cut off sources of terrorism funding.

147. A unique experiment in countering terrorism was launched pursuant to instructions from the President of the Republic. In this experiment, discussions are held with prisoners who hold mistaken ideas [about Islam]. Those who repent and renounce these ideas are released. The discussions series began in 2002, the first round involving 104 persons, the second 120 and the third 22. Those who repent and have not committed criminal offences or legally punishable acts are released. Thirty-six individuals were released during the initial stage and 92 others were released in the second stage. A total of 118 persons were detained in terrorism cases and 128 individuals were released.

148. With regard to the official data on persons detained between 2000 and 2009, a total of 979 individuals were detained, and 258 were referred to the courts on charges of establishing an armed gang for the purpose of committing crimes. These persons were sentenced to prison terms ranging from 2 to 25 years. Some 829 individuals were released and 150 are either still serving their sentence or their case is still being heard.

149. Work is being done at present to complete the amendments to the Counter-Terrorism Act currently before the House of Representatives.

### Government efforts to assist inmates at Guantanamo

150. Yemen is committed to securing the release and handover of Yemeni nationals being held at the Guantanamo Bay prison or any other secret prison. It refuses to accept any handover arrangement which imposes conditions that breach the law and the Yemeni Constitution. Yemen cannot imprison its own citizens, unless they have been convicted by a court of a crime. The Government will have no choice but to act in accordance with the Constitution and Yemeni law and release those found to be implicated in offences. The fate of many inmates remains unknown; these persons are the victims of bureaucracy and the shortcomings associated with the peculiar legal status which the Guantanamo Bay prison has had since it opened in 2002. These persons have been subjected to torture, appalling rights violations and inhuman treatment, in addition to the psychological distress caused by complete isolation. Some of them are on hunger strike and are being force-fed twice a day in what amounts to a particularly cruel form of torture. Most of these inmates are Yemeni nationals. There are around a hundred inmates at the prison. According to figures produced by an American organization, there used to be 113 Yemeni inmates at the prison. Twelve were subsequently released and 1 died. The United States authorities said at the time that the deceased had committed suicide. No investigation was conducted.

151. Yemen has taken various steps to assist the inmates, including the following:

1. Three security panels were sent to the Guantanamo Bay camp in Cuba to meet with the American side, discuss issues and meet inmates in order to:

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<sup>4</sup> CCPR/CO/84/YEM, para. 13: "The State party should ensure that the utmost consideration is given to the principle of proportionality in all its responses to terrorist threats and activities ... The Committee wishes to receive information on the findings and recommendations."

(a) Identify any non-Yemenis present; during the meetings, some individuals were identified as non-Yemenis and the matter was brought to the attention of the American side;

(b) Notify the families in Yemen of the whereabouts of the persons concerned and take messages back to the families in Yemen; the messages were delivered.

2. The American side handed over a group of Guantanamo inmates. The procedures established by Yemeni law were followed and these persons were released. They are now living with their families in Yemen.

3. The State closely and continuously follows up with the American side on the Guantanamo inmates with a view to having them returned to Yemen and to dealing with their cases in accordance with Yemeni law.

## **Article 10**

### **Inhumane treatment of prisoners**

#### **Paragraph 1**

152. In addition to the details provided in the previous report concerning the principles and provisions guaranteeing prisoners humane and decent treatment, article 42 of the Code of Criminal Procedures states: “(a) The Department of Public Prosecutions and the courts shall ensure the proper execution of prison sentences and take measures to prevent and eliminate any violations committed by prison departments, prisoners or any other party; “(b) The Prisons Department shall execute the decisions and instructions of the Department of Public Prosecutions and the courts concerning the enforcement of prison sentences.”

#### **Paragraph 2 (a): Categorization of prisoners**

153. An article of the implementing regulation for the Department of Prisons Regulation Act states: “To the extent that prison resources allow, except as otherwise ordered by the Chief of the Department, prisoners shall be housed in prison wards and cells in accordance with the following rules:

“(a) Convicted prisoners with a criminal record shall not be lodged with other prisoners; the same shall apply to pretrial detainees;

“(b) To the extent possible, prisoners who are homosexual or pose a threat to prison security shall be placed in appropriate cells. Those known to be homosexuals shall be placed in isolation wards under constant supervision;

“(c) Prisoners convicted of similar kinds of offences shall be housed together, while those who are dependent on drugs or alcohol shall be separated from others;

“(d) Persons detained on account of a debt and those given a custodial sentence shall be lodged together;

“(e) Having due regard to the foregoing, a separate place shall be set aside to house prisoners during a given period or while they are under medical observation;

“(f) Care shall be taken in general when lodging prisoners of all ages to place those of similar ages together;

“(g) Without prejudice to the foregoing, groups of prisoners with similar social and cultural backgrounds shall be lodged together.”

154. According to article 32 of the Prisons Regulation Act, the area of the prison known as the reception centre must be set aside for interviewing prisoners upon arrival. Prisoners must be categorized as follows:

- (a) Prisoners entering prison for the first time must be separated from those who have previously served time;
- (b) Prisoners who have committed particularly serious offences must be separated from other prisoners;
- (c) Foreign prisoners must be separated from Yemeni prisoners;
- (d) Young persons must be separated from adult prisoners;
- (e) Female prisoners must be separated from male prisoners.

155. Under article 27 of the Act and the relevant regulation, prisoners who are pregnant must be provided with suitable pre-, peri- and post-natal care under medical supervision. The competent authorities are required to provide proper food for women prisoners who are pregnant or are mothers. Under no circumstances may pregnant prisoners and nursing mothers be subjected to the disciplinary sanctions applicable to prisoners under the Act.

156. Article 4 of the implementing regulation for the Prisons Regulation Act requires prison governors to ensure that no person is permitted to enter a women’s prison or living quarters or workplaces at a women’s prison, apart from those who are legally authorized to carry out their official duties there. Admission is only granted in the presence of the prison governor or her deputy.

157. As for children, article 124 of the Children’s Rights Act provides: “(a) A minor below the age of 12 may not be held at a police station or any other security facility but must instead be entrusted to the care of the legal guardian, testamentary tutor or authorized representative or, failing that, placed in the nearest juvenile rehabilitation home for up to 24 hours and then brought to the Department of Public Prosecutions, which shall review his situation in accordance with the Juveniles Act. “(b) When absolutely necessary, minors over the age of 12 may be held for up to 24 hours, in separate quarters from older persons, at any police station.”

158. Article 126 provides: “Social reform homes and institutions shall be organized in keeping with the local community setting and in a manner which:

- “(a) Facilitates communication between residents and their relatives and the wider community;
- “(b) Ensures that technical processes are appropriate and straightforward;
- “(c) Ensures that residents are separated by age group;
- “(d) Takes account of residents’ needs, based on their circumstances, age and personalities, and protects them from physical, moral and psychological harm.”

**Paragraph 2 (b)**

159. Further to the information provided in the previous report, we should add that article 28 of the Prisons Regulation Act provides: “When a child is born to a woman in prison no mention of the circumstances of the birth shall be made in the country’s official records. The infant shall not remain in prison with the mother after reaching the age of 2, but shall be entrusted to the care of the father or a relative, unless a qualified physician decides that the child’s condition precludes it.”

**Paragraph 3: Treatment of prisoners**

160. The legal position on this subject was explained in our previous report. Moreover, according to article 4 of the Prisons Regulation Act: "All prison staff shall assist prisoners and influence them by showing a good example in order to help them reform." Article 5 states: "The purpose of the Department's work is to re-educate prisoners and instil in them a love of work and a law-abiding spirit. Prisoners shall not be subjected to physical or psychological harm while serving time in prison."

161. Article 6 states: "The Department and all its staff shall abide by this Act and the other laws and regulations in force in Yemen." Article 7 provides: "The court judgement in effect shall be the basis for the imposition of a prison sentence and the application of prisoner reform and re-education measures."

**Measures and procedures****Prison reform**

162. Subject to the availability of resources, the Government takes steps to improve prison conditions and comply with established international standards on prison construction, in keeping with its international treaty obligations. Accordingly, and in order to overcome the problems caused by prison overcrowding, the following actions have been taken:

(a) Modern, central prisons have been constructed in the towns and governorates of Amran, Dali`, Mahwit and Makala, and prisoners have been transferred to them;

(b) Work on the construction of modern, central prisons in the towns and governorates of Abyan, Shabwah, Baida' and Siy'un is still being done with a view to moving prisoners from existing prisons and using the latter for pretrial detention;

(c) The central prisons in Hajjah, Sa`dah, Dhamar, Ibb and Ta`izz have been rehabilitated under extension and renovation projects;

(d) Seven remand centres have been built in the governorates of Sana`a City, Hudaidah, Ibb and Ta`izz to reduce overcrowding in central prisons and create an environment conducive to prisoner reform and rehabilitation;

(e) Juvenile centres have been opened up in seven of the main governorates;

(f) The development of an electronic information system in prisons in the governorates of Sana`a City, Ta`izz, Hudaidah, Ibb and Dhamar has been completed, prompting the Department of Prisons to launch the second phase of the project in prisons in the towns and governorates of Hajjah, Sa`dah, Amran, Mahwit, Makala, Hadramawt, Rada`, Baida', Lahij and Dali`. The system should help the Department to systematize research into criminal behaviour and ways of dealing with it.

**Financial aid for prisoners**

163. Every year a number of prisoners whose sentences have expired but who have not been released because of debts are discharged after the Higher Committee for Prisons draws up lists of their names during annual prison visits carried out in the month of Ramadan. The prisoners' debts are paid out of the public purse and from donations from benefactors. A total of 504 persons were released in 2005 under this arrangement.



Table 12

**Legal assistance provided by the State in 2005 to prisoners ordered to pay blood money, indemnities for bodily wounds and private debts, and to indigent prisoners**

<i>Governorate</i>	<i>No. of cases</i>	<i>Amount</i>
Sana`a City North	23	12 740 332
Sana`a City South	25	8 163 564
Sana`a	16	12 670 005

*Source:* Report of the Department of Public Prosecutions, 2005.

Table 13

**Prisoners released, amounts they were ordered to pay and that were paid by a benefactor, 2006**

<i>Governorate</i>	<i>No.</i>	<i>Amount</i>
Sana`a City North	22	4 895 376
Sana`a City South	22	3 687 066
Sana`a	3	1 592 950
Aden	16	4 427 592
Hudaidah	72	17 889 574
Ta`izz	62	26 043 742
Ibb	26	8 270 666
Hadramawt (Makala)	4	1 088 750
Abyan	2	140 000
Dali`	3	950 000
Dhamar	5	4 713 500
Hajjah	4	180 000
Lahij	15	7 836 312
<b>Total</b>	<b>256</b>	<b>81 715 528</b>

*Source:* Report of the Department of Public Prosecutions, 2006.

Table 14

**Number of prisoners released by Ramadan committees**

<i>Governorate</i>	<i>No.</i>
Sana`a City North	211
Sana`a City South	301
Sana`a	30
Aden	23
Hudaidah	47
Ta`izz	12
Ibb	54
Hadramawt (Makala)	16
Hadramawt (Siy'un)	2

<i>Governorate</i>	<i>No.</i>
Dhamar	78
Hajjah	85
Abyan	21
Dali`	65
Sa`dah	11
Amran	23
Baida`	3
Lahij	27
Shabwah	26
Mahwit	8
Ma`rib	1
Mahrah	13
Raymah	3
Special Criminal Court	2
Public finances and property	1
<b>Total</b>	<b>1 063</b>

*Source:* Report of the Department of Public Prosecutions.

Table 15

**Number of prisoners released after serving three quarters of their sentence**

<i>Governorate</i>	<i>No.</i>
Sana`a City North	13
Sana`a City South	8
Sana`a	1
Aden	18
Ta`izz	10
Hadramawt (Makala)	8
Hudaidah	11
Ibb	7
Lahij	3
Hajjah	3
Dali`	2
Dhamar	4
Shabwah	4
Abyan	3
Baida`	3
Sa`dah	5
Amran	3
Mahwit	1

<i>Governorate</i>	<i>No.</i>
Mahrah	1
Sana`a City (public finances and property)	5
<b>Total</b>	<b>113</b>

Table 16  
**Prisoners released, amounts they were ordered to pay and that were paid by the State, 2006**

<i>Governorate</i>	<i>No.</i>	<i>Amount</i>
Sana`a City North	10	5 758 500
Sana`a City South	11	6 916 172
Sana`a	4	2 772 950
Aden	9	3 958 482
Hudaidah	2	203 600
Ta`izz	13	4 254 817
Ibb	10	965 000
Hadramawt (Makala)	3	1 100 000
Hadramawt (Siy'un)	2	1 850 000
Hajjah	4	3 546 000
Abyan	2	415 000
Dali`	5	2 000 000
Sa`dah	1	2 425 966
Baida`	5	179 100
Mahrah	2	97 856
Hudaidah (public finances and property)	1	330 050
Ta`izz (public finances and property)	1	387 380
<b>Total</b>	<b>85</b>	<b>37 160 873</b>

*Source:* Report of the Department of Public Prosecutions, 2006.

164. Direct supervision of health-care provision in prisons is assured by the Ministry of Public Health and Housing, which engages doctors and nurses, ensures that prisoners are transferred to public hospitals whenever necessary and provides free treatment to prison inmates. The quality of the health care provided is constantly improved and any difficulties are addressed in cooperation and coordination with the Ministry and local councils.

165. The Government provides prisoners with food that is no different from that given to officers and ordinary soldiers working in penal establishments. Subject to oversight by the Ministry of the Interior, the Department of Prisons pursues the State's objectives for prisons of delivering better services for prisoners, creating prisons that fully apply humane standards and offer all the requisite facilities (health, training, sports), regulating administrative functions and ensuring oversight by conducting regular and unannounced prison inspections. To that end, the Department liaises with the Higher Committee for Prisons, relevant ministries and parliamentary committees in the House of Representatives and the Advisory Council, as well as the full range of local, regional and international organizations and individuals committed to the defence of prisoners' rights (in particular

the International Committee of the Red Cross (ICRC), UNICEF, the Social Development Fund and the Red Crescent Society).

### **Prisoner rehabilitation and reform**

166. The Prisons Department uses all kinds of educational, teaching and medical techniques and provides vocational training and social services in order to reform and rehabilitate prisoners and instil in them a desire to lead a respectable life and to be good citizens. It makes sure that access to basic education is afforded to all prisoners wishing to complete their studies and to those undergoing any reform process, since education is of the utmost importance in prisoner reform. Indeed, the results of tests carried out with several prisoners show that illiteracy and ignorance of the law play a significant role in crime. The tables below show the number of prisoners enrolled in education and vocational training in 2005.

Table 17

#### **Male and female prisoners enrolled in different stages of education in 2005**

<i>Literacy skills</i>	<i>Basic education</i>	<i>Memorization of the Koran</i>	<i>Secondary education</i>	<i>University education</i>	<i>Total</i>
979	480	440	174	8	<b>2 081</b>

Table 18

#### **Male and female prisoners enrolled in vocational training centres in prisons in 2005**

<i>Sewing</i>	<i>Carpentry</i>	<i>Industry</i>	<i>Metalwork</i>	<i>Electricity</i>	<i>Computing</i>	<i>Weaving</i>	<i>Total</i>
183	28	24	5	30	24	6	<b>300</b>

### **Difficulties**

- There is severe overcrowding in prisons; according to Prisons Department data, there were 10,817 prisoners in 22 central prisons in Yemen as at 30 November 2006
- There is a shortage of transport resources for prisoners, including staff, ambulances, service vehicles and prison vans
- Not enough funding is provided to carry out the construction and renovation work needed in prisons

### **Efforts by the Ministry of Human Rights**

167. In 2007, the Ministry of Human Rights carried out visits to prisons and correctional facilities in a number of governorates. Interviews were conducted with male and female prisoners and the Ministry checked on their conditions of detention, treatment and the length of their sentences. Detailed reports were prepared and submitted to the relevant authorities.

168. The Ministry organizes visits to prisons and detention facilities for its senior officials and corrections and prison officers, as explained below:

- A visit was made to Sana`a Central Prison in May 2007 and the psychiatric clinic was inspected, together with the women's prison and its training and rehabilitation centres. Assessment interviews were conducted with prisoners, a number of issues were discussed and feedback was given to the prison managers. The managers welcomed the proposals to address certain shortcomings ascribed to a lack of experience among prison staff.

