



**Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

Distr.  
GENERAL

CAT/C/YEM/2  
6 March 2009

ENGLISH  
Original: ARABIC

---

COMMITTEE AGAINST TORTURE

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

**Second periodic reports of States parties due in 1996**

**YEMEN\* \*\***

[13 July 2007]

---

\* The first report submitted by the Government of Yemen is contained in document CAT/C/16/Add.10.

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

## CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
Introduction .....		3
Part I. Information on measures and new developments relating to the implementation of the Convention .....	1 - 166	4
I. Measures taken by the Republic of Yemen between the dates of submission of the previous and present reports to implement the Convention .....	1 - 58	4
II. Developments of relevance to the implementation of the Convention occurring between the dates of submission of the previous and present report.....	59 - 124	24
III. Legislative or institutional developments relating to the implementation of the Convention .....	125 - 166	50
Part II. Additional information requested by the Committee .....	167 - 171	61
Part III. Follow-up to the Committee's Conclusions and Recommendations .....	172 - 247	63

## **Introduction**

The Government of the Republic of Yemen received with interest the conclusions and recommendations (CAT/C/CR/31/4) which the Committee against Torture adopted further to its consideration, at its 583rd and 586th meetings held in Geneva on 17 and 18 November 2003, of Yemen's initial report (CAT/C/16/Add.1) on the legislative, judicial and administrative measures that it had taken to implement the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The Government of the Republic of Yemen welcomes the distinguished Committee's positive comments on the spirit of constructive cooperation and understanding which characterized the discussions and interventions on both sides and its acknowledgement of the country's significant achievements in promoting human rights and raising human rights standards.

Having submitted, within one year of consideration of the report, clarifications regarding paragraphs 7 (d) and (f) of the Committee's conclusions and recommendations, in accordance with article 19 of the Convention, our country takes pleasure in presenting the distinguished Committee with this second periodic report, which consists of the following three parts:

- Part I: Information on measures and new developments relating to the implementation of the Convention
- Part II: Additional information requested by the Committee
- Part III: Follow-up to the Committee's conclusions and recommendations

Lastly, the Government of the Republic of Yemen expresses its profound gratitude and appreciation to the distinguished members of the Committee for their tireless efforts to promote human rights throughout the world.

## **Part I**

### **INFORMATION ON MEASURES AND NEW DEVELOPMENTS RELATING TO THE IMPLEMENTATION OF THE CONVENTION**

#### **I. MEASURES TAKEN BY THE REPUBLIC OF YEMEN BETWEEN THE DATES OF SUBMISSION OF THE PREVIOUS AND PRESENT REPORTS TO IMPLEMENT THE CONVENTION**

##### **Establishment of the Ministry of Human Rights**

1. The Ministry of Human Rights was established by Republican Decree No. 105 of 2003 and is the government body mainly responsible for the protection and promotion of human rights. Although from a legal point of view the Ministry is part of the executive branch, many of the principles relating to the status and functioning of national institutions for protection and promotion of human rights (the Paris Principles), as adopted by the Commission on Human Rights in its resolution 1992/54 of 3 March 1992, are reflected in the Ministry's organizational structure and terms of reference.
2. The Ministry operates in accordance with the organizational regulation issued in Republican Decree No. 255 of 2003.

##### **Object and scope of the Ministry of Human Rights**

3. Principle 1 of the Paris Principles states that "a national institution shall be vested with competence to protect and promote human rights". This principle is echoed in article 2 of the organizational regulation, which states that "the Ministry of Human Rights, in conjunction with the competent ministries, entities and authorities, shall promote and protect human rights and develop national mechanisms for the protection and promotion of human rights, in conformity with the international conventions and treaties to which our country is a party". The article enumerates a series of tasks and duties which the Ministry must perform in pursuance of these aims, as summarized below:

- (a) Proposing policies, plans, programmes and procedures for the promotion and protection of human rights and implementing them in conjunction with the competent authorities;
- (b) Examining legislation and laws to assess their compatibility with the principles and norms embodied in the international human rights conventions and treaties to which our country is a party, and proposing amendments to domestic laws in keeping with the Constitution and applicable laws;
- (c) Receiving and examining complaints from citizens, organizations and institutions and dealing with them in accordance with the Ministry's terms of reference and in coordination with the relevant authorities;

(d) Promoting public awareness of the law by advising citizens on their constitutional and legal rights, disseminating a human rights culture throughout society by means of various awareness-raising techniques, and strengthening cooperation with civil society human rights organizations;

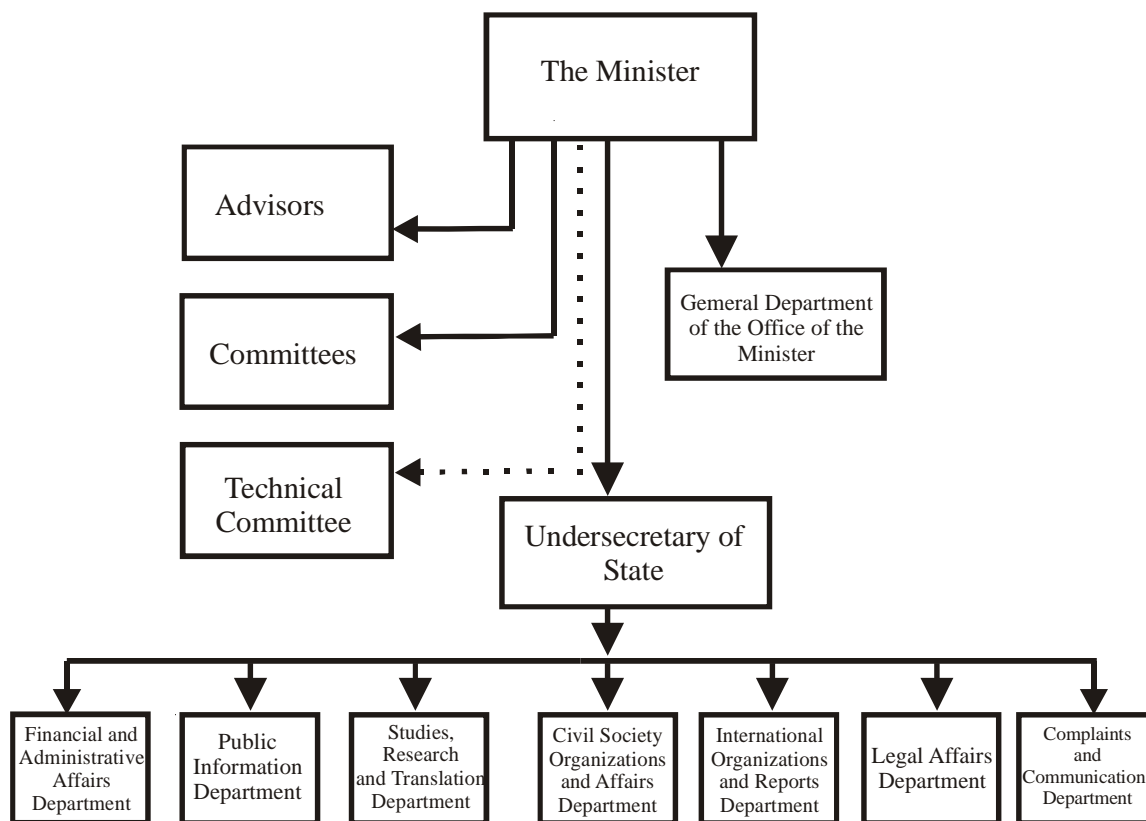
(e) Preparing, in conjunction with the competent authorities periodic reports on our country's international objections;

(f) Liaising with international human rights organizations, and developing cooperation with them;

(g) Gathering, analysing and documenting information on human rights and the Government's human rights policy.

### The Ministry's organizational structure

4. In line with article 6 of the organizational regulation, the Ministry is structured according to the scheme shown in the diagram below.



### Complaints and Communications Department

5. This department receives, analyses, summarizes and categorizes complaints from individuals and institutions, recommending whatever remedial action may be taken, based on the Ministry's terms of reference, which cover both internal and external complaints. It also advises complainants on the procedures for resolving cases that lie outside the Ministry's purview.

### **Legal Affairs Department**

6. This department reviews national legislation in order to assess how far it meets the requirements of international conventions and treaties and participates in legal committees which make recommendations on legislative amendments in keeping with the treaties to which our country is a party.

### **International Organizations and Reports Department**

7. This department takes part in the drafting of State party reports on the implementation of international conventions, covenants and treaties and receives, studies, summarizes, categorizes and makes recommendations on international human rights reports. It drafts official replies to international human rights reports and communications and liaises with the relevant international organizations, bodies and institutions, exploring opportunities for cooperation with them. It furthermore compiles, documents, studies and categorizes international treaties and examines draft international covenants and treaties of limited and general scope with a view to determining whether it is possible to accede to them.

### **Civil Society Organizations and Affairs Department**

8. This department carries out a range of tasks related to civil society organizations and women's rights, liaising with civil society human rights organizations and institutions to explore opportunities for cooperation that will help to further human rights and endeavouring to form partnerships with them in activities and programmes aimed at developing awareness of human rights and related issues. The department works with women's and children's rights organizations in order to promote partnerships and ensure the enjoyment of guaranteed rights.

### **Public Information Department**

9. This department implements the Ministry's public information policy of: improving human rights awareness by proposing and implementing plans and programmes sensitizing the public to the rights guaranteed by the Constitution and the law; organizing and running, in coordination and partnership with relevant governmental and non-governmental organizations, human rights seminars, meetings, workshops and related educational and awareness-raising events; allocating resources for education and awareness-raising activities, based on the priorities assigned to different human rights issues; and monitoring and documenting newspaper and magazine articles on, and media coverage of, the Ministry's activities.

### **Studies, Research and Translation Department**

10. This department carries out a range of studies and research activities, such as contributing, together with other departments and organizations, to the drafting of human rights studies and reports, and collecting, analysing and drawing on human rights studies and research. This is consistent with the Paris Principles, which emphasize the role of national institutions in assisting human rights research.

## **Financial and Administrative Affairs Department**

11. This department is responsible for various aspects of the financial, accounting and staffing system. Its training department runs training programmes on human rights, including for senior police officers, judges, members of the Department of Public Prosecutions and lawyers.

## **Specialized bodies and committees**

12. The Ministry has various specialized committees and bodies, tasked with specific duties. The most important of these bodies are mentioned below.

### **The Technical Committee**

13. This Committee was established by Prime Ministerial Decision No. 111 of 2004 having been nominated by the Minister for Human Rights under article 17 of the Ministry's organizational regulation. The committee replaced the standing sub-committee of the (former) Higher National Committee for Human Rights and comprises representatives of the foreign, planning, international cooperation, information, interior, social affairs and labour, justice and legal affairs ministries and of the Office of the President of the Republic, the Prime Minister's Office, the Prosecutor-General's Office and the Central Agency for Political Security.

14. The committee's tasks include providing its comments and views on international conventions and treaties, domestic laws and legislation and the implementation by the Republic of Yemen of its obligations under the human rights treaties to which it is a party. In addition, the committee provides data and information on complaints which are referred to the institutions that it represents and all human rights issues. Regular meetings of the Technical Committee are held once a month under the chairmanship of the Minister for Human Rights.

### **Advisory Board**

15. The Advisory Board was established by Ministerial Decision No. 1 of 2004, and comprises 27 members, including representatives of non-governmental organizations, the heads of associations, federations and trade unions and a number of human rights activists.

16. The Board performs various tasks, most importantly offering its views and advice on matters of which it is seized and advising on ways and means of strengthening partnerships with civil society organizations and training programmes to enhance the effectiveness, develop the skills and capacities and broaden the knowledge of human rights workers. The Board also recommends policies and plans for the promotion of human rights and protection of the values and principles enshrined in the Constitution and the law. The Board holds regular meetings every quarter under the chairmanship of the Minister for Human Rights.

### **Training and awareness programmes for law enforcement personnel**

17. In accordance with article 10 of the Convention against Torture, concerning the full inclusion of education and information regarding the prohibition against torture in the training of law enforcement personnel, State agencies and civil society organizations offer members of the judiciary, the Department of Public Prosecutions and the police continuous training and instruction on all aspects of human rights. This training is designed to combat torture by

improving awareness of the law and rights among both citizens and State agencies. The Yemeni education system devotes ample space, during the various stages of education and in academic curricula, particularly at the university stage, to the presentation of information about the law and legal sciences. The study of laws and supplementary instruments is a core subject for students of sharia and law or legal sciences at public and private universities in the Republic of Yemen.

18. The State furthermore provides judges and members of the Department of Public Prosecutions, as the persons who are primarily concerned with these laws and who bear the main responsibility for safeguarding human rights, with training to broaden their academic and legal knowledge and enhance their practical skills and capacities.

19. The training is delivered via the higher education programmes and the specialized courses which these persons attend and the comprehensive and in-depth instruction on laws and supplementary instruments offered at the Higher Institute of the Judiciary.

20. The same matters are covered in the instruction and training offered to members of the police enrolled in police schools and academies, since students and trainees at these institutions will be expected to uphold and enforce the law once they graduate.

21. Instruction on different laws is a corollary of the training on security and policing matters which is offered at these schools and academies, including at the police academy, where students undertake intensive study inter alia of human rights legislation. Indeed, this topic and the related procedures and measures for the prohibition of torture are core subjects on the curriculum of the police academy, where they are studied in detail using, inter alia, a set textbook on human rights.

22. The attention paid to this aspect of police training stems from a particular conception of the human and security dimensions of evidence-gathering and interviewing of suspects. The aim is to ensure the application of best practices that will enable the police (investigators, for example) to discover the truth without resorting to methods of coercion, duress and torture; any person (an investigator) who employs such methods is clearly failing.

23. Training is a key focus of the plan for the modernization and development of the judiciary, as it is one of the main ways of upgrading and improving efficiency, ensuring that the judicial system evolves and creating a judiciary capable of understanding and applying the law and of making sound decisions. Training also improves the effectiveness and efficiency of human resources by refining their skills, developing their capacities, exposing them to new experiences, keeping them abreast of rapidly evolving scientific and technological developments in the world and teaching them how to use modern technologies such as computers, the Internet, etc.

24. This explains why the Ministry of Justice accords this matter the highest importance, placing it at the top of its priorities, allocating the necessary funding for it and taking steps to develop the vectors through which it is delivered. To that end, the Ministry has taken steps to upgrade and modernize the Higher Institute of the Judiciary and support its work as the main provider of judicial and administrative training for judges, members of the Department of Public Prosecutions and their assistants and to enable the Judicial Information Centre to play its role in the delivery of computer and Internet skills training, while also ensuring active participation in seminars, study visits and specialist courses abroad.



25. In order to create synergies and pool resources in pursuance of these goals, the Ministry of Justice decided to adopt cohesive policies specifically aimed at the development and modernization of the judiciary, focusing on developing human resources and building legal and judicial capacities in such a way as to create a judiciary capable of understanding and applying the law and arriving at sound decisions. In 2004, for example, the Higher Institute of the Judiciary ran several activities and events, which are summarized below.

### **Preparatory training (technical training)**

26. The Higher Institute of the Judiciary is the leading source of qualified, skilled and experienced judicial personnel and helps support the judiciary by providing it with trained personnel capable of performing judicial functions and discharging their responsibilities for delivering justice and protecting rights and freedoms. Further to instructions from the President of the Republic, 500 students were enrolled in the Higher Institute of the Judiciary for the purpose of supplying the courts with qualified young staff. A number of achievements were scored in this domain, the most important of which are listed hereunder:

(a) Registration and enrolment in the Advanced Studies Department of the Higher Institute of the Judiciary was opened for the year 14 class; in accordance with the applicable regulations and conditions, applications were received and files containing the requisite documentation were submitted between 20 September and 4 October 2004;

(b) A general study plan and a timetable for the curriculum were drawn up for students in the year 12 class and those preparing to enter the year 13 class in 2004/05. The procedures for enrolment of the year 13 class were completed in accordance with the conditions established by the Higher Committee for Admissions established pursuant to the directives of the President of the Republic on the establishment and implementation of a plan for the admission and enrolment, in the Institute's Advanced Studies Department, of 500 graduates in sharia, law and legal sciences with grades of very good and above. The Committee had begun implementing the directives in 2002, when the year 12 class was enrolled, and the process continued with the admission of the year 13 class to the Advanced Studies Department;

(c) Theoretical and practical studies sessions and tutorials were offered to students in the year 12 class (the preparatory year). Mid-term and final examinations were held, the results were announced and the best students were awarded prizes.