- A visit was paid to Rada` Prison in June 2007, after the Ministry received a large number of complaints from prisoners' relatives and after complaints and criticism in the press about the situation of prisoners at the facility. Three persons being held illegally were released immediately and a fourth was released two weeks after the visit.
- A visit was paid to Hudaidah Prison on 8 August 2007 and a report was produced on conditions at the prison and the prisoners.
- From 6 to 14 September 2006, in the presence of Her Excellency the Minister for Human Rights, an assessment was made of conditions at central prisons and of prisoners in the governorates of Sana`a, Aden, Lahij, Ta`izz, Ibb and Dhamar.
- A visit was paid to the Baida' governorate prison in 2006.
- Visits were paid to police stations, criminal investigation departments and the Department of Public Prosecutions in order to deal with five cases, four of which were successfully investigated in 2005. An inspection was carried out at detention facilities in Sana`a City in 2006.
- Visits were paid to some orphanages and juvenile offenders' institutions in Sana`a in July 2005.

169. Following these visits detailed reports were written on prison conditions, prisoners and cases where assistance was needed. The reports were submitted to the Cabinet, which issued decisions ordering the competent authorities to implement the team's recommendations in order to rectify the failings identified. The Higher Committee to Investigate Prison Conditions drew up a list of inmates who had served two thirds of their sentence. After their debts had been settled, out of the public purse, these persons were released in Sha`ban and Ramadan A.H. 1426, on instructions from His Excellency the President of the Republic. Some assistance in kind is distributed each month to women prisoners in Sana`a Central Prison.

#### **Efforts by the Office of the Public Prosecutor**

170. The Prisons Department, which is attached to the Office of the Public Prosecutor, is responsible for monitoring prisoners from the time of arrest until sentencing. The Department is also responsible for looking into prisoners' grievances and gathering prisoner data.

171. In 2006 an automation programme was introduced, linking the Office of the Public Prosecutor and several governorates to a common network, in order to facilitate and speed up access to information on prisoners in all the governorates of Yemen and signal to the Higher Committee for Prisons cases of prisoners deserving to be given legal assistance. In 2006, data on 10,880 prisoners in various governorates was uploaded onto a computer.

172. The second phase of the project began in 2007. The aim was to link the Prisons Department at the Office of the Public Prosecutor to the remaining towns and governorates (Abyan, Lahij, Dali', Baida', Dhamar, Sa`dah, Amran, Hajjah, Sana`a, Makala, Siy'un and Shabwah). The tables below provide data on prisoners.

Table 19  
Number of prisoners whose data were uploaded on a computer in 2005

Governorate	Under investigation	On trial			Serving a sentence			Total
		Court of first instance	Court of appeal	High court	Deprivation of liberty	Debts	Fixed penalties (hudud) and retaliation (qisas)	
Sana`a City North	343	676	229	62	164	245	12	<b>1 731</b>
Sana`a City South	351	587	211	78	171	263	10	<b>1 671</b>
Sana`a	97	196	116	21	42	80	4	<b>556</b>
Aden	197	353	42	18	142	120	1	<b>873</b>
Ta`izz	244	593	310	56	124	277	5	<b>1 609</b>
Hudaidah	86	245	129	45	115	122	13	<b>755</b>
Hadramawt	66	229	30	16	61	58	2	<b>462</b>
Ibb	129	426	319	33	106	75	8	<b>1 096</b>
Abyan	48	54	20	2	15	21	1	<b>161</b>
Hajjah	94	228	115	13	33	66	12	<b>561</b>
Dhamar	104	217	126	67	30	60	5	<b>609</b>
Shabwah	23	40	15	9	20	70	2	<b>179</b>
Lahij	48	128	51	12	18	29	4	<b>290</b>
Sa`dah	24	154	44	8	19	29	4	<b>282</b>
Dali`	58	162	155	10	36	39	3	<b>463</b>
Mahwit	21	63	18	5	10	20	1	<b>148</b>
Baida`	15	88	135	11	24	53	4	<b>330</b>
Mahrah	18	17	22	3	25	12	0	<b>97</b>
Ma`rib	10	36	10	1	4	7	1	<b>69</b>
Amran	42	160	51	4	25	16	15	<b>313</b>
Raymah	17	31	16	2	4	8	1	<b>79</b>
<b>Totals</b>	<b>2 035</b>	<b>4 693</b>	<b>2 164</b>	<b>476</b>	<b>1 188</b>	<b>1 670</b>	<b>108</b>	<b>12 334</b>

Source: Annual report, Office of the Public Prosecutor, 2005.

Table 20  
Prisoner data uploaded onto the system via the Prisons Department network

Action/prosecutor's office	Under investigation	Court of first instance	Court of appeal	High court	Fixed penalties (hudud) and retaliation (qisas)	Debts	Deprivation of liberty	Total
Ibb	106	372	362	43	22	133	66	<b>1 104</b>
Hudaidah	0	0	91	45	1	0	0	<b>137</b>
Ta`izz	146	505	191	104	33	248	101	<b>1 328</b>
Aden	193	277	25	12	7	111	118	<b>743</b>
<b>Total</b>	<b>445</b>	<b>1 154</b>	<b>669</b>	<b>204</b>	<b>63</b>	<b>492</b>	<b>285</b>	<b>3 312</b>

Table 21  
**Numbers of prisoners whose cases had been taken up by public prosecutor's offices in Yemen as at the end of 2007**

Public prosecutor's office	On trial				Serving a sentence			Total
	Under investigation	Court of first instance	Court of appeal	High court	Deprivation of liberty	Private debts and deprivation of liberty	Fixed penalties (hudud) and retaliation (qisas)	
Sana`a City North	179	462	177	25	199	196	16	<b>1 254</b>
Sana`a City South	197	380	109	19	102	172	9	<b>988</b>
Sana`a	68	235	86	29	45	63	14	<b>540</b>
Aden	289	522	34	10	195	123	4	<b>1 177</b>
Ta`izz	167	616	185	95	77	151	47	<b>1 338</b>
Hudaidah	122	358	154	30	206	210	41	<b>1 121</b>
Ibb	195	410	355	61	58	122	29	<b>1 230</b>
Hadramawt-Makala	288	159	48	7	73	60	20	<b>655</b>
Hadramawt-Siy'un	46	38	5	2	25	13	6	<b>135</b>
Dhamar	66	258	105	45	22	28	23	<b>547</b>
Dali'	31	123	106	8	15	37	10	<b>330</b>
Abyan	25	46	24	4	26	42	7	<b>174</b>
Hajjah	88	283	118	32	47	80	14	<b>662</b>
Sa`dah	63	134	38	13	35	29	6	<b>318</b>
Amran	36	206	55	15	19	23	11	<b>365</b>
Lahij	73	146	56	14	34	46	22	<b>391</b>
Baida'	99	140	78	32	30	42	16	<b>437</b>
Shabwah	33	34	26	12	11	9	3	<b>128</b>
Mahwit	12	64	17	5	11	13	3	<b>125</b>
Raymah	27	33	5	6	7	16	1	<b>95</b>
Mahrah	7	16	17	6	14	22	0	<b>82</b>
Ma`rib	6	26	11	0	7	20	0	<b>70</b>
<b>Totals</b>	<b>2 117</b>	<b>4 689</b>	<b>1 809</b>	<b>470</b>	<b>1 258</b>	<b>1 517</b>	<b>302</b>	<b>12 162</b>

Table 22  
**Public prosecutor's offices at appeal courts which were connected to the prisoner database of the Office of the Public Prosecutor**

No.	Name of the office	No. of cases entered	No. of prisoners
1.	Sana`a City North	1 685	1 254
2.	Sana`a City South	602	562
3.	Sana`a	670	540
4.	Aden	2 741	1 177
5.	Ta`izz	3 156	1 340
6.	Ibb	2 689	1 230
7.	Hudaidah	1 905	1 121

<i>No.</i>	<i>Name of the office</i>	<i>No. of cases entered</i>	<i>No. of prisoners</i>
8.	Hadramawt-Makala	751	655
9.	Hadramawt-Siy'un	318	135
10.	Hajjah	952	662
11.	Amran	485	365
12.	Mahwit	162	130
13.	Dali'	492	330
14.	Lahij	399	391
15.	Abyan	0	0
16.	Shabwah	30	0
17.	Ma'rib	0	0
18.	Mahrah	112	92
19.	Raymah	137	95
20.	Special Criminal Court	681	441
21.	Aden (public finances and property)	37	25
22.	Baida'	721	437
23.	Ta'izz (public finances and property)	42	27
24.	Hudaidah (public finances and property)	0	0
25.	Hadramawt (public finances and property)	37	30
26.	Sana`a City (public finances and property)	0	0
27.	Dhamar	0	547
28.	Sa`dah	352	321
<b>Totals</b>		<b>19 156</b>	<b>11 907</b>

Table 23  
Number of prisoners whose data were uploaded onto a computer in 2006

<i>Governorate</i>	<i>On trial</i>				<i>Serving a sentence</i>			<i>Total</i>
	<i>Under investigation</i>	<i>Court of first instance</i>	<i>Court of appeal</i>	<i>High court</i>	<i>Deprivation of liberty</i>	<i>Debts</i>	<i>Fixed penalties (hudud) and retaliation (qisas)</i>	
Sana`a City North	214	468	217	72	137	190	9	<b>1 307</b>
Sana`a City South	197	380	109	19	102	172	6	<b>985</b>
Sana`a	108	128	95	36	32	78	7	<b>484</b>
Aden	143	276	27	12	98	150	3	<b>709</b>
Ta'izz	140	565	305	48	105	258	16	<b>1 437</b>
Hudaidah	83	343	158	33	188	83	7	<b>895</b>
Ibb	106	370	346	37	66	133	22	<b>1 080</b>
Hadramawt-Makala	32	99	41	8	51	64	2	<b>297</b>
Hadramawt-Siy'un	16	41	11	2	41	17	2	<b>130</b>
Dhamar	39	185	127	60	28	76	12	<b>527</b>
Dali'	11	159	112	24	33	61	9	<b>409</b>
Abyan	25	46	24	4	26	42	7	<b>174</b>



Governorate	Under investigation	On trial			Serving a sentence			Total
		Court of first instance	Court of appeal	High court	Deprivation of liberty	Debts	Fixed penalties (hudud) and retaliation (qisas)	
Hajjah	96	183	101	26	74	82	6	568
Sa`dah	24	157	44	8	31	21	1	286
Amran	17	195	43	17	34	25	14	345
Lahij	31	137	61	15	30	49	10	333
Baida'	59	125	101	34	37	46	12	414
Shabwah	33	34	26	12	11	9	3	128
Mahwit	6	64	17	5	11	13	2	118
Raymah	24	37	13	10	3	14	1	102
Mahrah	7	16	17	6	14	22	0	82
Ma`rib	6	26	11	0	7	20	0	70
<b>Totals</b>	<b>1 417</b>	<b>4 034</b>	<b>2 006</b>	<b>488</b>	<b>1 159</b>	<b>1 625</b>	<b>151</b>	<b>10 880</b>

### Judicial inspections of prisons

173. In 2006, 4,214 inspections of detention facilities and prisons were conducted by public prosecutor's offices at courts of appeal and courts of first instance.

### Juveniles in prison

174. The laws in force state that juveniles in the 15-to-18 age group are to be placed in separate sections of detention facilities. Draft amendments to the law have yet to be adopted which would afford children up to the age of 18 the rights which children in conflict with the law are to be afforded according to the Convention on the Rights of the Child. However, a number of considerations are taken into account when dealing with such children. These include:

(a) The need to separate children completely from adult prisoners and place them in separate sections where their privacy is respected;

(b) The need to provide these children with educational, health and cultural services and skills training.

Table 24

### Number of juveniles in prison, 2003–2008

No.	Name of prison	Year					
		2003	2004	2005	2006	2007	2008
1.	Sana`a	46	44	53	54	63	56
2.	Lahij	3	3	19	9	13	10
3.	Ibb	18	9	54	36	24	25
4.	Dhamar	7	35	62	36	46	36
5.	Amran	8	1	14	14	15	28
6.	Dali'	6	–	22	10	–	3
7.	Rada'	4	7	26	38	28	31
8.	Mahwit	4	1	2	1	1	2

No.	Name of prison	Year					
		2003	2004	2005	2006	2007	2008
9.	Sa`dah	15	34	96	15	25	10
10.	Hajjah	5	7	8	24	12	5
<b>Total</b>		<b>116</b>	<b>141</b>	<b>356</b>	<b>238</b>	<b>227</b>	<b>206</b>

Source: Draft State party report of Yemen on the rights of the child.

### Monitoring detention centres and care homes

#### *Juvenile care homes and homes for juvenile offenders*

175. In recent years, the Ministry of Human Rights has organized several visits to juvenile care homes and homes for juvenile offenders, inspecting conditions and identifying residents' needs. In the light of these visits, efforts were made to contact Government agencies and members of the business community in order to create support mechanisms to help raise standards in the homes. Indeed, certain failings were addressed, nutritional and educational requirements supplied and funding was provided. The institutions that were visited are listed below:

(a) Juvenile reform institution (Sana`a City governorate): following the visit, a list was drawn up of residents who were destitute. Letters were sent to businessmen asking for their help to pay blood money (*diyah*) and certain debts owed by residents;

(b) Amal Reform Institution for Girls (Sana`a City);

(c) Solidarity Home for the Elimination of Vagrancy (Sana`a City) – under the direct supervision of the Ministry of Human Rights, all the persons living in the home were discharged, returned to their home governorates and delivered into the care of their families;

(d) Juvenile reform institution (Hudaidah);

(e) Juvenile offenders home (governorate of Aden);

(f) Juvenile care home (governorate of Aden).

176. A modest amount of financial aid was offered to a number of these homes by benefactors, who were thanked by the Ministry. The details are shown in the table below.

Table 25

#### Support provided to juvenile and juvenile offenders homes

Institution	Governorate	Financial aid	
		(in rials)	Other
Juvenile reform institution	Sana`a City		Payment of blood money ( <i>diyah</i> ) and some special debts, Al-Kabus
Juvenile reform institution	Hudaidah	75 000	First and last meals during the breaking of the Ramadan fast
Juvenile offenders home for girls	Aden	90 000	
Juvenile reform institution	Aden	90 000	

### Orphanages

177. The Ministry has organized numerous visits to orphanages in certain governorates and given them a modest amount of material, library and school supplies, with assistance from benefactors. The following table shows which orphanages were visited and how much support they were given.

Table 26

#### Orphanages visited and support provided

<i>Institution</i>	<i>Governorate</i>	<i>Material support</i>	<i>Technical support</i>	<i>Other</i>
1. Orphans Welfare Home	Sana`a City			
2. Insan foundation for Orphans Welfare Institution (private)	Sana`a City			
3. Al-Tahadi Association for Physically Disabled Women	Sana`a City			
4. Children's Rehabilitation and Welfare Centre	Sana`a City			200 uniforms – Economic Institution support
5. Orphans Welfare Home	Hudaidah	25 000	Computers	Meals during Ramadan
6. Al-Shawkani Orphans Welfare Home	Aden	50 000 + 10 000 for transport costs	Computers	School supplies for 400 students
7. Orphans Welfare Home	Hadramawt	20 000 Transport costs	Computers	
8. Orphans Welfare Home	Ta`izz	10 000 Transport costs		School supplies for 100 students
9. Orphans Welfare Home	Ibb	10 000 Transport costs		School supplies for 350 students

#### Care for children who are with their mothers in prison

178. Children under the age of 2 remain with their mothers in prison, as it is in the best interests of children of this age to be with their mothers. Thereafter, the children are handed over to a guardian, if there is one. There is a special area for children in the prison, with a library of children's storybooks, a television and children's toys. Sana`a Central Prison pays for children's milk and food every month and other organizations, including the Ministry of the Interior, the Ministry of Human Rights, Al-Salih Foundation and charities, provide supplies such as milk, soap, biscuits and other forms of assistance.