### **Specialized training for assistant public prosecutors**

27. This type of training is a new departure for the Institute, which has one set of rules on preparatory training (advanced studies) and another on regular studies and special training for members of the judicial authority and their assistants, and is designed to address personnel shortages in the Department of Public Prosecutions. Thus, it is an exception to the rule that was established by the Higher Judicial Council and has been in effect for years that a person taking up a judicial appointment for the first time must have graduated from the Advanced Studies Department. The Higher Institute of the Judiciary introduced procedures to admit candidates applying for positions as assistant public prosecutors and enrol them, before they took up those positions, in a training course offered at the Higher Institute of the Judiciary, subject to the rules and conditions on admission, based on the subjects on which applicants were tested and

following the holding of written tests for applicants eligible to take admission tests (375 applicants). The results were announced, oral examinations will be held and personal interviews and all other procedures completed. The theoretical part of the programme was launched and lectures and practical tutorials were held for 52 students on the set subjects of study, namely, criminal legislation, normative rules on the interpretation of texts, the Code of Offences and Penalties, the Code of Criminal Procedures and Pleadings, the Code of Evidence, special criminal laws and other sciences of relevance to members of the Department of Public Prosecutions. The course is set to last for one full year; six months of theory and six months of practical experience at the Department of Public Prosecutions.

### **Continuous training for judges and judicial authority personnel**

28. Several training and refresher courses and workshops were held for judges, members of the Department of Public Prosecutions and their assistants at the Higher Institute of the Judiciary and other institutions, with funding from international institutions and organizations or with funding and sponsorship by the Ministry. In addition, a number of senior Ministry of Justice officials were sent abroad for training.

### **Training courses delivered**

29. The following are examples of training courses held at the Higher Institute of the Judiciary, the Ministry of Justice, the Ministry of Human Rights and the Department of Public Prosecutions between 2002 and the date of submission of the present report. The training was targeted at law enforcement personnel and members of the Department of Public Prosecutions and their assistants.

(a) The first joint training course on sharia sciences for judges and members of the Department of Public Prosecutions was held from 20 October 2001 to 30 June 2002 and attended by 48 persons;

(b) The third joint refresher course on criminal procedures was held for judges, deputy prosecutors and members of the Department of Public Prosecutions from 29 December 2001 to 29 January 2002 and was attended by 26 judges and 26 deputy prosecutors and members of the Department of Public Prosecutions;

(c) A refresher course was held for members of the Judicial Inspectorate from 10 to 18 March 2002 and was attended by 12 judges from the Inspectorate;

(d) The first symposium for juvenile judges was held from 12 to 13 May 2002 and attended by 24 participants, including juvenile judges and members of the Department of Public Prosecutions;

(e) An initial training course on financial and administrative questions was held for directors of appeal courts in various parts of Yemen from 24 to [date unclear] June 2002 and attended by 19 trainees;

(f) The twenty-first training course for court clerks was held from 1 July 2001 to 22 February 2002 and attended by 30 participants from different courts in Yemen;

(g) The twenty-second training course for judges' assistants specializing in court reporting was held from 29 December 2001 to 30 April 2002 and attended by 40 court reporters from appeal and first instance courts;

(h) A training course on theoretical and practical approaches to social intervention in work with child offenders, which was organized by the Ministry of Social Affairs, in cooperation with UNICEF, was held from 10 to 18 November 2001 for staff of social welfare homes in the governorate of Sana`a City and was attended by two members of the governorate's juvenile court and prosecution service;

(i) A training course on young persons and street children was run in 2002 by the Office of Social Affairs and Labour in Aden, in cooperation with UNICEF, and attended by two persons from the Aden juvenile court;

(j) A training course on social counselling and the design and management of educational programmes for street children was held at the British Cultural Centre in Sana`a from 2 to 20 February 2002 and attended by two employees of the Aden governorate juvenile court;

(k) In 2003, the fourth refresher course on sharia sciences was held for 36 members of the judiciary and the Department of Public Prosecutions; the course lasted four months. A training course on international humanitarian law was also run for 45 participants;

(l) Three refresher courses were held at the Higher Institute of the Judiciary for 206 clerical officers from the Department of Public Prosecutions. The details are shown in the table below:

Item	Description	Date	Duration	No. of trainees	Comments
1	Refresher course (24) for clerical staff of the Department of Public Prosecutions	From 12 to 24 April 2003	Two weeks	84	
2	Refresher course (25) for clerical staff of the Department of Public Prosecutions	From 17 to 29 July 2003	Two weeks	60	
3	Refresher course (26) for clerical staff of the Department of Public Prosecutions	From 19 to 28 July 2003	Two weeks	62	
	Total			206	

30. In 2004, the Higher Institute of the Judiciary, in conjunction with international institutions and organizations, ran several training and refresher courses and workshops as part of the continuous training offered to members of the judiciary and their administrative assistants. The following courses were held:

Item	Course title	Training location	Period	Target group	No. of trainees
1	Initial training course on international humanitarian law	International Committee of the Red Cross (ICRC)	From 4 to 6 January 2004	Appeal and first instance court judges and members of the Department of Public Prosecutions	45
2	Training course on criminal procedures (criminal law)	Justice sector project	From 24 to 27 April 2004	Criminal court judges and members of the Department of Public Prosecutions	41
3	Training course on young persons	UNICEF	From 31 July to 2 August 2004	Juvenile attorneys	20
4	Training course on treaties, model laws and rules on international commercial arbitration (UNCITRAL)	Taj Saba Hotel	From 7 to 9 March 2004	Members of the Judicial Inspectorate, directors and judges of commercial divisions and courts	24
5	Training course on refugees and their human rights	Ministry of Human Rights	From 24 to 26 May 2004	Judges and administrators	17
6	Training course on young persons, financed by UNICEF	Council for Motherhood and Childhood	From 26 to 29 December 2004	Judges, members of the Department of Public Prosecutions attached to juvenile courts and prosecution offices in the governorates of Sana`a City, Aden, Ta`izz, Hudaydah, Hujja, Hadramawt, Abin, Dhamar	20
7	Workshop on programme to promote the transparency and independence of courts of first instance	Aden Hotel	From 18 to 20 September 2004	Judges of courts of first instance in the governorates of Aden, Lahij and Abin	42
8	Workshop on programme to promote the transparency and independence of courts of first instance	Hudaydah Faculty of Education	From 20 to 22 December 2004	Judges of courts of first instance in the governorates of Hudaydah, Rimah and Muhwayt	54
9	English language	Miscellaneous institutions	2004	Administrative personnel	4

31. The Ministry of Human Rights has run a number of training events, as described hereunder.

(a) Awareness campaigns were conducted in January and April 2007 to combat child smuggling in the governorates (Hudaydah, Hajja and Rimah);

(b) A workshop on the rights of the child in Islam was held from 10 to 11 February 2007;

(c) Awareness seminars on the fundamental principles underpinning children's rights were held for fourth-year students at the Faculty of Education of Sana`a University from 24 to 28 March 2007;

(d) The Ministry participated in the implementation of a gender awareness project on using information technology to disseminate laws relevant to women; four workshops on the project were held respectively in the governorates of Sana`a City, Aden, Ta`izz and Hadramawt;

(e) A workshop on the best interests of the child from an Islamic perspective was held, in cooperation with the Swedish Rädde Barnen organization, from 11 to 12 December 2007;

(f) Universal Children's Rights Day was celebrated on 29 December 2007;

(g) Human Rights Day was celebrated on 10 December 2007;

(h) A training course entitled "Awareness-raising course on human rights concepts and mechanisms" was held for 32 staff members of the Ministry from 7 to 9 September 2006;

(i) A consultative meeting on the adoption of a draft charter of patients' rights in Yemen was held from 27 to 29 May 2006;

(j) A training course on international humanitarian law was held, in conjunction with the ICRC mission, for 25 Ministry employees;

(k) A training course on international humanitarian law and bringing domestic legislation into line with it was held for 35 trainees in cooperation with the National Commission for Education, Culture and Science, and with funding from the United Nations Educational, Social and Cultural Organization (UNESCO);

(l) Two awareness-raising workshops were held respectively in Sana`a (from 16 to 17 February 2007) and Aden (from 23 to 24 March 2007) to disseminate human rights principles among members of the criminal investigation authorities; the training was attended by 122 participants, including judges, deputy public prosecutors, criminal investigation and prison officers, lawyers and members of civil society organizations operating in Sana`a City, Aden, Ta`izz, Hadramawt, Hudaydah, Ibb, Lahij, Abin, Dali`, Umran, Bayda' and Shabwah;

32. With a view to inculcating a human rights culture among schoolchildren, the Ministry of Human Rights, the Ministry of Education and the Rädde Barnen organization cooperated in the implementation, in 2004, of the first awareness programme designed to teach schoolchildren in the capital, Sana`a, about the Universal Declaration of Human Rights, international treaties and

domestic laws that deal with children's rights, child protection measures and national children's rights organizations and also to promote the values of kindness and tolerance and the principles of equality among young persons.

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

33. With regard to advice and awareness-raising, there are a number of media programmes and press publications that seek to improve awareness of the law by offering and disseminating advice and guidance on human rights and the prohibition of torture among persons responsible for enforcing and upholding the law and by informing the general public of their rights and how to safeguard and defend them.

34. The many forms of public information include the television and radio programmes and press articles produced by the public relations office of the Ministry of the Interior.<sup>1</sup>

35. Information and awareness-raising are of strategic importance in publicizing the judiciary's activities and improving the public's knowledge of judicial and legal matters in keeping with the judiciary's goals of strengthening the foundations of the justice system, helping to protect the judiciary's independence, according parties at law the respect and consideration that they are due and delivering judgements that testify to the judiciary's effectiveness. The Ministry devotes considerable attention to this matter by: educating the public about how legal proceedings are conducted; informing citizens of the legal rights guaranteed to them under the Constitution; referring complaints published in official newspapers to the competent authority and monitoring the action taken thereon; actively helping to clarify the ideas and views of judicial personnel and senior police officers on legal and judicial matters through exchanges of ideas, views and information about correct legal procedures that will help them in their work; taking action to address and resolve the problems caused by erroneous practices; and publicizing via the media activities and events organized by the judicial authority. In this connection, the Ministry has achieved the following results in the past few years.

(a) The publication of a monthly newspaper containing information about studies, research, articles, reports, surveys and newspaper investigations on judicial and legal subjects. As a service for parties at law and persons interested in matters of justice, the newspaper publishes lists of cases that have been referred to, or adjudicated by, the Supreme Court;

(b) A series of laws on civil, criminal, personal, labour, procedural and substantive matters and of regulatory instruments on judicial process were printed and published in four books, which were then distributed to judges and members of the Department of Public Prosecutions based on lists drawn up by the Ministry's Judicial Inspectorate and its counterpart at the Department of Public Prosecutions. The authorities concerned were sent an addendum to two books containing a set of regulatory instruments for the judicial authority and substantive and procedural judicial laws which the Ministry had previously printed and distributed;

---

<sup>1</sup> No Arab country, except for Yemen, has a weekly police newspaper, but just monthly magazines. The public relations office of the Yemeni Ministry of the Interior publishes a weekly newspaper, *Al-Haris* (The Guard), in addition to a magazine *Al-Harras* (The Guards).

(c) In recent years, the Ministry has set up large numbers of libraries in appeal courts and commercial divisions. A total of 19 libraries were created with a selection of approximately 10,000 titles. In 2003, around 450 specialized books were selected for inclusion in these libraries as important reference works for judges, at a total cost of 2.6 million Yemeni rials;

(d) Judges in all courts were supplied with several judicial books, including *Al-Thamarat al-Yafi`ah*, *Sharah al-Azhar* and a compendium of civil court proceedings;

(e) Different courts in the Republic receive the Official Gazette via an annual subscription contract with the Ministry of Legal Affairs. The Official Gazette contains the laws and decrees that have been passed and the amendments made thereto, which judges can study one by one;

(f) Five hundred copies of compact discs containing a range of regulatory and procedural laws were produced in cooperation with the United Nations Development Programme (UNDP) and distributed to court judges and prosecutor's offices;

(g) A webpage was designed for the Ministry of Justice to allow citizens or concerned parties access to information without having to go to the Ministry or the Supreme Court in person. Initially, legal topics will be added to the page each month, informing the public about how the courts and other justice mechanisms work;

(h) A weekly publication is produced on local press coverage of judicial activities and is distributed to the relevant authorities;

(i) A plan was drawn up to improve knowledge of the justice system, including through the broadcasting of a weekly television programme on the satellite channel and a weekly public radio programme;

(j) All courts are supplied with the laws published in the Official Gazette, which is issued by the Ministry of Legal Affairs.

### **Dissemination of State party reports on the implementation by Yemen of international treaties and instruments**

36. In the framework of efforts by the Ministry of Human Rights to publicize and raise awareness of human rights principles among members of the public and law enforcement personnel, the Ministry carried out the following tasks.

(a) Further to the recommendations of the Committee against Torture and other human rights committees, the national human rights report for 2000-2001, containing our country's reports to the international human rights treaty bodies, was distributed to various governmental institutions, civil society organizations, political parties and organizations, newspapers, prisons and social welfare institutions;

(b) A Ministry website ([www.mhryemen.org](http://www.mhryemen.org)) was set up and all the human rights reports that Yemen has submitted to international bodies were posted on it, together with the comments of those bodies on Yemen's reports on the implementation of human rights treaties.

## **Ministry publications**

37. Publications are an important area of activity for the Ministry, since they constitute an important means of realizing the Ministry's goals of raising awareness of human rights and public freedoms. The most important publications are listed here below.

### **Periodicals**

#### ***Huquq al-Nas (People's Rights) magazine***

38. This is a monthly magazine specializing in human rights issues. It is managed by a team of experts and its target audience includes social groups in general, academics, researchers and human rights institutions. Owing to a lack of predictable funding, it is difficult to ensure publication.

### **The Yearbook**

39. This is an annual publication containing updated information and data on the human rights situation in Yemen throughout the year. It covers the positive and negative aspects of the situation, ways of addressing them and Yemen's compliance with its obligations vis-à-vis matters taken up in the international treaties and instruments to which it is a party.

40. Publication of the Yearbook is managed by a select group of human rights specialists and activists drawn from non-governmental organizations, political parties, associations, trade unions and government institutions representing the entire human rights spectrum in Yemen and a variety of different political and party viewpoints and affiliations.

### **Other publications**

- (a) A guide to human rights under Yemeni law;
- (b) International conventions and treaties to which our country is a party;
- (c) International instruments;
- (d) Fundamental human rights instruments;
- (e) Promotional posters and materials.

### **Information services**

41. The Ministry of Human Rights attaches importance to information, since it offers strategic support to meet any challenge and is vital to the success of the Ministry's decision-making process. The Ministry pays particular attention to the development of information systems that will allow it to operate effectively and improve its internal and external working environment, through:



### **The Internet service**

42. The Ministry continuously develops and updates its website by adding information, data and images to it, expanding its use of the electronic mail service and publicizing its activities and reports. It also maintains contact with institutions, organizations and individuals in order to make the Ministry and its objectives better known. The Ministry updates the website every day, uploading key human rights research and reports and adding stories, articles and information about human rights published in newspapers or on other websites.

### **Database**

43. The process of developing a human rights database is being pursued in order to support and develop human rights activities in the Republic of Yemen. In developing the database the Ministry is endeavouring to:

(a) Provide human rights researches with access to basic information and any documents that they may need for their research;

(b) Create a human rights monitoring process whereby researchers have access to genuine data which they can use to keep track of human rights developments in Yemen.

44. Human rights information and documents are constantly fed into the database, making it a virtual library which relies on continuous updating and daily monitoring of human rights websites, particularly local websites, containing the following categories of information:

(a) Human rights instruments in Arabic and English;

(b) Conventions and treaties;

(c) Optional protocols;

(d) Declarations;

(e) Guidelines;

(f) Reports of international organizations on the situation of human rights in our country and our country's replies to, and comments on, these reports, such as those issued by:

I. Amnesty International

II. Human Rights Watch

III. The Committee to Protect Journalists, and Reporters without Borders

IV. The United States Department of State

V. The United Nations; and

VI. State party reports on the implementation by Yemen of its obligations under the international treaties and conventions to which it is a party, in addition to local and international press articles and reports, in Arabic and English, on human rights.

### **Awareness-raising programmes**

45. Between 2002 and 2008, numerous television, radio and newspaper interviews were conducted with senior officials of the Ministry of Justice, the Ministry of the Interior, the Ministry of Human Rights, the Department of Public Prosecutions and the Higher Institute of the Judiciary for the purpose of raising awareness of the law.

46. The Ministry of Justice held a roundtable discussion entitled “Towards an effective partnership in the realization of justice” at the Higher Institute of the Judiciary. The event was attended by more than 120 members of the judiciary and the press, together with academics, representatives of civil society organizations and senior police officers. The discussion focused on six main themes: the independence of the judiciary; press freedom; the media and the judiciary - problems and solutions; partnership by the media in judicial reform; the scope and nature of media coverage of the judiciary; and the legal rules on press coverage (the court newspaper, for example).