Table 27

#### Number of children with their mothers in prison

<i>Prison name</i>	<i>No.</i>
Sana`a	21
Amran	1
Hadramawt	1

<i>Prison name</i>	<i>No.</i>
Dhamar	2
Hudaidah	13
Hajjah	1
Rada`	1
Aden	10
Ibb	8
Ta`izz	10
Abyan	2
<b>Total</b>	<b>71</b>

### **Monitoring and follow-up**

179. Members of the network set up to protect children in conflict with the law, with support from UNICEF and a Swedish organization, visited all the governorates to assess the situation of children in conflict with the law in judicial institutions (prisons, courts, reform institutions, public prosecutor's offices, police stations) and how child welfare and protection was assured at those institutions. A report was submitted to the authorities and the institutions concerned with a view to having them implement the recommendations set out therein.

180. The Ministry of Human Rights follows up on children in conflict with the law, paying visits to central prisons, social welfare homes and juvenile justice institutions under the Ministry's annual plan. It also ensures follow-up through the General Department for Communications and Complaints and the activities of the Welfare and Reform Department.

181. Children participate in monitoring conditions for children in juvenile justice institutions, through field visits and regular and special meetings of members of the Children's Parliament. They then submit recommendations to the competent authorities via the Democracy School.

Table 28  
**Action taken to deal with juvenile offenders' cases, 2007**  
**Office of the Public Prosecutor**

No.	Cases/ Governorate	Number of cases with the Office of the Public Prosecutor																		
		Total cases	Serious			Not serious			Complaints			Lesser offences			Unavoidable acts			[Illegible]		
			No. of reported cases	Processed	Pending	No. of reported cases	Processed	Pending	No. of reported cases	Processed	Pending	No. of reported cases	Processed	Pending	No. of reported cases	Processed	Pending	No. of reported cases	Processed	Pending
1.	Sana`a City	223	41	41	0	181	181	0	0	0	0	0	0	0	0	0	0	1	1	0
2.	Aden	173	17	16	1	72	69	3	0	0	0	0	0	0	1	1	0	83	83	0
3.	Ta`izz	140	27	23	4	103	101	2	0	0	0	0	0	0	0	0	0	10	10	0
4.	Hadramawt	54	7	4	3	37	34	3	3	3	0	0	0	0	0	0	0	7	7	0
5.	Hudaidah	124	33	33	0	90	89	1	1	1	0	0	0	0	0	0	0	0	0	0
6.	Ibb	64	14	13	1	45	42	3	0	0	0	3	3	0	0	0	0	2	2	0
7.	Abyan	8	2	2	0	6	6	0	0	0	0	0	0	0	0	0	0	0	0	0
8.	Hajjah	36	8	6	2	23	23	0	0	0	0	0	0	0	0	0	0	5	5	0
<b>Total</b>		<b>822</b>	<b>149</b>	<b>138</b>	<b>11</b>	<b>557</b>	<b>545</b>	<b>12</b>	<b>4</b>	<b>4</b>	<b>0</b>	<b>3</b>	<b>3</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>108</b>	<b>108</b>	<b>0</b>

Source: Report of the Office of the Public Prosecutor, 2007.

Table 29  
Number of juveniles in social guidance homes and type of delinquency, 2005

Institution	Delinquency													Risk of delinquency					Total	Grand total					
	Murder	Attempted murder			Theft	Attempted theft	Sex offences					Drinking or selling alcohol	Fraud	Other harm	Total	Begging	Vagrancy	Orphanhood			Divorce	Absence of father	Family breakdown	Religious heresy	Total
		Deliberate wounding (minor)	Sodomy	Prohibited sexual intercourse			Indecent assault	Act of depravity	Rape																
Sana`a City Social Guidance Home for Boys	9	16	54			34						2		23	327	9	40						49	376	
Sana`a City Social Guidance Home for Girls								12	7					16	37		8						8	45	
Aden Social Guidance Home for Boys			4			6		12		3	6	2	15	107		17						5	22	129	
Aden Social Guidance Home for Girls										2				2	14								14	16	
Ibb Social Guidance Home	4	1	7			3		4					1	35		2					2	4	4	39	
Ta`izz Social Guidance Home	11				52		18						45	126			6			11			17	143	
Hajjah Social Guidance Home	1			2		1		2					41	47		8							8	55	
Hudaidah Social Guidance Home	4			77			28						7	116			5			1			6	122	
Hadramawt Social Guidance Home	2			15			3							20	1	8					2	11	11	31	
<b>Total</b>	<b>31</b>	<b>17</b>	<b>65</b>	<b>359</b>	<b>52</b>	<b>44</b>	<b>61</b>	<b>25</b>	<b>2</b>	<b>3</b>	<b>8</b>	<b>9</b>	<b>141</b>	<b>817</b>	<b>24</b>	<b>83</b>	<b>11</b>				<b>12</b>	<b>9</b>	<b>139</b>	<b>956</b>	

Table 30  
Number of juveniles in social guidance homes and type of delinquency, 2006

Institution	Delinquency													Risk of delinquency							Grand total			
	Murder	Attempted murder	Deliberate wounding (minor)	Theft	Attempted theft	Sex offences						Drinking or selling alcohol	Fraud	Other harm	Total	Begging	Vagrancy	Orphanhood	Divorce	Absence of father		Family breakdown	Religious heresy	Total
						Sodomy	Prohibited sexual intercourse	Indecent assault	Act of depravity	Rape														
Sana`a City Social Guidance Home for Boys	10	14	64	176	17	16	-	-	3	10	4	3	65	373	12	17	4	-	2	2	10	47	420	
Sana`a City Social Guidance Home for Girls	-	-	-	6	-	-	13	1	2	1	-	-	9	32	-	2	-	-	-	1	10	13	45	
Aden Social Guidance Home for Boys	-	-	-	49	-	5	-	11	-	13	-	-	-	78	-	5	-	-	-	-	1	6	84	
Aden Social Guidance Home for Girls	-	1	-	2	-	-	7	1	-	-	-	-	-	11	-	4	2	-	1	-	2	9	20	
Ibb Social Guidance Home	-	1	3	10	-	3	1	12	-	2	-	-	9	41	3	2	-	-	-	-	-	5	46	
Ta`izz Social Guidance Home	13	1	5	38	1	16	-	3	1	7	-	-	8	93	-	-	7	2	-	11	-	20	113	
Hajjah Social Guidance Home	-	-	2	2	-	-	-	-	-	2	-	-	-	6	-	12	-	-	-	-	-	12	18	
Hudaidah Social Guidance Home	1	3	16	39	6	7	3	7	-	5	2	-	8	97	-	2	15	3	-	10	-	30	127	
Hadramawt Social Guidance Home	-	-	-	25	-	10	-	3	-	-	-	-	-	38	-	3	-	-	-	-	3	6	44	
<b>Total</b>	<b>24</b>	<b>20</b>	<b>90</b>	<b>347</b>	<b>24</b>	<b>57</b>	<b>24</b>	<b>38</b>	<b>6</b>	<b>40</b>	<b>6</b>	<b>3</b>	<b>99</b>	<b>769</b>	<b>15</b>	<b>47</b>	<b>28</b>	<b>5</b>	<b>3</b>	<b>24</b>	<b>26</b>	<b>148</b>	<b>917</b>	

Table 31  
Number of juveniles in social guidance homes and type of delinquency, 2007

Institution	Delinquency													Risk of delinquency							Grand total			
	Murder	Attempted murder			Attempted theft	Sex offences						Drinking or selling alcohol	Fraud	Other harm	Total	Begging	Vagrancy	Orphanhood	Divorce	Absence of father		Family breakdown	Religious heresy	Total
		Deliberate wounding (minor)	Theft	Sodomy		Prohibited sexual intercourse	Indecent assault	Act of depravity	Rape															
Sana`a City Social Guidance Home for Boys	11	14	61	160	16	25	-	4	-	9	5	-	31	<b>336</b>	-	17	-	-	-	-	-	-	<b>17</b>	<b>353</b>
Sana`a City Social Guidance Home for Girls	1	-	-	4	-	-	8	-	2	-	1	-	3	<b>19</b>	-	3	-	-	-	-	6	<b>9</b>	<b>28</b>	
Aden Social Guidance Home for Boys	2	-	-	72	-	-	-	6	-	4	3	29	-	<b>116</b>	9	6	-	-	-	-	-	<b>15</b>	<b>131</b>	
Aden Social Guidance Home for Girls	-	-	-	8	-	1	5	2	2	-	-	-	-	<b>18</b>	39	8	-	-	-	-	-	<b>47</b>	<b>65</b>	
Ibb Social Guidance Home	6	1	7	18	-	5	-	-	-	1	-	-	9	<b>47</b>	-	2	-	-	-	-	-	<b>2</b>	<b>498</b>	
Ta`izz Social Guidance Home	16	2	9	67	-	12	-	1	-	12	1	-	33	<b>153</b>	-	-	-	-	-	-	-	-	<b>153</b>	
Hajjah Social Guidance Home	-	-	-	2	-	6	-	-	-	2	-	-	-	<b>10</b>	-	5	-	-	1	2	-	<b>8</b>	<b>18</b>	
Hudaidah Social Guidance Home	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Hadramawt Social Guidance Home	-	-	-	28	-	1	-	1	-	-	-	-	5	<b>35</b>	-	3	-	-	-	-	3	<b>6</b>	<b>41</b>	
<b>Total</b>	<b>36</b>	<b>17</b>	<b>77</b>	<b>359</b>	<b>16</b>	<b>50</b>	<b>13</b>	<b>14</b>	<b>4</b>	<b>28</b>	<b>10</b>	<b>29</b>	<b>81</b>	<b>734</b>	<b>48</b>	<b>44</b>	<b>-</b>	<b>-</b>	<b>1</b>	<b>2</b>	<b>11</b>	<b>104</b>	<b>879</b>	



## Article 14

### A. Legislative measures

#### Paragraph 1: Fair trial guarantees

182. In addition to the information provided in the previous report, the following information about Yemeni laws and legislation may allow the distinguished Committee to understand better how compliance with the principle of equality before the law is assured in Yemen in accordance with this paragraph. Article 49 of the Constitution provides: “The right to defend oneself in person or through counsel is guaranteed at all stages of investigations and proceedings and in all courts, in accordance with the law. The State shall provide legal aid, in accordance with the law, to all those who are unable to afford legal representation.” Article 149 provides: “The judiciary enjoys judicial, financial and administrative independence, and the Department of Public Prosecutions is one of its institutions. The courts shall render decisions in all disputes and offences. Judges are independent and subject to no authority other than the law. No party may in any way interfere in a court case or a matter of justice. Such interference shall be deemed an offence that is punishable by law and not time-barred from prosecution.”

183. The principle of judicial independence is regulated under many articles of the Judicial Authority Act, as are the procedures for punishing and transferring members of the judiciary and a number of other guarantees. For example, article 65 (a) of the Act provides: “Judges shall not be transferred or assigned, except in the circumstances specified in this Act.” Article 86 states: “Having due regard to the final paragraph of article 100, judges shall only be removed from office if their removal is a penalty imposed in a disciplinary case brought pursuant to the present Act.”

184. Article 87 of the Act stipulates that, except in cases of flagrante delicto, a judge may only be arrested or held in pretrial detention with the authorization of the Supreme Council of the Judiciary. When a judge is arrested or detained in a case of flagrante delicto, the Ministry of Justice is required to refer the matter without delay to the President of the Supreme Council of the Judiciary in order to obtain permission to continue the detention or release the judge on or without bail. Under article 88 of the Act, criminal proceedings may only be brought against judges with the permission of the Supreme Council of the Judiciary and at the request of the Public Prosecutor. The Supreme Council of the Judiciary will designate the court responsible for trying the judge.

185. Article 89 states: “Without prejudice to the judiciary’s independence in delivering judgements or decisions, the Minister of Justice is entitled to exercise administrative, financial and regulatory oversight with respect to all courts and judges. The president of each court has the right to oversee the judges that report to him, and the Public Prosecutor has the right to oversee the work of the members of the Department of Public Prosecutions in accordance with the relevant laws and decrees.” Under article 90 of the Act, a court president is entitled to issue cautions to judges, after hearing their testimony, about possible breaches of their duties or official obligations. Cautions may be issued verbally or in writing. In the latter case, a copy shall be forwarded to the Minister of Justice. A judge issued with a written caution from a court president may appeal to the Supreme Council of the Judiciary within two weeks of receiving notification. The Supreme Council of the Judiciary, after hearing the judge concerned, may launch an investigation into the incident which led to the issuance of the caution or may deputize one of its own members or a Supreme Court justice to do so. The Council may uphold or overturn the caution and shall notify the Minister of Justice of its decision. The Minister of Justice has the right to caution presidents of courts of first appeal and courts of first instance, after hearing their testimony, provided that, where the caution is issued in writing, the judges have the right to appeal to

the Supreme Council of the Judiciary. In any event, if the misconduct is repeated or continues after the caution becomes final, disciplinary proceedings shall be brought.”

186. According to article 91 of the Act, the Minister of Justice may issue a written caution to remind any judge who commits a breach of duty of his official obligations. This step may be taken after the judge submits a written rebuttal but has nevertheless been found guilty of committing the breach. The judge may appeal to the Supreme Council of the Judiciary against the caution within one week of notification. The Council will hear the statements of the judge and conduct or have one of its members conduct an investigation into whatever aspects of the case it sees fit. It must then issue a decision dismissing the case or upholding the appeal and annulling the caution. Its decision must be communicated to the Minister of Justice. Under article 92 of the Act, the Ministry of Justice is required to set up a judicial inspectorate comprising a chairman, a vice-chairman and a sufficient number of judges chosen from among a number of court justices. These persons must be experienced and competent. They are appointed pursuant to a decision of the Minister of Justice, subject to the approval of the Supreme Council of the Judiciary, for a renewable term of at least two years. The chairman must be a member of the Supreme Court.

187. In accordance with article 150 of the Constitution, articles 104–120 of the Judicial Authority Act refer to the Supreme Council of the Judiciary as a body which endeavours to ensure that the safeguards enjoyed by judges in regard to appointment, promotion, dismissal, transfer, retirement and separation from service are applied in conformity with the Judicial Authority Act No. 1 of 1991. The Council is empowered to discipline judges and members of the Department of Public Prosecutions for any breach of their official duties. It formulates the general policy on development of the judiciary, studies bills of law on the judiciary and also reviews and approves the judiciary’s draft budget. However, the Council is not a judicial body and therefore it cannot issue or have directives issued on its behalf to judges or courts on cases or judgements. Neither is it an administrative or executive organ which can have administrative or executive directives issued on its behalf on matters relating to judges. Article 188 of the Code of Offences and Penalties provides: “A term of up to 7 years’ imprisonment shall be imposed on any judge who deliberately returns an unlawful judgement, having been swayed by a plea, a recommendation, interference or bias in favour of one of the parties in a case.”

188. With regard to the conduct of trials in open court, in addition to the information provided in previous reports we should like to point out that article 263 of the Code of Criminal Procedures states: “(a) Court sessions shall be held in public, unless a court decides that all or some sessions should be held in camera and attended only by those with a direct connection to the proceedings, for reasons of security and the preservation of public order or public decency, or when it is feared that confidential matters connected with the private lives of the parties may be disclosed, or when there is an outbreak of an epidemic or other communicable diseases. The court may deny entry to minors and persons of an unseemly appearance that represents an offence to the dignity of the court. “(b) The public shall be admitted to the trial chamber to the extent that the capacity of the courtroom allows. “(c) The public nature of court proceedings is an important guarantee of proper justice. “(d) In all events, judgements shall be pronounced in open court.” Article 264 of the Act states: “Court proceedings shall be conducted orally. When hearing the case, the court shall examine the evidence directly. It shall question the defendant, the victim, the witnesses, the plaintiffs and the civil defendant and shall listen to expert reports. It shall examine the material evidence, read out transcripts and other documents and have them discussed orally.”

**Paragraph 2: The presumption of innocence**

189. We have nothing to add to the information provided in the previous report regarding the legal position on this article.