47. The event focused on six main goals, namely: defining the roles of the media and the judiciary in the delivery of justice and enhancing cooperation between journalists, the judiciary and readers; improving knowledge of the media’s key partnership role in the development of the judiciary’s work; finding practical solutions in order to foster synergies between the media and the judiciary; improving the public’s perception of judges and their decisions; and highlighting the media’s role in strengthening the independence and improving the standing of the judiciary. What was important about this event was that it was the first of its kind, that it launched a dialogue between the judiciary, the media and persons interested in justice and that it helped to affirm the principles of the independence of the judiciary and freedom of the press.

48. The Prosecutor-General’s Office, in conjunction with UNDP, held the first workshop on developing the Department of Public Prosecutions in the framework of a project designed to modernize and develop prosecution services in several Arab States. The workshop, which took place on Saturday, 9 December and Sunday, 10 December 2006, was held at the Mövenpick Hotel in Sana`a and attended by members of the Department of Public Prosecutions from selected branches (the governorates of Sana`a City, Aden and Ta`izz), representatives of civil society organizations, senior police officers and regional and international experts. A number of papers on human rights and pretrial procedures (investigations, arrests and custody) were discussed at the workshop.

### **Activities of civil society organizations in support of anti-torture initiatives**

49. There are several civil society organizations dedicated to protecting human rights and freedoms and providing legal assistance to prisoners. One of the best known is the National Organization for the Defence of Rights and Freedoms (HUD). Activities carried out in this domain include the following:

- (a) A roundtable discussion on human rights in the Republic of Yemen and the reports of international organizations was held on 13 August 2008 by the Civic Democratic Support Foundation;
- (b) A national training workshop entitled “For a torture-free Yemen and the realization of economic, social and cultural rights in Yemen” was held from 11 to 12 October 2003. Our country’s reports on combating torture and on the International Covenant on Economic, Social and Cultural Rights were discussed, together with the submission of a shadow report prepared by the Information Centre and the Arab Sisters Forum;
- (c) A roundtable discussion entitled “Yemen: abandoning the rule of law in the name of security” was held by the National Organization for the Defence of Rights and Freedoms on 24 September 2003;
- (d) A coordination meeting on tackling violence against girls in society was held on 18 February 2007;
- (e) A workshop was held on the legal provisions relating to violence against children;
- (f) A regular meeting of the National Network for the Welfare of Juvenile Offenders was held on 31 January 2007;
- (g) The first consultative meeting of the partnership of children’s non-governmental organizations was held on 17 January 2007;
- (h) A workshop on boosting the role of the Network to Combat Violence against Children was held from 27 to 28 February 2007;
- (i) The fifth Arab human rights course was held at the Ta`izz Human Rights Information and Training Centre;
- (j) A training course on mechanisms for dealing with human rights violations in accordance with Yemeni law and international instruments ratified by Yemen was held by the HUD organization from 22 to 27 July 2006;
- (k) A regional training course for human rights trainers was held at the Sana`a Human Rights Information and Training Centre from 21 to 27 June 2006;
- (l) A training course on human development and human rights was held at the Middle East Research Centre from 13 to 16 August 2008;
- (m) A training course on combating violence against women was held by Amnesty International in Sana`a in September 2005;
- (n) Several training courses to explain human rights principles and concepts to police officers were run by the Human Rights Information and Training Centre in the governorates of Ta`izz, Amran, Sa`dah, Jawf, Dhamar, Dali` and Bayda’;

- (o) A training course on monitoring, documenting and fact-finding techniques was run by the Yemeni Observatory in 2006;
- (p) A workshop on the national human rights report was run by the Jazeera Centre for Human Rights at the headquarters of the Authors and Writers Union;
- (q) A workshop on the national human rights report was run by the Human Rights Observatory;
- (r) Participation in a workshop held by the Ministry of Information on the new press and publications bill;
- (s) A seminar on protecting the victims of war pursuant to the sharia and international humanitarian law was held from 24 to 25 April 2005 in Aden;
- (t) A workshop entitled “Emptying the prisons of children” was held by the Supreme Council for Motherhood and Childhood, in cooperation with the Ministry of Justice;
- (u) A national workshop on violence and its impact on public health in Yemen was run by the World Health Organization (WHO) from 18 to 19 July 2005;
- (v) Participation in a programme on the rights of women in Islam, which was run by the Women’s Study Forum in January 2006.

### **Turning the page on the 1994 summer war**

50. In keeping with article 2, paragraph 1, of the Convention, which provides that “no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture”, the Yemeni Government managed to safeguard human rights, notwithstanding the difficulties that Yemen confronted during the war of secession in the summer of 1994. The Government did not establish any special courts but instead declared a general amnesty for those responsible for the war. Fundamental human rights were protected and were not infringed in any way. The democratic process continued after the war and the page was turned on the 1994 summer war. The full effects of the war were overcome, in particular with regard to the persons on the “list of 16”, who benefited from a general amnesty under a republican decree which the State issued out of a conviction that the nation was large enough to accommodate everyone. Everything possible was done to resolve the status and property rights of these persons and to find them work suited to their capacities and skills, in keeping with the general amnesty declaration. Under no circumstances does the declaration of a state of emergency authorize violations of citizens’ freedoms, curbs on fundamental human rights or torture. Indeed, none of the legislation of the Republic of Yemen authorizes violations of these rights in time of emergency.

### **Efforts by Yemen to deal with refugees**

51. Article 3, paragraph 1, of the Convention against Torture provides that “no State Party shall expel, return (‘refouler’) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture”. The Government of the Republic of Yemen is convinced of the role that humanitarian action plays in establishing

peace and security in the Horn of Africa, and the political leadership understands that any unrest or conflict in any of the States lying opposite Yemen's shores will adversely affect neighbouring States, including Yemen.

52. The Yemeni Government has demonstrated its interest in dealing with asylum and refugee issues in the following ways:

(a) Yemen signed the 1951 Convention relating to the Status of Refugees and the 1967 Protocol and ratified them on 18 January 1980;

(b) The Cabinet issued a series of decisions on the procedures for implementing the 1951 Convention and 1967 Protocol, providing for the establishment of committees to determine the status of refugees and all persons of concern covered by the mandate of the Office of the High Commissioner for Refugees (UNHCR) or the definitions in article 1 of the Convention and article 1 of the 1967 Protocol. Another decision was issued providing for the creation of an appeal panel consisting of representatives of relevant ministries, with UNHCR participating in the capacity of an observer;

(c) Cabinet decision No. 64 of 2000 was issued establishing the National Refugee Committee;

(d) The Government and UNHCR disseminate information about refugees' rights and duties to groups and all persons who work with refugees. In 2003, the Government, as represented by the Ministry of Human Rights, signed a memorandum of understanding with UNHCR for the purpose of improving refugee protection by running training courses for government employees and officials on the contents of the 1951 Convention and 1967 Protocol and improving infrastructure in keeping with the laws on migration, refugee status and human rights;

(e) In March 2003, an additional memorandum of understanding was signed on teaching migration, refugee and human rights issues as subjects at Sana'a University and other Yemeni universities. A total of 30 fourth-year students from the Faculty of Sharia and Ordinary Law attended the training, which lasted an entire semester;

(f) The Republic of Yemen is developing a refugee bill that is being drafted by a special technical committee in accordance with Prime Ministerial Decision No. 46 of 2004;

(g) Joint programmes were successfully implemented, in coordination and cooperation with UNHCR. The most important example was a programme to register Somali refugees dispersed throughout different governorates of the Republic and provide them with identity papers, since they had none in their possession. The programme ran from mid-2002 to mid-2003. According to UNHCR data, approximately 47,000 refugees in 11 governorates were registered. The registration was successfully carried out in accordance with international standards. Work is being done to set up six permanent registration centres. In our estimation, however, the number of Somali refugees who have been registered does not reflect the true number of Somali refugees in Yemen, which is estimated to be in the hundreds of thousands;

(h) The Ministry of Human Rights despatched a special team to inspect conditions at the Mayfa`h district reception centre in the governorate of Shabwah;

(i) The Ministry of Human Rights despatched another team to the Basatin district (urban refugees) in the governorate of Aden and the Kharaz camp (camp refugees) in the governorate of Lahij.