**Paragraph 3 (a) and (b): Guarantees for the accused**

190. Further to our previous report, we should add that article 180 of the Code of Criminal Procedures provides: “The lawyer shall be permitted to see the investigation file on the day before the interrogation or confrontation, unless the investigator decides otherwise. In any event, the defendant shall not be separated from the lawyer who accompanies him during the interrogation.” Article 181 states: “Except for offences which have been witnessed and urgent cases where it is feared that evidence may be lost, an investigator dealing with a serious offence may only interview the accused or confront him or her with other accused persons or witnesses after summoning the lawyer of the accused to appear, if there is a lawyer. He shall inform the accused of his right not to respond without his lawyer being present.”

191. Article 182 states: “When the accused appears for the first time in the investigation, the investigator shall verify his identity, inform him of the allegations against him, advise him that he is at liberty to provide clarifications, and make a transcript of his statements.” According to article 177 of the Code, the interrogation entails presenting the accused with the allegation, confronting him with the supporting evidence and discussing it in detail. The investigator must afford the accused his full rights to a defence, in particular the right to examine and discuss the evidence against him. The accused may present defence arguments at any time or ask for an investigation measure to be taken. All his statements and requests must be recorded in the case file.

192. Article 178 states: “No accused person shall be required to take an Islamic law oath or compelled to answer, and a refusal to answer shall not be taken as evidence to support an allegation. Confessions shall not be extracted by means of deception, violence or pressure consisting in the form of an inducement or coercion.” Article 179 provides: “The accused shall declare his lawyer’s name in a report to the clerk’s office or the director of the penal facility. His lawyer may take on this task in his stead. The lawyer shall speak only with the permission of the investigator. A note shall be made in the record if such permission is denied.” Article 180 states: “The lawyer shall be permitted to see the investigation file on the day before the interrogation or confrontation, unless the investigator decides otherwise. In any event, the defendant shall not be separated from the lawyer who accompanies him during the interrogation.”

193. Reference is made to Act No. 31 of 1999, concerning the legal profession, which lists the defence guarantees to be afforded to accused persons. For example, under article 51 of the Act, the courts, the Department of Public Prosecutions, the police and other entities with which lawyers interact in their professional capacity are required to provide defence lawyers with everything that they need to carry out their duties. A lawyer’s request may not be refused without legal justification. Lawyers or their clients must be allowed to read or make copies of documents, and, according to the Act, lawyers must be allowed to attend while their clients are being questioned. Article 52 of the Act provides that lawyers may pursue whatever course they deem appropriate in order to defend their clients. They are not held responsible for any statement in written or oral pleadings that is made to ensure the right to a defence, without it breaching the sharia or other laws in force. According to article 53 (a) of the Act, a lawyer may not be placed in custody during the course of duty for doing an act or making statements in breach of the rules of procedure on hearings. In such cases, the president of the competent court must write a report, send it to the Department of Public Prosecutions and send a copy to the Bar Association or the president of the branch to which the lawyer belongs. Under article 53 (b) of the Act, the Department

of Public Prosecutions is required to conduct an interview after the Bar Association or branch president has been contacted to send a representative to attend. According to article 53 (c) of the Act, it is not permissible for a judge or judges of the court where the incident occurred to hear a case brought against the lawyer on account of that same incident.

194. Article 54 of the Act states that a person who commits an offence against a lawyer carrying out his professional duties is liable to the penalty prescribed in the Code of Offences and Penalties. According to article 55 of the Act, the headquarters or branches of the Bar Association may only be searched in accordance with the Act and a court order, and in the presence of a member of the Department of Public Prosecutions and a lawyers' representative or a branch president or his representative. Article 56 provides: "No lawyer shall be interviewed or have his office searched without a member of the Department of Public Prosecutions being present. The Department of Public Prosecutions shall inform the representative or branch president in ample time before an interview or search is attempted. This article and the preceding article shall not apply in cases of delicto flagrante offences or if the investigation is conducted by an investigating judge."

### **Paragraph 3 (c): Prompt adjudication of cases**

195. Article 111 of the Judicial Authority Act states that a judge who is slow to hear a case and repeatedly fails to attend court sittings for no good reason shall be deemed to have committed a breach of duty and shall be referred for disciplinary proceedings to the Supreme Council of the Judiciary. Guarantees and procedures to ensure that defendants' cases are heard within a reasonable time frame are set out in the Code of Criminal Procedures. Article 269 of the Act states as follows:

"The court shall rule on an adjournment of a session under the following conditions:

"(a) If a person summoned to attend does not present himself on the requested date, the other parties may request an adjournment. The person who failed to attend shall be notified of the adjournment;

"(b) If counsel for the defence is unable to attend, the defendant shall have the right to request an adjournment;

"(c) If the situation so requires, the defendant shall be referred to a Government hospital for tests and treatment;

"(d) If the defendant becomes mentally ill during the trial and cannot be represented or represent himself, or if any other issue arises and the relevant legal conditions are met."

196. According to article 31 of the Prisons Department Regulation Act, persons in pretrial detention may meet with their relatives and lawyer, provided that they obtain written permission from the body that issued the detention order. This is clearly spelled out in article 59 of the implementing regulation for the Act.

197. With regard to children, article 130 of the Children's Act states that a minor accused of an offence must be represented by a defence lawyer. If the minor does not select a lawyer, the Department of Public Prosecutions or the court must select one for him or her in accordance with the rules laid down in the Code of Criminal Procedures. Similarly, article 13 of the Juvenile Welfare Act states that minors' cases are urgent cases and preference should always be given at any stage of an investigation or trial to release of minors, provided that the course of justice is not adversely affected and there is no danger involved. Under article 16 of the Act, the juvenile courts have exclusive jurisdiction for cases in which juveniles are accused of offences or are at risk of delinquency. These courts also deal with the other offences specified in the Act. If an adult also participated in the offence, the minor will be brought separately before a juvenile court. In addition, according to article 42

of the Act, it is illegal to publish in any medium the juvenile's name and image and the details or a summary of the trial proceedings.

198. Article 248 of the Code of Criminal Procedures states that the Juveniles Act shall provide for the establishment of juvenile courts and set out the procedures for conducting investigations and trials, together with the penalties, measures and forms of treatment that can be used.

**Paragraph 3 (e), (f) and (g)**

199. The legal position was explained in the previous report. We decided not to repeat the information but rather to confirm it in full.

**Paragraph 4: Procedures to take account of the age of juvenile persons and the desirability of promoting their rehabilitation**

200. The Government has continued to develop programmes to protect children in conflict with the law and guarantee the rights afforded by the Convention on the Rights of the Child and other relevant international instruments to all children who become involved with the juvenile justice system. Many legislative measures have been taken to this end, the most important being a review of the Juvenile Welfare Act and the submission to the House of Representatives of Government-approved draft amendments.

201. The amendments cover several articles on the rights of children in conflict with the law. Such children must be afforded treatment which safeguards their dignity, strengthens their respect for the rights of others, takes account of the difference in the level of criminal responsibility based on the age of the child and promotes children's social reintegration. Four new articles were added to the draft Act. Article 1 bis defines a juvenile, for the purposes of the Act, as any person who was over 10 and under 18 when he or she was at risk of delinquency or was considered a danger to society or committed an unlawful act. Article 4 bis defines a juvenile at risk of delinquency as a person who: (a) commits, participates in or facilitates the commission of any act defined in the Code of Offences and Penalties as a criminal offence; (b) commits an act associated with prostitution, indecency, depravity, immorality, gambling or drugs, or knowingly works for someone involved in such activities. In all events, the measures prescribed in article 36 of the Act will be imposed on juveniles below the age of 15. If the juvenile is over 15, the penalties in article 37 will be imposed. Article 12 bis states that in an investigation into an assault on a juvenile testimony must be taken from the victim, in the presence of a social worker, at the home of the parents, legal guardian or testamentary tutor or at a juvenile rehabilitation and welfare home. Article 46 bis of the regulation sets out the rules on the following matters:

- (a) The working methods of social workers, experts and monitors;
- (b) The procedures for transferring and accompanying minors from one area to another in Yemen and abroad;
- (c) The conditions for granting leave and visit rights;
- (d) The procedures for transferring minors with psychological disorders, mental impairments or disabilities to treatment centres.

**Paragraph 5: Right to a review**

202. Article 20 of the Code of Procedures states that, unless otherwise provided by law, any act, decision or order issued by a police officer, the Department of Public Prosecutions or a court with respect to a citizen or an entity may be appealed through the legal channels. Article 411 of the Code states: (1) Any judgement or decision is open to appeal, unless otherwise stated in law. (2) The right of appeal is granted to all parties, unless the law

grants this right solely to a given party. (3) An appeal may only be filed by the person with the proper credentials or an interest in filing it.

203. The Judicial Authority Act contains some key provisions on the right of appeal (arts. 12, 21, 26, 37, 43 and 48), which are described hereunder.

204. Article 12: “The Supreme Court shall perform the following tasks: “(1) Rule on appeals and final judgements on civil, commercial, criminal and personal status matters, administrative disputes and disciplinary proceedings ...“(7) Issue cassation rulings on final judgements on military offences.”

205. Article 21: “The criminal division shall rule on the following:

“(a) Appeals for cassation in respect of judgements and decisions handed down in criminal cases;

“(b) Transfer of proceedings in criminal matters;

“(c) Other internal applications for which it has legal competence.”

206. According to article 26 of the Act, the appeals division examines appeals from the point of view of formal requirements and conformity with the set legal criteria. Article 37 provides for the establishment of an appeal court in every governorate. Article 43 defines the functions of appeal courts as adjudicating in:

1. Cases in which appeals may be filed further to the Act;

2. Other cases that come within their purview according to any other law.

207. Lastly, article 48 states: “Judgements of first instance courts may be appealed, unless the law provides otherwise.”

208. Of the provisions in articles 87–89, 284, 292 and 304 of the Code of Pleadings, we should like to mention the following in particular: “The Supreme Court shall rule on appeals to quash or confirm judgements by appeal or first instance courts, subject to the conditions specified by law” (art. 87), and: “The appeal courts shall rule on appeals from judgements given by first instance courts” (art. 88).

209. Article 89 provides: “1. Courts of first instance shall have competence to issue judgements at first instance in all cases laid before them, whatever their value or nature.” Article 284 provides: “The parties may appeal to the appeal courts against judgements given by courts of first instance, except where an appeal is precluded under this Act or any other legal provision. Judgements on urgent matters shall be open to appeal, regardless of the court that issued them.”

210. Article 293 states: “The parties may appeal to the Supreme Court against judgements of courts of appeal and first instance, which shall be open to appeal subject to the following conditions:

(a) The contested judgement is based on an infringement of the sharia or the law or an error in their application or interpretation, or the opinion on which the judgement is based has not been provided;

(b) The judgement is vitiated or a procedure affecting the judgement was vitiated, or there are internal contradictions in the text of the judgement;

(c) The judgement concerns a matter on which the parties did not seek a ruling or which goes beyond what the parties requested;

(d) There are contradictions between two final judgements in two cases where the parties, the subject and the grounds are the same.

211. Lastly, article 304 states: “An appeal for a judicial review is an exceptional means of appeal, which the parties shall use only when the following conditions are met:

“(a) If, after the judgement is issued, the convicted person discovers that the opposing party committed a fraudulent act that is likely to have affected the judgement;

“(b) If, after the judgement is issued, evidence is found that the substantiating documents were forged or orders were given to forge them;

“(c) If the judgement was based on testimony or sworn evidence that is subsequently found to be perjured;

“(d) If, after the judgement is issued, the petitioner obtains vital case documents, which were held by a third party without the petitioner’s knowledge or which the opposing party withheld or failed to submit;

“(e) If the judgement constitutes evidence against a person who was not a party in the case;

“(f) If the judgement is handed down to a natural or legal person who was not represented by proper counsel in the proceedings;

“(g) If, during enforcement of the judgement, it becomes apparent that the judgement concerns a matter on which the parties did not seek a ruling or which goes beyond what the parties requested;

“(h) If, during enforcement of the judgement, it becomes apparent that there are internal contradictions in the text of the judgement.”

#### **Paragraph 6: Compensation**

212. The legal position was explained above in the section on article 9 of the Covenant. The recommendations of the First Dialogue Conference on Criminal Justice contain several paragraphs on reviewing the domestic laws to guarantee the realization of this right (as explained above in connection with article 2 of the Covenant).

#### **Judicial reform procedures and measures, and guarantees of judicial independence**

213. With reference to paragraph 6 of the Committee’s concluding observations (CCPR/CO/84/YEM),<sup>5</sup> the Government has devoted considerable attention to the justice system and the judiciary, adopting and implementing many policies and procedures to boost the independence and the role of the judiciary in public life. A modernization and development process comprising many different objectives and areas of focus has been put in place. Particular emphasis is laid on the human element as the central focus of reform, and a series of procedures and activities are envisaged, of which the main ones are described here below.

<sup>5</sup> “The Committee reiterates its concern about the reported lack of efficiency and independence of the judiciary, despite the existence of constitutional guarantees and the measures taken to reform the judicial branch (arts. 2 and 14). The State party should ensure that the judiciary is free from any interference, in particular from the executive branch, in law as well as in practice. The next periodic report should contain detailed information on existing legal guarantees ensuring the security of tenure of judges and their application. In particular, information should be provided on the appointment and promotion of judges, and on the disciplinary sanctions procedures.”

**Legislative measures**

214. The judiciary adopted a strategic judicial reform plan, consisting in a number of regulatory and legislative measures. For example, the Judicial Authority Act was amended by Act No. 15 of 2006, providing for the transfer of functions of the President of the Supreme Council of the Judiciary from the President of the Republic to the President of the Supreme Court. These measures were followed and accompanied by reform of the legislative framework in which the courts operate. Several bills on the judiciary have been set before the House of Representatives, including:

- A bill on amending the Code of Civil Pleadings and Enforcement
- A bill on commercial arbitration
- A bill on amending the Code of Offences and Penalties
- A bill on court fees
- A bill on notarization
- A bill on an amendment to the Code of Criminal Procedures

215. The Higher Institute of the Judiciary Act No. 34 of 2008 was issued, as were the following:

- A regulation on the organization of the Supreme Council of the Judiciary
- A regulation on the organization of the Ministry of Justice
- A regulation on the Notarization Act
- Rules of procedure for the Accountability Council of the Supreme Council of the Judiciary
- A regulation on the organization of the Supreme Court
- An implementing regulation for the General Provisions on Minor Offences Act

216. The Commercial Code No. 32 was amended.

**Regulatory procedures**

217. The Supreme Council of the Judiciary and its secretariat and technical bureau were restructured. The Council's terms of reference were rewritten and the Council was supplied with qualified staff. The Supreme Court and its registry and technical bureau were restructured and a regulation on their organization was issued. The Judicial Inspectorate was restructured and its functions defined in conformity with the Judicial Authority Act and the recommendations emanating from the First National Dialogue Conference on Criminal Justice in Yemen. The Inspectorate was provided with qualified staff experienced in performing judicial oversight functions and inspections. In addition, the Accountability Council of the Supreme Council of the Judiciary, which takes disciplinary action to deal with local judges, was also restructured.

218. The Higher Institute of the Judiciary Act No. 34 of 2008 lays down the rules for granting admission to the Institute, establishes a timetable for higher studies and provides for a revision of the Institute's curricula. A draft presidential decree was drawn up on the establishment of a criminal investigation department. The draft defines the functions of the department and includes a full range of regulations on its work and the work of oversight bodies. In addition, a strategy for the development and modernization of the judiciary was designed, together with a regulation on the organization of the Ministry of Justice and its departments and on the restructuring of the Department of Public Prosecutions. A series of other implementing regulations were issued, including on: the Supreme Council of the



Judiciary; the Real Property Register; the establishment of an institute of forensic medicine; and the establishment of a judicial documentation centre. Draft regulations were prepared on: the stenographer's profession; the organization of appeal and first instance courts; the implementation of the General Provisions on Minor Offences Act; and the Public Expropriations Act.

219. The judicial authority supplies commercial divisions and courts with qualified, experienced and impartial staff and with justices and experts. New technologies such as the Internet and archiving systems have been introduced, and a general department has been set up for the commercial courts. Moreover, a programme has been instituted to offer judicial officers who deal with commercial cases training in Yemen and abroad.