53. The Republic of Yemen, in cooperation with UNHCR, established and renovated the following centres and camps for refugees from the Horn of Africa:

(a) The Mayfa`h reception centre in the governorate of Shabwah, which receives the majority of refugees;

(b) The Khawjah camp in the Hudaydah governorate, which received Eritrean refugees fleeing to Yemen in the late 1960s and early 1970s; the camp was closed after the refugees had returned to their home country;

(c) The Najd Qusaym camp in the Ta`izz governorate, which accommodated 534 Ethiopian refugees fleeing to Yemen after the collapse of the Mengistu Haile Mariam regime in 1991; the camp was closed after the refugees left, some of them returning to their country, others resettling in third countries and others again remaining in Yemen;

(d) The Mukha camp in the Ta`izz governorate, which received more than 450 Ethiopian and Eritrean refugees during the most recent war between their two countries. The camp was closed following the voluntary repatriation of the refugees at the end of the war;

(e) The Kud camp in Abin governorate, which received Somali refugees and was closed down because the location was unsuitable;

(f) The Hijjin camp in Abin governorate, where Somali refugees were housed for years before being transferred to Kharaz camp;

(g) The Kharaz camp in the Lahij governorate, which is now the main camp. The camp was well built with funding from UNHCR and has a school and a health centre which operates around the clock. Residents receive food aid, which is supplied by the World Food Programme (WFP) through UNHCR.

54. Freedom of movement is guaranteed to refugees in Yemen, who are not subject to any restrictions on their movements and can leave the camps whenever they want. If new arrivals do not wish to stay at a camp, they can leave a few days after arrival.

#### **Establishment of juvenile courts and welfare homes and related activities**

55. In 2003-2004 the Ministry of Social Affairs and Labour, the Ministry of Justice, the Ministry of the Interior and UNICEF worked together on several new initiatives designed to provide for the welfare and protection of young persons, including:

(a) The establishment of nine juvenile courts and five new prosecutor's offices in the governorates of Hudaydah, Ta`izz, Ibb, Hadramawt and Dhamar;

- (b) The appointment of two social workers for each court;
- (c) The appointment of three lawyers for each of the juvenile courts in Sana`a and Aden and two lawyers for each of the other juvenile courts;
- (d) Training lawyers selected for these positions in providing free legal assistance to minors;
- (e) Training 25 police officers in juvenile policing;
- (f) The production of a training manual on juvenile welfare and the training of judicial personnel, members of the Department of Public Prosecutions, social workers and members of the juvenile police force;
- (g) The establishment of six juvenile police sections, initially in six police districts of Sana`a, with all the necessary furnishings and equipment;
- (h) The establishment, in coordination with the Bar Association and volunteer lawyers, of voluntary committees to defend young persons prosecuted for committing offences of any kind;
- (i) The involvement of civil society and civic associations in supporting and developing juvenile welfare programmes, with civil associations assuming responsibility for running welfare homes and boards of governors being established for them consisting of well-known members of the community. Two workshops, attended by a number of civil associations, businessmen and prominent members of the community, were held to discuss the mechanism for handing over responsibility for these homes;
- (j) The Government creates social welfare programmes to improve conditions for groups and social sectors living in difficult circumstances. The table below shows the number of juvenile welfare centres that have been established.

Item	Name of institution and governorate
1	Social reform institution for boys, San`a City
2	Social reform institution for boys, Ta`izz
3	Social reform institution for boys, Hudaydah
4	Social reform institution for boys, Ibb
5	Social reform institution for boys, Aden
6	Social reform institution for girls, Sana`a City
7	Social reform institution for girls, Hajjah
8	Juvenile offenders home (governorate of Aden)

### **Comprehensive child welfare and protection project**

56. This project encompasses a number of programmes and activities designed to improve social welfare programmes for children in need of special protection, specifically minors, street children and children from poor and destitute families. A programme to protect and train street children was launched in 2001 and expanded with the creation of the Safe Childhood Centre in Sana`a City governorate. In 2003, the project was extended to include the governorate of Aden.

57. In 2007, the Ministry of Human Rights organized several visits to homes for young persons and juvenile offenders, inspecting conditions at the homes and identifying residents' needs, in the light of which 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 were supplied and sums of money were provided. The institutions that were visited are listed below:

- (a) Juvenile reform institution (Sana`a City governorate)

In the light of the visit, a list was drawn up of residents who were destitute. Letters were sent to businessmen asking for their help. The Ministry of Human Rights received confirmation from *Al-Kabus* Trading Group that it would pay blood money (*diyah*) and certain special 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 (Hudaydah);  
 (e) Juvenile offenders home (governorate of Aden).

58. 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.

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	Hudaydah	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	

## II. DEVELOPMENTS OF RELEVANCE TO THE IMPLEMENTATION OF THE CONVENTION OCCURRING BETWEEN THE DATES OF SUBMISSION OF THE PREVIOUS AND PRESENT REPORTS

### Judicial reform plan

59. In the framework of the judicial reform plan which the Government adopted in 1997, and in accordance with the detailed schedule endorsed by the Government (for the implementation of the judicial reform plan) pursuant to Cabinet Decision No. 262 of 2001, the Ministry of Justice



did everything in its power to deliver the plan, in spite of many difficulties and a lack of resources. Numerous achievements were scored, exceeding all expectations. The most important concerned the implementation of the constitutional and legal provisions on: the independence of the judicial authority and the judiciary; the prohibition of interference in the work of the judiciary by any party or natural or legal person; and, as required under article 7 of the Convention against Torture, the provision of guarantees that an individual accused of committing torture offences will be granted a fair trial just like any other person accused of any other offence under Yemeni law. Cabinet Decision No. 161 of 2001, concerning the prosecution of persons who interfere in judicial matters, exemplifies the efforts that are made to guarantee the independence of the judiciary.

60. The detailed schedule for the implementation of the judicial reform plan lists a series of practical steps which may be carried out in regard to human resources (judicial and administrative), as people are both the instruments and the focus of the reform. Hence, judges and their assistants are an important focus of the judicial reform process. The most important of these steps are described below:

(a) Meeting the need for qualified and trained personnel and support staff by conducting a proper recruitment and training process aimed at supplying the requirements of judicial organs and structures during this phase;

(b) Implementing the judicial mobility exercise through restructuring of the courts and the establishment of a number of courts in accordance with the requirements of the new administrative configuration;

(c) Adding a number of divisions to certain appeal courts in order to meet the need for an accessible system of justice in keeping with the Judicial Authority Act;

(d) Providing judicial training and continuous in-house training through training, specialized training and refresher courses, as well as scientific and legal seminars that deliver updated information on scientific and technical advances and recent experiences and discoveries so as to effect a qualitative change in, and raise the standard of, the judiciary's performance in accomplishing its mission and fulfilling its important aims;

(e) Resolving the situation of personnel and affording them their legal rights with respect to promotions and raises;

(f) Streamlining the work of each department and section of the Ministry of Justice, based on their respective terms of reference; constantly rectifying operational errors and eliminating duplication of effort; developing the work of, and supplying sectors and departments with adequate numbers of specialized technical staff.

61. In the light of the above and of available resources and operational requirements, the following actions were taken:

(a) A comprehensive judicial mobility exercise was designed and implemented in the Supreme Court, appeal courts, court of first instance and public prosecutor's offices, as well as the Judicial Inspectorate. The relevant constitutional and legal procedures were completed;

(b) In implementation of the Judicial Authority Act several members of the judiciary were retired;

(c) In implementation of the Judicial Authority Act promotions were given to eligible members of the judiciary and the Department of Public Prosecutions;

(d) In implementation of the Judicial Authority Act disciplinary action was taken against members of the judiciary and the Department of Public Prosecutions and, in accordance with decisions of the Accountability Board, persons found to be patently unfit to perform their duties were dismissed;

(e) The legal provision prohibiting members of the judiciary from joining political parties and requiring them to sign written declarations in that regard was implemented;

(f) Administrative reforms were pursued within the secretariat of the Ministry of Justice and throughout all the courts for the purpose of streamlining each structure and sector based on their respective areas of legal competence;

(g) The situation of deserving administrative staff was resolved;

(h) In implementation of the Civil Service Act and its implementing regulation to persons who had reached one of two age limits took retirement.

### **Implementation of the comprehensive judicial mobility exercise in accordance with the rules and regulations on promotions, transfers and appointments of judges**

62. At the end of 2004, a comprehensive judicial mobility exercise was undertaken, involving the appointment of several judges to positions in the Higher Judicial Council, the Supreme Court, the secretariat of the Ministry, the Prosecutor-General's Office and the Higher Institute of the Judiciary and the transfer of presidents and members of appeal and specialized court divisions and general and specialized courts of first instance, as well as prosecutors attached to appeal and first instance courts. The exercise targeted qualified and senior personnel, and impartiality was ensured in line with judicial inspection reports and the regulations established by the Higher Judicial Council on promotions, transfers and appointments. The exercise was an important starting point, as it was the first judicial mobility process of its kind and involved some 972 judges and members of the prosecution service working in courts and judicial bodies.