### **Training and capacity-building**

220. Judicial reforms have focused on the Higher Institute of the Judiciary, particularly on developing and updating its curricula and supplying it with qualified specialist staff. Efforts are constantly being made to build the capacities and improve the effectiveness of judges through continuous training for them and other members of the judiciary in all areas where training is needed. Several courses have been held at home and abroad, including for 1,450 judges and members of the Department of Public Prosecutions. Special external training courses have been held for commercial court judges and lawyers, and several courses have been run on commercial law and arbitration, including with reference to commercial treaties and commercial laws. Fifteen judges were sent abroad to pursue higher studies and 895 took part in study visits abroad.

Table 32

### **Training courses held for members of the Department of Public Prosecutions, 2007**

<i>No.</i>	<i>Location</i>	<i>Description</i>	<i>No. of courses</i>	<i>No. of participants</i>	<i>Course venue</i>
1.	Abroad	Organized and transboundary crime	1	6	Egypt
2.	Abroad	Computer crimes	1	6	Morocco
3.	Abroad	Corruption and money laundering	1	5	Egypt
4.	Abroad	Legal regulation of public prosecutor's offices	1	5	Jordan
5.	Abroad	Second Annual Conference of the International Association of Anti-Corruption Authorities	1	2	Indonesia
6.	Abroad	Training course for trainers	1	2	France
7.	Yemen	Counterfeiting crimes	1	4	Sana`a
8.	Yemen	Training of new judicial assistants	1	129	Higher Institute of the Judiciary
9.	Yemen	Electronic payments, financial transactions and online banking under Yemeni law	1	15	Sana`a
10.	Yemen	Workshop on combating corruption, held in conjunction with the Office of the Advocate General, which deals with public finances and property, and in	1	98	Office of the Public Prosecutor

<i>No.</i>	<i>Location</i>	<i>Description</i>	<i>No. of courses</i>	<i>No. of participants</i>	<i>Course venue</i>
		cooperation with the German Cooperation Agency (GTZ)			
11.	Yemen	Human rights during trials and in detention, in cooperation with a programme to modernize public prosecutor's offices	1	42	Ta`izz
12.	Yemen	Computer training course, held in cooperation with the programme to modernize public prosecutor's offices	1	63	Sana`a – Aden – Ta`izz
<b>Total</b>			<b>12</b>	<b>377</b>	

*Source:* Annual report of the Office of the Public Prosecutor, 2007.

Table 33  
**Training for members of the Department of Public Prosecutions, 2004**

<i>No.</i>	<i>Description</i>	<i>No. of members who attended the course</i>
1.	Criminal procedures	14
2.	International law	20
3.	Special course for assistant public prosecutors	54
<b>Total</b>		<b>88</b>

*Source:* Annual report of the Office of the Public Prosecutor, 2004.

Table 34  
**Number and types of courses attended by members of the Department of Public Prosecutions, 2005**

<i>No.</i>	<i>Description</i>	<i>No. of courses</i>	<i>No. of members who attended the course</i>
1.	International counter-terrorism framework	1	4
2.	International humanitarian law	1	10
3.	Special course for assistant deputy prosecutors	2	106
4.	Juvenile judges	2	16
5.	Judicial inspection	1	14
<b>Total</b>		<b>7</b>	<b>150</b>

*Source:* Report of the Office of the Public Prosecutor, 2005.

#### **Infrastructure support for the judiciary**

221. In order to support and strengthen the judicial infrastructure, 21 projects were launched for the construction of judicial office complexes and court buildings in a number of governorates, at a total cost of 2.8 billion Yemeni rials (YRIs). Several projects are under way for the construction of judicial office complexes, at a cost of YRI 2.8 billion, and a

number of public prosecutor's offices have been built and furnished in urban centres, at a total cost of YRI 743.7 million.

Table 35  
**Prosecutor's offices established in 2007**

<i>Governorate</i>	<i>Name of prosecutor's office</i>
Sana`a City North	Old City of Sana`a + Shu`ub (lesser offences)
	Al-Thawrah + Bani al-Harith (lesser offences)
	Al-Tahrir + Ma`in (lesser offences)
Sana`a City South	Al-Wahdah + Al-Saba`in (lesser offences)
	Azal + Al-Safiyah (lesser offences)
Al-Makala/Hadramawt	Al-Makala West
	Al-Makala East
	Juveniles
Ta`izz	Al-Ta`izz prosecutor's office
Ibb	Juveniles
Raymah	Criminal

*Source:* Annual report of the Office of the Public Prosecutor, 2007.

Table 36  
**Prosecutor's offices established in 2006**

<i>Governorate</i>	<i>Name of prosecutor's office</i>
Aden	Dar Sa`ad
Baida'	Rada` East
	Rada` West

*Source:* Annual report of the Office of the Public Prosecutor, 2006.

Table 37  
**Prosecutor's offices established in 2005**

<i>Governorate</i>	<i>Name of prosecutor's office</i>
Baida'	Rada` East
	Rada` West
Dhamar	Wisab al-Safil
<b>Total</b>	<b>3</b>

*Source:* Annual report of the Office of the Public Prosecutor, 2005.

Table 38  
**Data on the number of members of the Department of Public Prosecutions working at different prosecutor's offices in the governorates of Yemen in 2007**

Item	[[Illegible]]	[[Illegible]]	[[Illegible]]	[[Illegible]]	[[Illegible]]	[[Illegible]]	[[Illegible]]	[[Illegible]]	[[Illegible]]	[[Illegible]]	[[Illegible]]	[[Illegible]]	[[Illegible]]
1. Chancellery	2	1	17	25	7	8	1	6	1	0	0	0	68
2. Sana`a City North	0	0	0	5	4	2	4	10	14	6	25	23	93
3. Sana`a City South	0	0	0	3	3	4	5	18	10	6	14	15	78
4. Sana`a City Public Finances	0	0	0	3	0	2	1	1	3	0	8	3	21
5. Summary offences	0	0	0	2	0	0	1	2	1	0	2	3	11
6. Sana`a	0	0	0	2	2	4	3	13	3	2	9	10	48
7. Ta`izz	0	0	0	5	4	5	13	12	22	5	5	11	82
8. Aden	0	0	0	8	7	6	9	21	20	2	8	8	89
9. Hudaidah	0	0	0	2	1	4	2	16	11	4	6	5	51
10. Hadramawt (Makala)	0	0	0	2	3	4	3	7	16	5	1	4	45
11. Hadramawt (Siy'un)	0	0	0	2	2	0	1	4	6	0	2	3	20
12. Ibb	0	0	0	8	3	1	8	23	13	0	5	2	63
13. Dhamar	0	0	0	1	0	6	3	5	8	4	4	6	37
14. Baida'	0	0	0	1	1	1	3	4	4	3	2	3	22
15. Amran	0	0	0	0	3	2	1	4	6	1	2	5	24
16. Hajjah	0	0	0	1	1	2	1	7	5	3	2	3	25
17. Sa`dah	0	0	0	0	0	1	4	6	2	0	0	1	14
18. Mahwit	0	0	0	0	1	1	2	4	1	2	4	2	17
19. Lahaj	0	0	0	2	3	3	7	16	10	4	6	5	56
20. Abyan	0	0	0	2	2	0	6	15	5	4	1	1	36
21. Shabwah	0	0	0	0	0	1	5	7	6	2	0	5	26
22. Dali`	0	0	0	2	1	2	10	6	7	1	3	0	32
23. Mahrah	0	0	0	1	0	2	0	2	2	2	1	4	14
24. Ma`rib	0	0	0	1	0	0	0	2	1	0	0	1	5
25. Jawf	0	0	0	0	0	1	0	1	1	0	0	1	4
26. Raymah	0	0	0	1	0	0	0	2	0	0	0	3	6
27. Ta`izz (Public Finances)	0	0	0	1	0	2	1	2	1	0	0	1	8
28. Aden (Public Finances)	0	0	0	7	2	2	1	3	2	0	0	2	19
29. Hudaidah (Public Finances)	0	0	0	2	2	0	2	1	0	0	0	0	7
30. Hadramawt (Public Finances)	0	0	0	1	0	1	0	3	0	0	1	0	6
31. Military (Sana`a City)	0	0	0	1	1	0	1	0	0	0	0	1	5
32. Military (Sana`a governorate)	0	0	0	1	0	1	1	0	1	0	0	0	4
33. Military (Aden)	0	0	0	0	1	1	0	0	0	0	0	0	2
34. Military (Hadramawt)	0	0	0	1	0	1	0	0	0	0	0	0	2
<b>Total</b>	<b>2</b>	<b>1</b>	<b>17</b>	<b>93</b>	<b>54</b>	<b>70</b>	<b>99</b>	<b>223</b>	<b>182</b>	<b>56</b>	<b>111</b>	<b>131</b>	<b>1 040</b>

### Information technology management for the judiciary

222. The Ministry of Justice implemented an automation programme to develop a global database for all judicial bodies and a network linking 27 appeal courts and courts of first instance, the Department of Public Prosecutions and the Higher Institute of the Judiciary to a central network and the Ministry's Judicial Information Technology Centre. The performance indicators show that the procedures for bringing and deciding cases have been simplified: the proportion of cases before a court of first instance in which a decision was rendered rose from 59 per cent in 2000 to 70 per cent in 2005.

### Measures to speed up the adjudication of cases

223. In order to deal with the heavy caseload in the courts, five judges were appointed to preside over courts of first instance and seven were appointed to first instance courts in a number of governorates. The Judicial Inspectorate was able to follow up on and resolve 397 cases that were still pending when the judge dealing with them was transferred elsewhere or retired. Based on a series of unannounced inspections, the Inspectorate identified a total of 413 protracted cases pending before courts throughout Yemen and instructed the relevant judges to complete them. The cases were found to be with 54 judges, 13 of them appeal court presidents, 27 presidents of courts of first instance and 14 judges hearing summary offences in courts of first instance. A total of 397 protracted cases were resolved after the judges concerned were contacted and urged to speed up their deliberations and to communicate their decision to the courts where they had formerly served. There are now only 16 cases outstanding, and these were being heard by judges who have since died.

### Public prosecutor's office at the Court of Cassation

224. This office is administratively and financially dependent on the Office of the Public Prosecutor and has judicial independence to issue opinions in cases, mandatory appeals, criminal appeals and appeals for cassation filed by parties suing for damages in criminal cases. It registers the mandatory appeals and challenges referred to it in its own tables. In 2006, 1,197 cases were referred to it by prosecutor's offices in the governorates; it also had 79 cases carried over from previous years. In 2006, it processed 97 cases from previous years and 812 cases referred to it that same year. Thus, it achieved a completion rate of 70 per cent. Details on cases referred, processed and pending in 2007 and the status of the backlog from previous years are found in the following table.

Table 39  
Cases referred, processed and pending in 2007, including cases carried over from previous years

Year	Stage from previous years			2007			Total		Grand total	
	Originating body	No.	Processed	Pending	No.	Processed	Pending	Processed		Pending
	Sana`a City South	21	21	0	40	39	1	60	1	<b>61</b>
	Sana`a City North	18	18	0	48	46	2	64	2	<b>66</b>
	Sana`a + Jawf	28	28	0	88	85	3	113	3	<b>116</b>
	Aden	13	13	0	26	26	0	39	0	<b>39</b>
	Ta`izz	63	63	0	140	130	10	193	10	<b>203</b>
	Hudaidah	29	29	0	52	49	3	78	3	<b>81</b>
	Hadramawt	21	21	0	62	58	4	79	4	<b>83</b>
	Dhamar	41	41	0	81	76	5	117	5	<b>122</b>

Year	Stage from previous years			2007			Total		Grand total	
	Originating body	No.	Processed	Pending	No.	Processed	Pending	Processed		Pending
Ibb		19	19	0	54	51	3	70	3	<b>73</b>
Hajjah		18	18	0	55	53	2	71	2	<b>73</b>
Amran		5	5	0	25	24	1	29	1	<b>30</b>
Lahij		5	5	0	14	13	1	18	1	<b>19</b>
Shabwah		13	13	0	6	6	0	19	0	<b>19</b>
Mahrah		0	0	0	5	5	0	5	0	<b>5</b>
Dali´		22	22	0	45	44	1	66	1	<b>67</b>
Mahwit		9	9	0	22	21	1	30	1	<b>31</b>
Sa`dah		17	17	0	23	22	1	39	1	<b>40</b>
Ma´rib		0	0	0	5	5	0	5	0	<b>5</b>
Baida´		19	19	0	36	35	1	54	1	<b>55</b>
Abyan		2	2	0	6	6	0	8	0	<b>8</b>
Raymah		7	7	0	12	12	0	19	0	<b>19</b>
Special criminal court		8	8	0	10	9	1	17	1	<b>18</b>
Military prosecutor's offices		7	7	0	21	21	0	28	0	<b>28</b>
<b>Total</b>		<b>385</b>	<b>385</b>	<b>0</b>	<b>876</b>	<b>836</b>	<b>40</b>	<b>1 221</b>	<b>40</b>	<b>1 261</b>

#### Public prosecutor's offices at courts of first instance and appeal

225. In 2006, public prosecutor's offices at courts of first instance and specialized courts throughout Yemen dealt with a total of 47,260 cases, of which 42,315 were processed, giving a completion rate of 90 per cent.

Table 40  
Total number of cases, 2001–2007

Year (January–December)/cases	Serious offence	Non-serious offence	Lesser offence	Administrative complaint	Minor incident	Total	Rate of increase over
							the base year used in the initial report
2001	8 199	16 541	3 420	2 335	320	<b>30 815</b>	-
2002	8 541	20 033	2 702	2 949	327	<b>34 552</b>	12.12%
2003	8 687	2 868	2 724	1 731	295	<b>34 305</b>	11.32%
2004	9 638	25 450	2 750	1 977	405	<b>40 220</b>	30.52%
2005	10 647	30 857	3 268	1 616	448	<b>46 836</b>	51.99%
2006	9 825	32 673	2 684	1 668	410	<b>47 260</b>	53.36%
2007	9 401	36 595	4 802	2 416	429	<b>53 986</b>	75.19%
<b>Grand total</b>	<b>64 938</b>	<b>164 668</b>	<b>22 319</b>	<b>14 692</b>	<b>2 632</b>	<b>286 974</b>	

#### Cases referred to public prosecutor's offices at courts of appeal

226. In 2006, public prosecutor's offices at courts of appeal in Yemen took up 16,863 cases. Of these, 16,726 were processed – a completion rate of 99 per cent.

**Cases referred to the Public Prosecutor's technical bureau**

227. The technical bureau of the Public Prosecutor's legal office provides its views and legal advice to the Public Prosecutor. It performs the various functions and tasks assigned to it in accordance with the internal regulations of the Public Prosecutor's office, including: considering, and issuing an opinion on, mandatory review cases; considering appeals for cassation and judicial review, together with challenges on points of law; reviewing decisions involving the non-commencement or discontinuation of civil proceedings and presenting its legal opinion to the Public Prosecutor on those decisions which, in its view, ought to be overturned; investigating, under the supervision of the Public Prosecutor, whatever cases the Public Prosecutor decides to take up, because they are particularly serious or important, given the circumstances or the parties involved.

228. In 2006, the technical bureau received a total of 894 cases, including petitions, applications, challenges on points of law, mandatory reviews and claims for restitution. It processed 868 cases, leaving 26 cases still pending. Thus, it achieved a completion rate of 97 per cent.