63. Twenty-five appeal court judges were elevated to the Supreme Court, and the judicial inspectorates of the Ministry of Justice and the Department of Public Prosecutions were restructured. The entire process involved 43 judges and members of the Department of Public Prosecutions, 162 appeal court judges, 157 prosecutors attached to appeal courts, 194 prosecutors attached to general and specialized courts of first instance, 35 prosecutors attached to the Court of Cassation and Prosecutor-General's Office and 348 judges of general and specialized courts of first instance.

64. Thirty-four women judges and members of the Department of Public Prosecutions were assigned to different courts and prosecutor's offices, while four new courts were established in the governorates of Sana'a City and Aden. Ten courts of first instance were merged in the governorates of Hadramawt, Hudaydah, Lahij, Sa'dah and Shabwah.

**Number of judges involved in the judicial mobility exercise  
in different judicial structures and institutions**

Structure	Number of judges
Higher Judicial Council	3
Supreme Court	25
Under-secretaries of State and the Technical Office	4
Judicial inspectorates of the Ministry and the Department of Public Prosecutions	43
Higher Institute of the Judiciary	1
Technical office and Office of the Attorney-General for Public Finances	21
Prosecutor's office at the Court of Cassation	14
Appeal courts	162
Prosecutor's offices at appeal courts	157
General and specialized courts of first instance	348
Deputy prosecutors attached to courts of first instance	194
Total	972

**National strategy for the modernization and development of the judiciary (2005-2015)**

65. In the light of the Government's judicial and justice system programme and of the recommendations emanating from the first judicial conference held from 13 to 15 December 2003, the Ministry of Justice finalized a strategic project in 2004 for the modernization and development of the judiciary, outlining the basic scenario for the period 2005-2015 and using it to establish benchmarks for improving judicial standards in the courts and prosecutor's offices. The present report describes the aims and objectives of the strategy as defined in the project.

**Aims**

(a) To ensure that the courts issue, in an expeditious manner, fair decisions on the disputes and cases of which they are seized;

(b) To ensure that the courts carry out their noble mission correctly, and to train members of the judiciary to live and conduct themselves in a manner which safeguards the independence of the judiciary, strengthens and exemplifies the independence of judges and preserves their good name and reputation;

(c) To foster public confidence in the courts and the conviction that sound decisions will be taken and court judgements and decisions will be enforced.

**Boosting the role of the police**

66. With a view to improving the effectiveness of the police in the enforcement of court judgements, serving of summonses and performance of police duties, a security expansion plan (phase 2) was drawn up in 2002 for five governorates: Aden, Hadramawt, Ta'izz, Hudaydah and Abin.

67. Efforts are being made, in conjunction with the Ministry of the Interior, to enrol a new intake of police officers in the police academy and to address conditions of pay and the administrative status of police personnel by giving them the raises and pay to which they are entitled.

#### **Judicial consultations and round tables**

68. Judicial consultations and round tables are among the most important activities on which the Ministry of Justice relies to develop and modernize the judiciary and judicial mechanisms, through a proper assessment of the state of the judiciary from the point of view of the realities on the ground. All stakeholders contribute, in a genuine partnership among the parties in the justice system or with other relevant institutions, to the elaboration of this viewpoint and its translation into ideas, actions and coherent measures focusing on the realization of a goal that is achievable on the ground.

69. In 2004, major achievements were scored in this domain and ambitious policies were implemented in furtherance of the judicial development and modernization process.

#### **First consultative meeting of appeal court presidents**

70. The first consultative meeting of presidents of appeal courts from all the governorates of the Republic, entitled "Towards the development of the courts' effectiveness", was held at the Higher Judicial Institute from 31 March to 1 April 2004 and attended by senior Ministry officials and directors-general.

71. The purpose of the meeting was to develop greater synergies between the Ministry and the courts, discuss many issues relating to the work of the courts on the ground, identify the problems which these courts encounter and devise effective solutions for them.

#### **First meeting of directors of appeal court registries**

72. In April 2004, the first meeting of directors of appeal court registries from different governorates was held at the Ministry of Justice. The participants discussed reports on the registries' working methods, performance assessments, the problems that they face and proposed solutions to help improve performance.

#### **Extensive meetings at appeal courts**

73. Extensive meetings in each of the governorates were held with presidents and members of appeal divisions and courts of first instance to discuss the decisions and recommendations of the first judicial conference.

#### **Meeting to develop cooperation with the Yemeni Bar Association**

74. A wide-ranging meeting was held with the board of the Yemeni Bar Association, at which it was decided to: establish a joint standing committee representing the Ministry of Justice and

the Bar Association to review and finalize the draft regulation on legal aid; create an effective coordination mechanism with the Ministry to contribute to the modernization and development of the judiciary; and form a committee as an adjunct to existing parliamentary committees to discuss the amendments to be made to the Code of Offences and Criminal Proceedings and the regulation on the status of legal counsel pleading before the sharia courts under article 160 of the Lawyers Act No. 31 of 1999.

### **Extensive meetings between justice and police agencies in Sana`a City and a number of governorates**

75. A meeting of justice agencies in Sana`a City was held at the Prosecutor General's Office in April 2004 to discuss a wide range of coordination and collaboration issues with a view to improving access to justice, ensuring that court judgements are enforced and improving administrative oversight of the courts, prosecutor's offices and prisons through field visits.

76. Consultative meetings were held between judicial and police bodies in several governorates, under the chairmanship of local governors, and were attended by heads and members of courts, prosecutor's offices attached to appeal and first instance courts, senior and local security officials, lawyers and senior police officers. The standard of judicial performance was reviewed and proposals for raising it were discussed, together with ways of streamlining cooperation between judges, the police and local authorities in order to improve access to justice and simplify judicial procedures.

### **Judicial authority infrastructure**

77. The creation of an infrastructure for the judicial authority is undoubtedly a pressing matter which is central to the judicial reform and development process on which the Republic of Yemen has embarked. It is in fact vital to ensuring judicial predictability, improving the performance of the courts and prosecutor's offices and guaranteeing that citizens' cases are processed expeditiously and effectively.

### **Evolution in the number of courts in the period 2000 to 2005**

Court	2000	2005
Appeal courts	17	20
Court of first instance	215	225
Public assets courts	5	5
Commercial courts	5	5
Juvenile courts	2	9
Tax courts	0	3
Traffic courts	4	7
Special criminal courts	1	1
Total	249	275

78. Since the judicial authority does not have this kind of infrastructure and since the majority of existing courts and prosecutor's offices tend to be located in rented or antiquated premises, these aims and objectives are not being met. Moreover, the State has to pay a great deal for rent and renovations in order to deal with this situation.

79. The Ministry of Justice launched an ambitious programme to build the right kind of infrastructure to match the progress and development under way in Yemen and meet future needs. It mobilized all available resources, did all the necessary groundwork and commissioned a series of technical studies and designs for the construction of courthouses in model judicial complexes in the seats of the main governorates or in courts of first instance (specialized and general) in the main towns and districts of the governorates. The Ministry launched a local and an international competition to find the best design for model judicial complexes that would house both appeal courts and prosecutor's offices in the main governorates in modern premises suited to the status, the nature of the work and the regulatory machinery of the judiciary and capable of serving their intended purpose over the long term. The technical department was given a stronger role and provided with the necessary resources, including technical support staff. In 2004, major infrastructure projects were undertaken, with the result that a large number of courthouses were constructed and delivered either partially completed or keys in hand. Several projects were begun and the projects awaiting completion were expedited, as discussed below.

#### **Construction of judicial complexes in the seats of the governorates and of premises for courts and prosecutor's offices in the districts**

80. The reconstruction of court buildings and prosecutor's offices was accorded high priority in the 2001-2005 five-year plan (judicial and justice sector), given its importance for the development of the justice system and the modernization of its machinery and the contribution it can make to improving the efficiency and effectiveness of the courts and the prosecution service, thus guaranteeing both expeditious proceedings in cases and disputes before the courts and the enforcement of final judgements. In 2004, a total of 62 reconstruction and construction projects were carried out.