Table 41  
Cases referred to and processed by the Technical Bureau

No.	Type of case Division	Mandatory review		Application		Complaints and petitions			Challenge on a point of law			Inquiry		Duration of investigation and detention			Cassation appeal		Case transfer request		Restitution		Total								
		No.	Processed Pending	No.	Processed Pending	No.	Processed Pending	No.	Processed Pending	No.	Processed Pending	No.	Processed Pending	No.	Processed Pending	No.	Processed Pending	No.	Processed Pending	No.	Processed Pending	No.	Processed Pending	No.	Processed Pending						
1.	Reviewed	155	149	6	57	54	3	0	0	0	8	2	6	0	0	0	0	0	0	0	0	0	0	0	0	220	205	15			
2.	Examined	0	0	0	0	0	0	207	200	7	0	0	210	203	7	16	16	0	39	38	1	0	0	0	0	472	457	15			
3.	Complaints and petitions	0	0	0	0	0	0	47	39	8	0	0	0	0	0	0	0	0	0	0	0	0	0	23	22	1	70	61	9		
<b>Total</b>		<b>155</b>	<b>149</b>	<b>6</b>	<b>57</b>	<b>54</b>	<b>3</b>	<b>254</b>	<b>239</b>	<b>15</b>	<b>8</b>	<b>2</b>	<b>6</b>	<b>210</b>	<b>203</b>	<b>7</b>	<b>16</b>	<b>16</b>	<b>0</b>	<b>39</b>	<b>38</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>23</b>	<b>22</b>	<b>1</b>	<b>762</b>	<b>723</b>	<b>39</b>



**Promotions and transfers of judges**

229. Promotions and assignments are decided on a regular basis. A total of 1,010 judges and members of the Department of Public Prosecutions, including 40 women, were promoted further to Presidential Decree No. 5 of 2008, and 273 judges and members of the Department were transferred in the context of a partial mobility exercise.

**Measures to ensure judicial impartiality (inspections and accountability)**

230. Under the reforms to boost the independence of the judiciary, judicial inspections play a larger role in monitoring the work and appraising the performance of judges. Surprise inspections are conducted regularly and complaints are received from the public and examined based on desk research and field investigations. In 2006, the Judicial Inspectorate undertook 46 field and surprise inspections, targeting all judges of courts of first instance and appeal courts, 54 appeal divisions with 162 working judges, and 250 courts of first instance and specialized courts with 348 working judges. The Complaints Department received, reviewed and processed 3,989 complaints. Some 56 judges were summoned to the Inspectorate for clarifications and interviews about alleged misconduct. Thirteen cautions were issued to judges proven to have committed a breach of duty and five judges were referred to the Accountability Council for disciplinary proceedings. Advisories were issued instructing a number of courts to address particular failings.

231. In 2007, several rounds of inspections were held, including 35 surprise inspections and 12 inspections involving field investigations. Appraisals were carried out of all 279 appeal courts and courts of first instance throughout Yemen, as a result of which 50 judges were summoned for clarifications and appropriate investigations were conducted. Moreover, 12 judges were sent before the Accountability Council and 10 cautions were issued. Twenty-eight advisories were sent to judges, and the Complaints Department received and processed 2,886 complaints.

232. In 2008, the Inspectorate conducted surprise inspections targeting 367 judges and members of the Department of Public Prosecutions working in 26 courts of first instance and 7 appeal courts. As a result, 131 judges were summoned, and 253 advisories and/or disciplinary cases were transmitted to the Accountability Council. Judges and members of the Department of Public Prosecutions were notified and issued with cautions in connection with allegations of misconduct.

**Judicial Inspectorate (Office of the Public Prosecutor)**

233. The Judicial Inspectorate, which is located in the Office of the Public Prosecutor, was given a stronger role. It was supplied with staff well trained to carry out regular and surprise inspections of the work done by members of the Department of Public Prosecutions and to evaluate their performance and encourage them to exercise due diligence when processing cases. In 2005, several unannounced inspections were carried out further to complaints received or instructions issued by the Public Prosecutor. As many as 61 such inspections were conducted, while 403 members of the Department had their work inspected under the regular process. Forty-six grievances were investigated as a result of inspections and 68 were investigated based on alerts or notices received. The Judicial Inspectorate issued 98 warnings and notices. In 2006, 30 unannounced inspections were carried out further to complaints received or direct instructions issued by the Public Prosecutor. Sixty members of the Department underwent regular work inspections. Forty-seven complaints against members of the Department were investigated following scheduled inspections, while 80 were investigated based on alerts or notices received. The Judicial Inspectorate issued 115 warnings and notices.

234. In 2007, 130 members underwent regular inspections. Nine complaints were investigated based on alerts or notices received. Immunity was lifted for two members of the Department; three other members were referred to the Accountability Council. Two members were investigated in disciplinary cases and tendered their resignations, which were accepted. A total of 47 warnings and notices were issued. It should be noted that, in 2005, the Public Prosecutor issued a circular on the procedures for bringing criminal proceedings against law enforcement officers, the police and members of the security services.

235. In 2008, the Judicial Inspectorate carried out 46 surprise inspections at prosecutor's offices in courts of first instance. As a result, four members of the Department of Public Prosecutions had their immunity lifted.

Table 42

**Data on the Judicial Inspectorate's activities in 2005**

<i>Item</i>	<i>Description</i>	<i>No.</i>
1.	Members promoted by presidential decree	2
2.	Members appointed as deputy public prosecutors further to a decision of the Minister of Justice	1
3.	Members promoted or whose job status was settled further to a decision of the Minister of Justice	116
4.	Members whose cases were referred to the insurance institute and whose files were dispatched for the purposes of determining their retirement pensions	40
5.	Members assigned and recruited further to a decision of the Public Prosecutor	198
6.	Members given leave without pay further to a decision of the Minister of Justice	2
7.	Prosecutor's offices established further to decisions of the Public Prosecutor	3
8.	Prosecutor's offices closed down further to decisions of the Public Prosecutor	1
9.	Surprise inspections conducted further to complaints or direct instructions from the Public Prosecutor	61
10.	Members who underwent a regular work inspection	403
11.	Grievances investigated based on the findings of a regular inspection	46
12.	Grievances reviewed on account of a warning or notice received	68
13.	Subjects raised by the Judicial Inspectorate for consideration and action	410
14.	Subjects raised at meetings held by the Inspectorate	42
15.	Notices and warnings issued	98
16.	Total number issued	1 173
17.	Total number received	2 240

Table 43  
**Findings of report by the Judicial Inspectorate on regular inspections in 2005 of work by public prosecutor's offices and their staff across Yemen**

By number of stages involved in the inspection	No. of inspectors who carried out regular inspections in 2005	Detail	No. of prosecutor's offices inspected during each round			No. of members examined during each round				No. of cases examined in 2005	
			Governorate	Appeal	First instance	Chief public prosecutor (Appeal court)	Member of prosecution service (Appeal court)	Deputy prosecutor (First instance court)	Member of prosecution service (First instance court)	Cases examined at prosecutor's offices (10 cases per member)	Cases examined at Inspectorate's office (2 cases per member)
Stage 1 (a)	12	Ta'izz	2	16	2	-	9	24	240	70	
		Abyan	1	8	1	4	8	10	100	46	
		Lahij	1	9	1	1	4	13	130	38	
		Aden	2	10	2	3	7	33	330	90	
Stage 1 (b)	12	Ibb	1	16	2	1	7	9	90	38	
		Dali'	1	11	1	2	7	11	110	42	
		Baida'	1	5	1	2	1	2	20	12	
		Dhamar	1	10	1	-	5	7	70	26	
Stage 2 team 1	8	Hudaidah	2	10	2	-	9	16	160	54	
		Raymah	1	1	1	-	1	-	-	4	
		Hajjah	1	6	1	-	3	6	60	20	
		Amran	1	5	1	-	5	6	60	24	
		Mahwit	1	5	1	-	3	3	30	14	
Stage 2 team 2	7	Hadramawt (Mukalla)	2	8	2	-	6	7	70	30	
		Hadramawt (Siy'un)	1	4	1	2	5	2	20	20	
		Shabwah	1	7	1	1	5	4	40	22	
		Ma'rib	1	1	1	-	1	-	-	4	

By number of stages involved in the inspection	No. of inspectors who carried out regular inspections in 2005	Detail	No. of prosecutor's offices inspected during each round			No. of members examined during each round				No. of cases examined in 2005	
			Governorate	Appeal	First instance	Chief public prosecutor	Member of prosecution service	Deputy prosecutor	Member of prosecution service	Cases examined at prosecutor's offices (10 cases per member)	Cases examined at Inspectorate's office (2 cases per member)
						(Appeal court)	(Appeal court)	(First instance court)	(First instance court)		
		Jawf	-	1	-	-	-	2	20	4	
		Mahrah	1	4	1	1	3	3	30	16	
Stage 3	14	Sana`a City North	2	12	2	5	4	24	240	70	
		Sana`a City South	1	7	1	5	4	12	120	44	
		Sana`a	1	1	1	4	5	9	90	38	
		Special courts	1	9	1	-	1	2	20	8	
		Military courts	1	2	1	-	-	-	-	2	
		Debts	0	0	35	-	-	-	-	-	
<b>Total</b>			<b>28</b>	<b>168</b>	<b>64</b>	<b>31</b>	<b>103</b>	<b>205</b>	<b>2 050</b>	<b>736</b>	

Source: Department of Public Prosecutions report, 2005.

Table 44  
**Issues referred to a department of the Judicial Inspectorate in 2005**

<i>Description</i>		<i>Department</i>	<i>Processed</i>	<i>Pending</i>	<i>Total</i>
Surprise inspections	Complaints		223	24	<b>247</b>
	Inquiries		41	17	<b>58</b>
	Surprise inspections		42	19	<b>61</b>
Public prosecutor's offices			275	37	<b>312</b>
Prisoners' affairs			148	2	<b>150</b>
Officers' affairs			1 170	20	<b>1 190</b>
Regular inspections			16	-	<b>16</b>
Statistics			309	-	<b>309</b>
<b>Total</b>			<b>2 224</b>	<b>119</b>	<b>2 343</b>

*Source:* Department of Public Prosecutions report, 2005.

### Measures concerning women

236. In order to guarantee women the right of access to employment in the public sector, in keeping with the principle of equal opportunities for men and women, the Higher Institute of the Judiciary opened its doors to women in 2006. The same criteria for admissions and admission examinations are applied to men and women. A total of 11 women have been admitted to the Institute, 5 of them in the fifteenth intake, 3 in the sixteenth intake and 3 in the seventeenth intake. The Institute is now open to women on a permanent basis.

237. A woman was appointed to the Supreme Court bench for the first time in Yemen's judicial history. There are 36 women judges, and women also hold senior positions such as those of chief public prosecutor and deputy undersecretary at the Ministry of Justice. A total of 2,256 women serve in technical, clerical and service functions at the Ministry and the courts. The Ministry and its branches employ over 600 women, and that figure is growing.

### Measures concerning juveniles

238. Several procedures and measures relating to children are described below:

(a) The Supreme Council of the Judiciary issued a decree establishing a general department for women and children at the Ministry of Justice;

(b) A presidential decree concerning a regulation on the organization of the Ministry of Justice was issued, setting out the terms of reference for the technical bureau. The terms of reference include mention of children, in particular efforts to improve conditions for children detained or living in correctional facilities and offer legal guarantees to ensure that their treatment is consistent with domestic laws and international treaties;

(c) Draft internal regulations for juvenile welfare and rehabilitation facilities were prepared, incorporating fundamental children's rights norms and the Standard Minimum Rules for the Protection of Juveniles Deprived of their Liberty;

(d) The Ministry of Justice, in coordination with the Ministry of the Interior and the Ministry of Social Affairs, and with support from UNICEF, is setting up a database on juveniles (as backup for the juvenile justice system). The offices of the juvenile police, the

juvenile prosecution service, the juvenile court and the social services will all have database access.

### **Progress achieved**

#### **Structures and institutions**

239. Work has been done to expand the juvenile justice system through the establishment of the following new authorities, institutions and procedures:

- Two juvenile courts were set up and staffed with two members of the juvenile prosecution service in the governorate of Hajjah
- A presidential decree was issued establishing the General Department of Juvenile Police at the Ministry of the Interior, and providing for the establishment of three branches, in Ta`izz, Hudaidah and Sana`a governorates respectively, to be staffed by trained women police officers
- A women's and children's affairs section was set up in the technical bureau of the Ministry of Justice
- Social welfare facilities were expanded with the establishment, in Ta`izz and Aden, of two new institutions to provide social support and guidance for girls, and a similar institution for boys in Hajjah governorate
- Two child-monitoring and protection offices were set up in Ta`izz and Hudaidah governorates with the help of the community
- NGOs and civil society organizations have been involved in managing juvenile care homes and encouraged to support and develop programmes to protect juveniles in care homes or in related activities

240. The Supreme Council for Motherhood and Childhood, in cooperation and coordination with relevant bodies, took steps to improve conditions for children in conflict with the law and establish a national welfare network for such children. The purpose of the network is to:

- Improve conditions for children in conflict with the law and reduce the number of cases of children at risk of delinquency
- Coordinate efforts by the competent authorities to provide children with care and protection in the framework of a joint action plan
- Support, assist and follow up on relevant activities and projects
- Raise public awareness of children's rights

241. The members of this network include Government ministries and governmental and non-governmental organizations involved in caring for and protecting children in conflict with the law, together with donors such as the Social Fund for Development, UNICEF and a Swedish child welfare organization.

242. Juvenile justice professionals are offered training and capacity-building to improve their knowledge of the Convention on the Rights of the Child and other relevant international instruments. They also receive specialist training on legal, social and psychological aspects of their work. Courses are targeted at judges, members of the Department of Public Prosecutions, the police, social workers, lawyers and representatives of relevant civil society organizations. The main areas of focus are:

- (a) Legal protection of minors in accordance with domestic legislation, the Convention on the Rights of the Child and United Nations norms and principles concerning children;
- (b) Skills development for youth social workers and providers of psychosocial assistance;
- (c) Promotion of non-custodial measures and community-based diversionary measures;
- (d) The organizations which deal with these issues;
- (e) Briefings and seminars for youth workers on children's rights under domestic legislation and international treaties;
- (f) Training and participation in training and missions abroad to learn from the experiences of other countries in providing for the protection and welfare of minors.

### Social welfare

243. Social guidance homes provide welfare services, activities, psychological rehabilitation and social reintegration assistance for child offenders between the ages of 7 and 15. Its programmes and services cover the following areas:

- Social welfare (accommodation – food – clothing), psychological rehabilitation and educational services
- Health services, religious guidance and counselling, cultural, recreational and sports activities, and training and vocational rehabilitation

244. Nine social guidance homes provide for the welfare and rehabilitation of juveniles, seven of them boys' homes in Sana'a City, Aden, Ta'izz, Ibb and Hudaidah governorates and two girls' homes in Sana'a City and Aden. Moreover, a tenth home is being established in Ta'izz for girls in conflict with the law.

245. In 2006, approximately 900 boys and girls were able to benefit from services provided by these homes. In 2007, a total of 586 children received social welfare and psychological rehabilitation services at the homes in the Aden, Ta'izz, Hudaidah, Hadramawt, Ibb and Hajjah governorates and at the Sana'a City home for girls in conflict with the law.

Table 45

### Overview of juvenile cases registered in 2007

Offence	Deaths		Injuries		Victim		Perpetrator		Total	
	Male	Female	Male	Female	Male	Female	Male	Female	Victims	Perpetrators
1. Rape	-	-	83	22	83	22	51	-	105	51
2. Attempted	-	-	78	-	78	-	40	-	78	40
3. Sodomy	-	-	1	3	-	4	21	45	4	66
4. Indecent acts and images	-	-	11	4	11	4	18	7	15	25
5. Attempted rape	-	-	36	21	36	21	13	-	57	13
6. Lewd act with a female	-	-	-	21	-	21	11	16	21	27
7. Attempted unlawful intercourse	-	-	2	1	-	3	4	1	3	5

Offence	Deaths		Injuries		Victim		Perpetrator		Total	
	Male	Female	Male	Female	Male	Female	Male	Female	Victims	Perpetrators
8. Keeping a bawdry house	-	-	-	-	-	-	-	1	-	1
9. Abduction of a female	-	-	8	22	8	22	-	1	30	1
					injured <sup>6</sup>					
10. Unlawful intercourse not proven according to the sharia	-	-	-	-	-	-	1	-	-	1
11. Abduction followed by unlawful intercourse and sodomy	-	-	1	-	1	-	1	-	1	1
12. Sodomy	-	-	42	-	42	-	97	-	42	97
<b>Total</b>					<b>259</b>	<b>97</b>	<b>257</b>	<b>71</b>	<b>356</b>	<b>328</b>

Source: Draft report of Yemen on the rights of the child, 2009.

Table 46  
Overview of juvenile cases registered in 2003–2007

Offence	Deaths		Injuries		Victim		Perpetrator		Total	
	Male	Female	Male	Female	Male	Female	Male	Female	Victims	Perpetrators
1. Abduction	-	-	-	-	70	53	21	1	123	22
2. Rape	4	-	295	81	299	81	170	1	380	171
3. Unlawful intercourse	-	-	-	-	-	14	46	139	14	185
4. Indecent acts and images	-	-	-	-	11	4	18	7	15	25
5. Attempted rape	-	-	-	-	48	31	23	-	79	23
6. Lewd act with a female	-	-	-	-	-	21	11	16	21	27
7. Attempted unlawful intercourse	-	-	-	-	-	5	5	1	5	6
8. Sodomy	3	-	-	-	131	2	227	-	133	227
9. Attempted sodomy	-	-	-	-	82	1	42	-	82	42
10. Illegitimate pregnancy	-	-	-	-	-	3	3	3	3	6
11. Other immoral acts	-	-	-	-	5	2	26	41	7	67
12. Harboring persons	-	-	-	-	47	39	-	-	86	-
13. Work accident	-	-	-	-	3	-	-	-	3	-
14. Absconding	-	-	-	-	-	-	40	15	-	55
15. Child trafficking	-	-	-	-	-	-	167	29	-	196
16. Incest	-	-	-	-	1	1	1	1	2	2
17. Foundling	6	1	3	7	9	8	-	1	17	1
18. Keeping a bawdry house	-	-	-	-	-	-	-	1	-	1
19. Inciting a child to steal	-	-	-	-	1	-	-	-	1	-
20. Unlawful intercourse not proven according to the sharia	-	-	-	-	-	-	-	-	-	1

<sup>6</sup> Injured in the course of an abduction.



Offence	Deaths		Injuries		Victim		Perpetrator		Total	
	Male	Female	Male	Female	Male	Female	Male	Female	Victims	Perpetrators
21. Attempted abduction	-	-	-	-	1	-	-	-	1	-
<b>Total</b>					<b>708</b>	<b>264</b>	<b>800</b>	<b>256</b>	<b>972</b>	<b>1 057</b>

Source: Draft report of Yemen on the rights of the child, 2009.

Table 47  
Number of juveniles and types of offence, 2006

Case	No.
1. Murder	61
2. Attempted	3
3. Robbery	29
4. Sodomy	5
5. Rape	3
6. Assault	5
7. Indecent assault	2
8. Drunkenness	2
9. Enforcement of a sentence	1
10. ?	1
11. Illegal organization	3
<b>Total</b>	<b>115</b>

Source: Draft report of Yemen on the rights of the child, 2009.

246. The table shows that 115 cases were brought against minors. Forty cases were completed and 75 are still being tried and considered. All the minors were below 15 years of age. Seventy-one children between the ages of 2 months and 4 years are with their mothers in detention.

Table 48  
Number of juvenile reform institutions in the Republic of Yemen

Item	Name of institution	Governorate	Capacity	Number of users per annum	Year established	Main oversight bodies	Main support bodies
1.	Social Reform Institution for Boys	Sana`a City	150	3 000	1979	Ministry of Social Affairs	Ministry of Social Affairs
2.	Amal Welfare Institution for Girls	Sana`a City	50	40	2001	Ministry of Social Affairs, run by Al-Salih Foundation	Ministry of Social Affairs, run by Al-Salih Foundation
3.	Social Reform Institution for Boys	Aden	50	110	2000	Ministry of Social Affairs, run by the Association for Persons with Special Needs	Ministry of Social Affairs, Al-Sarah Association

Item	Name of institution	Governorate	Capacity	Number of users per annum	Year established	Main oversight bodies	Main support bodies
4.	Social Reform Institution for Girls	Aden	50	15	2005	Ministry of Social Affairs	Ministry of Social Affairs
5.	Social Reform Institution for Boys	Ta`izz	50	135	1979	Ministry of Social Affairs, private board of governors	Ministry of Social Affairs, private board of governors
6.	Social Reform Institution for Boys	Hudaidah	50	165	2003	Ministry of Social Affairs	Ministry of Social Affairs
7.	Social Reform Institution for Boys	Ibb	60	40	2003	Ministry of Social Affairs	Ministry of Social Affairs
8.	Social Reform Institution for Boys	Hadramawt	50	45	2003	Ministry of Social Affairs	Ministry of Social Affairs
9.	Social Reform Institution for Boys	Hajjah	30	50	2005	Ministry of Social Affairs	Ministry of Social Affairs
<b>Total</b>			<b>450</b>	<b>900</b>			

Source: Draft report of Yemen on the rights of the child, 2009.

#### **Social monitoring and child protection programme**

247. This is a new programme of action established by the Ministry of Social Affairs and Labour in cooperation with the Supreme Council for Motherhood and Childhood. It has been running since mid-2007. Two social monitoring and child protection centres have been established as a pilot project in the Ta`izz and Hudaidah governorates, with the aim of:

- Protecting children from exposure to the risk of delinquency and from violence, abuse and exploitation
- Encouraging law enforcement agencies to use non-custodial measures in juvenile cases in order to facilitate the rehabilitation of juvenile offenders in the family and community setting
- Providing aftercare for juvenile offenders who have received and served a custodial sentence and helping them to reintegrate into their families and communities, thereby making it less likely that they will reoffend
- Promoting community participation in child protection programmes; developing community-based diversionary measures as a way of protecting children from delinquency; and encouraging communities to help reintegrate child offenders and protect them from violence, abuse and exploitation

248. These centres approach their work on the basis of community participation. Several activities have been carried out in this context, including the following:

- A survey was conducted of all individuals in the community who could participate in the programme, including sheikhs, prominent community figures, local councillors, head teachers and mosque imams. Consultative meetings were then held with these persons to explain the programme and what they would be required to contribute, if the programme was significantly to curb child delinquency and protect

children from violence and abuse. Community members participating in the programme were given training to hone their skills in these areas of child protection.

- After the programme was launched, meetings were held in Ta`izz and Hudaidah to review and assess the level of involvement of local community representatives in protecting children who fall into delinquency or are subjected to violence and abuse in the home or on the street. In approximately 80 per cent of cases of juvenile offending in the two governorates in 2008, prosecutors and juvenile courts employed non-custodial measures. Local communities participated in monitoring the young persons concerned in the family and community setting. Local community members also helped to protect children found to be at risk of violence, including child victims of domestic violence.

### Major difficulties and problems in working with juveniles

(a) Juvenile care homes are understaffed and many of their staff are contract workers or volunteers. Not enough funding is allocated to recruit the right kind of staff, particularly social workers and psychologists;

(b) There are still gaps in the budgets which the Government allocates for juvenile care homes, especially for vocational, cultural and recreational activities;

(c) There are chronic weaknesses in the follow-up programme, and there is no mechanism for implementing the programme. In some cases, minors reoffend, because of the lack of follow-up care. This problem is linked to the understaffing issue;

(d) There is no social monitoring programme to prevent juvenile offending;

(e) There are no juvenile police branches in the governorates;

(f) There are weaknesses in the mechanism for monitoring and registering juvenile cases and violations of children's rights and, notwithstanding the existence of juvenile courts, prosecutor's offices and care institutions in some governorates, some minors are still being put in prison;

(g) Community-based associations and institutions do not play a strong enough role in delivering protection services to juveniles at the governorate level, with the exception of Sana`a City and Aden;

(h) Many youth workers, particularly those working directly with young people in care homes, public prosecutor's offices, the courts or the police service, still need continuous training.

Table 49

### Cases heard by juvenile courts in some governorates

Name of governorate Type of offence	Sana`a city			Aden			Ibb			Ta`izz				
	2005	2006	2007	2005	2006	2007	2005	2006	2007	2004	2005	2006	2007	2008
Assault	12	9	8	7	6	12	-	-	-	27	76	2	31	17
Financial	5	17	-	26	15	45	8	5	8	23	46	6	63	11
Indecency	13	16	14	16	18	22	-	5	3	17	27	-	17	2
Risk of delinquency	-	-	-	10	4	9	-	-	-	-	-	-	1	1
<b>Total</b>	<b>30</b>	<b>42</b>	<b>22</b>	<b>59</b>	<b>43</b>	<b>88</b>	<b>8</b>	<b>10</b>	<b>11</b>	<b>67</b>	<b>149</b>	<b>8</b>	<b>112</b>	<b>31</b>

Name of governorate Type of offence	Hajjah				Abyan				Hadramawt					
	2005	2006	2007	2008	2005	2006	2007	2008	2003	2004	2005	2006	2007	2008
Assault	3	5	4	1	1	6	4	2	15	16	6	-	8	-
Financial	3	3	7	-	2	3	-	1	12	23	18	31	20	1
Indecency	-	-	3	1	1	1	1	-	9	10	5	10	4	-
Risk of delinquency	9	3	2	-	-	-	-	-	1	3	1	5	6	-
<b>Total</b>	<b>15</b>	<b>11</b>	<b>16</b>	<b>2</b>	<b>4</b>	<b>10</b>	<b>5</b>	<b>3</b>	<b>37</b>	<b>52</b>	<b>30</b>	<b>46</b>	<b>38</b>	<b>1</b>

Source: Draft report of Yemen on the rights of the child, 2009.

### Classification of offences

Assault: murder; inflicting a permanent disability; causing injury by accident; abuse; causing injury intentionally; violation of privacy; traffic accident; abduction; public order offence; bombing; threatening behaviour.

Financial: theft; pickpocketing; damage to property; destruction.

Indecency: unlawful intercourse; sodomy; rape; lewd act; remaining alone with persons other than direct blood relatives (if a woman); breach of faith.

Risk of delinquency: begging; drinking alcohol; making and selling alcohol; minor offences.

## Article 15

### Legislative measures

249. Further to the information provided on this article in the previous report, we should add that there is a constitutional requirement to publish laws in the Official Gazette in order to inform the public about acts that are illegal and the penalties prescribed for them by law. Article 103 of the Constitution provides: "Laws shall be published in the Official Gazette and shall be disseminated within two weeks of issuance. They shall enter into force 30 days from the date of publication. This time limit may be extended or reduced further to a special provision of law." Article 104 states: "Laws shall only apply from the date of their entry into force and shall not have retroactive effect. Except with regard to fiscal and criminal matters, a contrary provision may however apply, subject to approval by two thirds of the members of the House."

250. Consistent with this article of the Covenant, article 7 of the Code of Criminal Procedures provides: "Arrests shall only be permitted if made in connection with the commission of legally punishable acts. They shall be legally justified." Article 11 provides: "Personal freedom is guaranteed. No citizen shall be accused of an offence or deprived of liberty except pursuant to an order issued by the competent authorities in conformity with the present Code." Article 218 explicitly states: "If, upon investigation, the Department of Public Prosecutions concludes that the act is not legally punishable or did not occur, it may issue a reasoned decision ruling out the institution of criminal proceedings."

## Article 16

251. The legal position on this article is explained in the previous report.

## Article 17

252. The legal position on this article is explained in the previous report.

## Article 18

### Freedom of religion

253. The legal position on this article is explained in the previous report.

## Article 19

### Underpinnings of the media policy

254. The media policy is governed by several fundamental principles, norms and sets of law, namely:

- The Islamic sharia
- National unity
- The aims and principles of the Yemeni revolution
- The Constitution

### Number of journalists

255. In Yemen, there are 1,278 professional journalists listed as active members of the general assembly of the Yemeni Press Association.

### Media strategy

256. The media strategy in Yemen is underscored by several principles, of which the key ones are listed in the following paragraphs.

257. Ensuring freedom of expression and press freedom; investing creative energy in all areas of democratic life and development, in the context of the nation-building process; consolidating the foundations of society, unity and freedom; and promoting human rights and the values of equality, equity, fraternity, peace, security and stability.

258. Keeping to the facts; presenting accurate information and figures; and avoiding exaggeration in reporting.

259. The mission of the media relative to individual and community rights. The broadcasting and print media belong to everyone and their main function is to serve the legitimate aims of the public at large in a manner that ensures social peace and prosperity.

260. The media play their part, in agreement with the authorities concerned, in shaping citizens' behaviour and encouraging people to bear their responsibilities for all aspects of nation-building and development. In this way, they help to guarantee the security of the nation and its people, safeguard society from crime and evils of any kind and combat these phenomena in the framework of a specific plan of action.

261. Ensuring full consistency between the information flow and access to information, analysis and guidance on the one hand and the need to improve the quality of national, human and creative activities in the new Yemeni society on the other.

262. Promoting the press; guaranteeing press freedom; safeguarding the dignity of journalists and writers and encouraging them to practise the habits of constructive and

responsible criticism; and promoting adherence to the principles underpinning a free and responsible press.

263. Ensuring timely access to information in all the media; meeting the urgent needs of the public; focusing attention on information of special interest to the nation and the people and on the policies and issues that affect them; presenting information to the Arab, Islamic and international communities, in various languages, through our embassies abroad and foreign media outlets; providing information, through the print and broadcasting media, about life and democracy in Yemen, as well as general achievements scored in the political, economic, cultural and social spheres.

264. Maintaining credibility and upholding the values of the law and justice in all kinds of media discourse; setting a good example; eschewing extremism and immoderation in news coverage; and making sure not to misrepresent, conceal or disregard the facts.

265. Making all the noble values and principles in which our people believe, based on their Islamic faith and Arab and human ideals, a moral force driving public and private action, responsibility-sharing and conduct in all matters which have a bearing on the role and standing of the State and the role of individuals and society; reflecting the image and vitality of society and how its institutions and members interact with one another in a flourishing relationship which binds them together in pursuit of constructive aims; and helping the State and society to eliminate the capriciousness and negative influences which tend to deplete the energies needed for productive endeavour. In this connection, mention must be made of the new forms of cooperation established with ministries, institutions, organizations, various departments and associations specializing in this and other areas of media activity in order to combat moral and financial corruption, bribery, unemployment, immoderation and waste.

266. Expanding coverage of social issues, concerns and problems; offering analyses on these matters; and presenting possible solutions and recommendations in all the information and communications media.

Table 50

**Newspapers and magazines published in Yemen**

<i>Published by</i>	<i>Newspapers</i>	<i>Magazines</i>	<i>Total</i>
Government	30	22	<b>52</b>
Political party	62	4	<b>66</b>
Civil society	54	34	<b>88</b>
Private	176	70	<b>246</b>

**Print media**

267. Over the years, freedom of expression in newspapers and magazines has helped to enhance democratic life from the point of view of access to information, consolidating political and press pluralism. In 2008, the Government took steps to support and develop the print media in order to achieve global competitiveness by expanding the network of correspondents and the Saba'a agency abroad, modernizing the agency's printing presses and supplying the agency with modern printing technology. The second phase was completed of a project to develop the agency's website. The website is accessed using modern technology and the web pages appear in different languages. The agency's computer network was updated and a building was purchased for a branch of the agency in the Ibb governorate. Buildings in Ta'izz, Hudaidah, Dhamar and Abyan were completed, together with a large editorial complex owned by Al-Thawra Press, Printing and Publishing House. A public bidding process was launched for the refurbishment of the Publishing House.

An electronic news archiving system was developed, a new print shop was purchased for the Jumhuriya Press, Printing and Publishing House and equipment for selecting colours and binding commercial publications was purchased.

Table 51

**Main government newspapers**

<i>Name</i>	<i>Type</i>	<i>Frequency of publication</i>
Al-Thawra	Government	Daily
14 October	Government	Daily
26 September	Government	Weekly

Table 52

**Main party newspapers in Yemen, 1990–2006**

<i>Newspaper</i>	<i>Party</i>	<i>Frequency of publication</i>
Al-Mithaq	General People's Congress	Weekly
Al-Sahwa	Yemeni Congregation for Reform	Weekly
Al-Wahdawi	Nasserist People's Unionist Party	Weekly
Al-Thawri	Yemeni Socialist Party	Weekly
Sawt al-Yemen	Liberal Party	Weekly
Al-Sharara	Yemeni Socialist Party	Weekly
Al-Tashih	Nasserist Reform	Weekly
Al-Tajama`	Yemeni Unionist Congregation	Weekly
Al-Nur	Yemeni Congregation for Reform	Monthly
Al-Jamahir	Socialist Arab Baath Party	Weekly
Al-Shura	Federation of Yemeni Popular Forces	Weekly
22 May	General People's Congress	Weekly
Al-Imma	Al-Haqq Party	Weekly
Ra'y	Yemeni People's League Party	Weekly
Al-Thawabit	General People's Congress	Weekly
Ta`izz	General People's Congress	Weekly
Sawt al-Mu`arida	Opposition National Council	Weekly
Al-Ihya' al-Arabi	Socialist Arab Baath Party	Weekly
Al-Asima	Yemeni Congregation for Reform	Weekly
Al-Aruba	Democratic Nasserist Party	Weekly

Table 53  
Main private newspapers in Yemen

<i>Newspaper</i>	<i>Frequency of publication</i>
Al-Ayyam	Daily
Al-Ayyam Al-Riyadi	Weekly
Al-Sabah	Weekly
Al-Tariq	Weekly
Al-Sha`b	Weekly
Al-Risala	Weekly
Sana`a	Weekly
Al-Ra'y Al-Amm	Weekly
Mala`ib wa Sayarat	Weekly
Al-Amal	Weekly
Al-Hurriya	Weekly
Al-Manar	Twice a month
Al-Haqq	Weekly
Al-Rasid	Weekly
Al-Balagh	Weekly
Al-Hadaf al-Arabi	Weekly
Al-Masar	Weekly
Yemen Times	Weekly
Sawt al-Iman	Monthly
Al-Yemen Al-Sa`id	Weekly
17 July	Weekly
Al-Mara`a	Monthly
Al-Shumu`	Weekly
Yemen Observer	Weekly
Al-Raqib	Twice a month
Bazaar	Every 10 days
Nawafidh	Monthly magazine
Al-Ussu`	Weekly
Al-Jazeera	Twice a month
Al-Muntada	Monthly
Adam wa Hawa'	Monthly



<i>Newspaper</i>	<i>Frequency of publication</i>
Al-Nas	Weekly
Al-Nahar	Weekly
8 March	Monthly
Al-Ibhar	Twice a month
Al-Adwa'	Twice a month
Iqtisad wa Aswaq	
Anwar al-Talaqi	
Mobile	Monthly
Alim 21	Monthly
Al-Zajil	Weekly
Al-Istithmar	Monthly
Al-Liwa'	Weekly
Adwa' al-Shumu'	Weekly
Al-Wadith	Weekly
Sport	Weekly
Al-Wasat	Weekly
Al-Nida'	Weekly
Al-Ufq	Twice a month
Al-Usra al-Yamaniya	Monthly
Al-Mustaqilla	Weekly
Al-Dustur	Weekly
Al-Marqab	Weekly
Al-Bilad	Weekly

### **Overview of Yemeni radio stations**

#### **Radio Sana`a (public programme)**

268. Sana`a Radio was established in January 1946, but closed two years later. It went back on air in 1955. It operates around the clock and broadcasts two hours of programming in English. It began broadcasting its programmes on the Internet in May 2001 (<http://www.yradio.gov.ye>) and on Arabsat on frequency 2.7 MHz.

#### **Aden Radio (the second programme)**

269. Founded on 17 August 1954, on normal days Aden Radio is on air for a total of 15 hours. It broadcasts on medium wave (750 KW – 792 kHz) and from Sana`a on 837 kHz and FM 100. Since 21 May 2003, it has been broadcasting on the Yemeni satellite channel,

via Arabsat 3 (7.80 MHz). It has also begun broadcasting on the Internet (<http://www.aden.radio.gov.ye>).

#### **Local radio**

(a) Al-Shabab began broadcasting on 23 April 2003 on medium wave (837 kHz) and on 96.5 FM. It is on air in Sana`a and some neighbouring governorates between 12 a.m. and 2 p.m. and again from 10 p.m. to 12 p.m.;

(b) Ta`izz Radio went on air in 1963 and broadcasts on MW 891 kHz;

(c) Al-Mukala Hadramawt Radio went on air in 1967 and broadcasts on medium wave;

(d) Al-Hudaidah Radio went on air in 1968 and broadcasts on medium wave;

(e) Siy'un Radio went on air in 1973 and broadcasts to Hadramawt Valley and the desert and neighbouring areas;

(f) Abyan (Ja`ar) Radio went on air in 1973.

#### **Hajjah Radio**

270. Hajjah Radio began broadcasting in April 2004 on FM. It broadcasts in Hajjah and neighbouring governorates.

#### **Mahrah Radio**

271. Founded in 2004, Mahrah Radio broadcasts on FM in the Mahrah governorate.

272. In 2005, the Government decided to establish local radio stations, such as Sa`dah Radio and Ibb Radio, in all the other governorates of Yemen, as part of a process designed to develop and expand media programming in order to serve the aims of overall development.

#### **Visual media**

273. The Government has taken measures to expand the presence of the audio-visual media on global satellite broadcasts and expand broadcasting of the Yemen Channel and radio 1 and 2, in order to include northern Europe via FOX25, Europe via HOTBIRD 8 and Asia via ASIASAT. It also plans to install another satellite transmitter to expand satellite television coverage and absorb more than eight satellite channels.

274. In addition to the Yemen Channel, a second channel (Yamaniya) was launched in Aden, together with the Saba'a Channel, both of them satellite channels. They began broadcasting by satellite in March 2008. The Ministry of Information has established two satellite channels: a news channel and a religious knowledge channel.

#### **Electronic press**

275. The electronic press is one of the fruits of the democratization process on which Yemen embarked after unification. The electronic press now attracts significant political and media attention in Yemen, the Arab world and the international arena, giving Yemen a high profile on the web.

276. A distinction may be drawn between two kinds of Yemeni electronic media available on the Internet. The first kind consists in newspapers, which are an extension of, or a supplement to, the print version. They are available on the net either in Acrobat files or in hypertext and there is no difference between their content and that found in the print version. The second type of electronic media consists of dedicated Internet sites. Both kinds

combine a mix of media combining diverse techniques and giving expression to different ideologies and forms of political discourse. The following are examples of sites in each of the two groups:

- Political party websites: these sites are an extension of printed newspapers and include, for example, Al-Sahwa Net; Al-Shura Net; Al-Ayyam; Mayonews; Al-Mithaq Net.
- Electronic sites: these are dedicated websites containing texts for which there is no corresponding print version. There are two kinds of such sites:
  - Political party websites: e.g. Congress Net; Ra'y al-Ikhbariyah; Al-Ishtiraki Net; Al-Wahdawi Net.
  - Independent websites owned by private institutions or individuals: e.g. Yemen News; Nass Press; Al-Taghyir; Nabanews; and Marebpress.

#### **Airtime devoted to women's issues**

277. The public perception of women is influenced by how much airtime is allocated to women's issues and how women are portrayed (negatively or positively) in other kinds of material.

278. Given the lack of statistical information on the types of media material which deal directly with women's issues, the question is how to identify media material on subjects which have nothing to do with women's issues but which portray images of women.

279. The Public Corporation for Radio and Television assigns hours of airtime to television and radio broadcasts on women's issues. Press and other institutions have no quantitative or qualitative data on published press materials which deal with women's issues.

280. The table below contains information on the number of hours which the Public Corporation for Radio and Television devotes to coverage of women's issues.

Table 54

#### **Number of hours of television and radio broadcasts on women's issues and daily average in minutes, 2008**

<i>Medium</i>	<i>No. of broadcasting hours per year</i>	<i>Daily average in minutes</i>
1. Television	180.35	30
Yemen and Saba` channel (1-1)	157.33	26
Yamaniya channel (1-2)	32.02	4
2. Radio	1 006.06	165
Sana`a (2-1)	171.83	28
Aden (2-2)	125.64	21
3. Local radio	708.59	116
Ta`izz (3-1)	105.97	17
Makalla (3-2)	51.67	8
Hudaidah (3-4)	186.78	30
Other (3-5)	364.17	60
<b>Total</b>	<b>1 186.41</b>	<b>195</b>

*Source:* Report on women in Yemen, 2008.

281. The data in the above table shows that 195 minutes per day are devoted to programmes on women, making an average of 3.3 hours, of which 2.8 hours are radio programmes and 0.5 are television broadcasts.

282. Fourteen minutes were added to the daily slots assigned to television programmes on women's issues. While this is an important development for women, attention needs to be paid to the kind of material that is broadcast and how women are portrayed in it and to the public.

## **Article 20**

283. The legal position on this article was explained in the previous report.

## **Article 21**

284. The legal position on this article was explained in the previous report.

## **Article 22, paras. 1, 2 and 3**

### **Freedom of association**

285. The legal position on this article was explained in the previous report. We draw the Committee's attention to the report which Yemen submitted to the Economic and Social Council in June 2008 in accordance with articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights (E/C.12/YEM/2).

## **Article 23**

### **Efforts to combat the practice of early marriage of girls**

286. The legal position on this article was explained in the previous report. Yemen's reports to the Committee on the Elimination of Discrimination against Women deal in detail with the matters raised in the Committee's concluding observations. What follows is an outline of the main actions taken to combat early marriage among girls who are minors.

287. The Government, through the efforts of relevant institutions, has taken action to reduce the prevalence of early marriage and early pregnancy and to deal with their harmful effects. Action has been taken in a number of areas, as described below.

### **Policies and plans**

288. The national strategy for children and young persons is an important part of the work being done to prevent early pregnancies and reduce the risks posed to reproductive health. A number of activities are included, in particular:

- (a) The design and implementation of a national plan on early pregnancy issues, birth spacing and reducing reproductive health risks;
- (b) Support for initiatives to encourage girls to continue in secondary education;
- (c) Raising awareness of the risks associated with early pregnancy and the importance of birth spacing;
- (d) Expanding reproductive health services and awareness programmes for young people in urban and rural communities.

289. Children's issues have been included in the national strategy for the advancement of women in connection with two strategic issues:

(a) The wide gender gap in different stages and areas of education and the high illiteracy rate among women and girls;

(b) Inequalities in regard to health care and services delivery and the lack of incentives and guarantees for women's employment in the health sector.

### **Legislation and laws**

290. In this connection, the subject of setting a minimum age for marriage was raised in three draft legislative amendments, namely, a draft text amending the laws on children, which was submitted by the Supreme Council for Motherhood and Childhood; a draft text amending the laws on women, which was submitted by the Women's National Committee; and a bill on safe motherhood, which was submitted by the Ministry of Health and Housing.

291. The article on the minimum age for marriage met with opposition in the House of Representatives, however, based on views about Islamic sharia jurisprudence. In order to utilize national expertise to enrich the debate in the relevant House of Representatives committees, the Supreme Council for Motherhood and Childhood held a consultation workshop for members of the House of Representatives, at which working papers were presented on an appropriate age for marriage, having due regard to Islamic law and health, social and psychological factors. The draft amendments are still before the two committees which deal, respectively, with human freedoms and rights and sharia judgements.

### **Awareness-raising**

292. Civil society organizations play a key role in raising awareness of the risks associated with early marriage and early pregnancy. They work in cooperation with government institutions involved with the Yemen Women's Union and the network of NGOs devoted to eliminating violence against women and others (the Shima Network).

293. The broadcast and print media take this matter seriously and show many of the social, psychological and even health problems suffered by girls and families as a result of early marriage.

294. The Yemen Women's Union, with the support of the United Nations Children's Fund (UNICEF), has run training courses and awareness campaigns in 10 governorates (Hudaidah, Sana'a City, Hadramawt, Shabwah, Mahrah, Abyan, Dali', Lahij, Ta'izz and Aden) on the risks associated with early marriage and sexually transmitted diseases. The following activities were undertaken:

- Twenty awareness-raising training courses were run in these governorates
- Six hundred members of local communities and staff of education offices in the governorates were trained (100 per cent coverage)
- An awareness campaign was run in 100 schools in 10 governorates
- Awareness-raising activities were carried out among a total of 920,000 women at Yemen Women's Union head offices and among local community members in mosques, schools and neighbourhoods
- Some 1,000 leaflets and publicity messages were distributed among schools and target groups
- An agreement was concluded with a producer on material to be broadcast on school radio and Sana'a Radio

295. The Union runs its own programme with support from Oxfam International (awareness programme on the risks associated with early marriage). The programme is delivered at the branches of the Union in Hudaidah and Hadramawt, where awareness programmes and sessions are held with women and men in target groups to discuss the risks of early marriage and the importance of reproductive health. In this connection:

- Two meetings were held at the Union's headquarters for "Friends of the Union" to discuss a plan for a project on the safe age for marriage. Six persons who are well known public figures, educationalists or decision makers attended.
- In coordination with the education office, represented by the Educational Activities Department and the Girls' Education Department, discussions were held on the activities to be carried out under the "Safe age for marriage" project.
- A meeting was held with head teachers to discuss activities to be run in schools in coastal areas during the second phase of the project.
- Eighty sessions to raise awareness of the risks of early marriage were held and attended by a total of 2,633 persons.

296. The Women's National Committee decided to step up its efforts with other members of the Shima network. It organized activities to raise awareness of legal amendments introduced to protect girl children from early marriage. An event was held to mark the International Day for the Elimination of Violence against Women and other events were carried out by girl guide and scout leaders, in which young persons were targeted to raise their awareness of the campaign on a safe age for marriage.

#### **Studies and research**

297. University research centres and centres which deal with women's and gender issues have conducted many studies and research projects on the impact of early marriage and early pregnancy. For example, a field study was done by the women's and gender studies centres at Sana'a and Aden universities on the effects of early marriage.

#### **Article 24**

298. The legal position on this article was explained in the previous report.

#### **Article 25**

299. Further to the explanation given in the previous report, we should like to add that the Higher Committee for Elections decided that Ali Abdullah Saleh had been selected as President of Yemen in accordance with the Constitution of Yemen, the General Elections and Referendums Act No. 13 of 2001, as amended, and based on House of Representatives Memorandum No. 646 dated 24 July 2006 addressed to the Higher Committee for Elections and Referendums, concerning the completion by the House of Representatives and the Advisory Council of the constitutional procedures for nominating the President of the Republic in accordance with articles 107 and 108 of the Constitution. The selection was made after the Higher Committee for Elections and Referendums had followed all the constitutional and legal procedures for preparing and holding, on 20 September 2006, the competitive, free and direct elections by which the people chose the President of the Republic. The decision was recorded in the reports on the outcome of the elections, which was announced on 23 September 2006.

**Local elections of 2006**

- Number of local districts: 333
- Number of electoral wards: 5,620
- Number of persons on electoral register: 9,247,730, of whom 5,346,805 were males and 3,900,565 were females
- Number of candidates in the 2006 local elections after withdrawals: 1,634

**Number of candidates**

300. In the 2006 local elections in the governorates, 2,406 persons put themselves forward as candidates before withdrawals. That figure can be broken down as follows:

- Males: 2,374
- Females: 32

301. In the 2006 local district elections, 22,100 persons stood as candidates, before withdrawals. That figure can be broken down as follows:

- Males: 21,968
- Females: 132

Table 55

**Number of electoral districts, and election participation rates**

Number of electoral districts in Yemen where elections were held	301
Number of electoral districts in Yemen where elections were held	301
Number of electoral districts on which final selection reports were written and election results were announced by the Higher Committee	301

<i>Description</i>	<i>Males</i>	<i>Females</i>	<i>Total</i>
Number of registered voters in Yemen	4 682 294	3 415 220	<b>8 097 514</b>
Number of persons who voted	3 661 182	2 540 072	<b>6 201 254</b>
Number of valid votes	3 525 043	2 471 006	<b>5 996 049</b>
Number of spoiled votes	136 139	69 066	<b>205 205</b>
Ratio of valid votes to total number cast	96.28	97.28	<b>96.69</b>
Participation rate (%)	78.19	74.37	<b>76.58</b>

*Source:* Higher Committee for Elections.

**Adoption of the plan of action for the international Electoral Support Project for Yemen, 2009**

302. The committee to follow up on and facilitate the international Electoral Support Project for Yemen, led by the United Nations Development Programme (UNDP), adopted a plan of action for the project for 2009. It is hoped that the plan will help to strengthen the democratization process under way in Yemen.

**Article 26**

303. The legal position on this article was explained in the previous report.

**Article 27**

304. The legal position on this article was explained in the previous report.

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