#### **Project costs**

Item	Project type	No.	Cost (in Yemeni rials)
1	Project delivered in part	11	248 905 536
2	Project delivered in part	14	661 426 137
3	Project under way	22	1 423 316 920
4	Project under way (delays)	16	881 659 167
5	Projects for which tenders were issued and bids were examined	11	1 625 296 514
	Total	73	4 840 604 274

### Projects delivered keys in hand in 2004 and costs

Item	Project type	Governorate	Cost (in Yemeni rials)
1	Judicial complex enclosure	Amran	17 138 650
2	Thula' court and prosecutor's office	Amran	24 710 520
3	Hard court and prosecutor's office	Hajjah	29 592 832
4	Rasd court and prosecutor's office	Abyan	4 175 086
5	Razih court and prosecutor's office	Sa`dah	14 140 431
6	Sirah commercial court complex	Aden	25 066 007
7	Jawf court and prosecutor's office	Jawf	26 973 078
8	Muflihi court and prosecutor's office	Lahij	39 215 154
9	Work on the southern and western walls of the Ministry's secretariat	Sana`a City	1 270 878
10	Mubin court and prosecutor's office (final delivery pending)	Hajjah	42 342 479
11	Mukha court (final delivery pending)	Ta`izz	24 280 421
	Total		248 905 536

### Courts and prosecutor's offices in rented premises

81. A total of 133 courts and prosecutor's offices are housed in rented premises, at a cost of 77,978,400 Yemeni rials (YRI) per annum.

82. The Ministry has secured a large number of plots for the construction of judicial complexes and courts, through allocations of State property, cooperation and coordination with the Land and State Real Property Authority or the purchase or renting of endowment land. A total of nine endowment sites are rented at a cost of YRI 1,006,820 per annum.

### Judicial inspections and administrative oversight

83. With a view to improving efficiency, remedying procedural failings and developing the judicial system to the highest standards, the Judicial Inspectorate worked at an intensive pace in 2004 on follow-up to the first round of inspections. It ordered 12 inspections of the work of 47 judges in courts of first instance and of persons who had not undergone inspections in the previous year.

84. It also ordered 14 unannounced inspections and 71 field investigations into a number of complaints on which desk research had already been undertaken. In the light of those investigations, 24 judges were summoned to provide clarifications or for interviews in connection with allegations laid against them in inspection reports. Forty-two cases were dismissed on the ground that there was no case to answer, while the Inspectorate referred four cases of proven misconduct to the Accountability Board. The Minister of Justice issued four warnings to persons whom the reports had found guilty of misconduct.

85. The Higher Judicial Council decided to pension off 99 judges, in accordance with the Retirement Act, and to dismiss 22 judges for judicial misconduct. Eight judges were referred to the Accountability Board and three were placed under supervision.

86. According to the judicial inspection reports, 250 judges were informed of the assessments of their professional performance made during the various stages of the first round of inspections. Twenty-seven judges challenged the grades that they had been given, and their cases were referred to the Higher Judicial Council. The Inspectorate investigated 5,751 complaints, based on desk research (4,885 complaints) or field visits (866 complaints). The large number of complaints which the Inspectorate received can be explained by a lack of awareness among members of the public; citizens often submit complaints to the Inspectorate which ought to be submitted as petitions to the courts.

87. The Inspectorate placed 552 different kinds of documents (dismissal decisions, confidential reports, official cautions, warnings, letters of thanks, grievances, etc.) in judges' confidential files. The second phase of the process of assembling curriculum vitae for 570 judges and their assistants was completed.

88. The Inspectorate conducted a study on the situation of a number of judges and transmitted it to the Higher Judicial Council for a decision. The study covered the following matters:

(a) The status of 31 judges appointed between 1 June 2003 and 14 March 2004 who should have been appointed to positions in appeal courts and court of first instance as a matter of necessity and in the general interest; the Council issued a decision approving their appointments;

(b) The status of deputy public prosecutors working in appeal courts, court of first instance and the Ministry secretariat;

(c) The situation, which had not been addressed, of 73 unemployed judges and deputy judges, in the light of the departure of personnel who had been dismissed or had retired;

(d) The status of assistants who had not been promoted during the previous judicial mobility exercise but had met the grade and of assistants who had not been given appointments or undergone inspections;

(e) The situation of the Hajjah appeal court criminal division following the dismissal of two members of the division and the assignment of criminal cases to the personal status division;

(f) The status of judges who received an average grading in 1998 and were not covered by Decision No. 351 of 2001, concerning promotions;

(g) Consideration of applications from lawyers wishing to join the judiciary;

(h) The drawing up of lists of judges and deputy judges entitled to an annual raise and their transmission to the Higher Judicial Council for approval.

89. The Inspectorate studied and prepared the draft regulation on promotions, transfers and appointments of judges and members of the Department of Public Prosecutions, and a draft judicial mobility plan was devised and submitted to the Higher Judicial Council.



## Prison reform

90. The Government, subject to the availability of resources, seeks to improve conditions in prisons and to comply with established international standards on prison construction, in keeping with its international treaties obligations. Accordingly, and in order to overcome the problems caused by prison overcrowding, the following actions were taken:

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

(b) Work is continuing on the construction of modern central prisons in the governorates of Abyan, Shabwah, Bayda' and Siy'un so that prisoners can be moved from existing prisons and the latter can be used for persons in pretrial detention;

(c) Central prisons in Hajjah, Sa`dah, Dhamar, Ibb and Ta`izz were rehabilitated through extension work and renovations;

(d) Seven remand centres were built in the Sana`a City governorate, Hudaydah, Ibb and Ta`izz to reduce overcrowding in central prisons and create an atmosphere conducive to prisoner reform and rehabilitation;

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

(f) An electronic information system in prisons in the governorates of Sana`a City, Ta`izz, Hudaydah, Ibb and Dhamar was completed, prompting the Department of Prisons to launch the second phase in prisons in the governorates of Hajjah, Sa`dah, Amran, Mahwit, Makala, Hadramawt, Radda`, Bayda', Lahij and Dali`. The system should help the Department to systematize research into criminal behaviour and ways of dealing with it;

(g) 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 donations from benefactors. A total of 504 persons were released in 2005 in this way. This year, the Ministry of Human Rights visited several prisons in the Republic of Yemen and secured the release of a number of indigent prisoners after their debts to their victims had been paid.

91. The same situation prevails in women's prisons, which are not crowded because there are few women prisoners. The State is scrupulous about providing everything necessary to improve humane conditions in prisons, in keeping with our domestic laws.

92. 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 health care provided is constantly improved and developed and any difficulties are addressed through cooperation and coordination with the Ministry and local councils.

93. 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 comply with 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 *Shura* (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 ICRC, UNICEF, the Social Development Fund and the Red Crescent Society).

### **Prisoner rehabilitation and reform**

94. In order to reform and rehabilitate prisoners and create in them a desire to lead a respectable life and to be good citizens, the Department of Prisons uses all kinds of educational, teaching and medical techniques and provides vocational training and social services. It also makes sure that basic education is available to all prisoners wishing to complete their education and to those undergoing any reform process, since education is of the utmost importance in prisoner reform and the results of tests carried out on 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.

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

Literacy skills	Basic education	Memorization of the Koran	Secondary education	University education	Total
979	480	440	174	8	2 081

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

Sewing	Carpentry	Industry	Metalwork	Electricity	Computing	Weaving	Total
183	28	24	5	30	24	6	300

### 95. Difficulties

(a) Severe overcrowding in prisons; there are 10,817 prisoners in 22 central prisons in the different governorates of the Republic, according to the figures of the Department of Prisons as of 30 November 2006;

(b) A shortage of transport resources for prisoners, including staff, ambulances, service vehicles and vans for transporting prisoners;

(c) Insufficient funding to carry out necessary construction and renovation work in prisons.

## **Indicators of compliance by the Republic of Yemen with the Convention against Torture**

### **A. Improving security and stability**

96. The success of economic and social development efforts largely depends on the establishment of security and peace throughout the country, since this is a prerequisite for the creation of a stable environment. In the past few years, a series of institutional, regulatory and legislative changes have been made in the field of security, the most important being the completion of the constitutional and legal procedures for the amendment of the Possession of Firearms and Ammunition Regulation Act, the Passports and Nationality Act, the Prisons Act, the Police Academy Act and the Police Authority Act and, lastly, the passing of the Civil Defence Fund Act and its implementing regulation.

97. A number of specialized bodies and departments were set up, such as the Coast Guard Service, the Department for the Suppression of Terrorism and Organized Crime, the Anti-Drugs Department, the Criminal Evidence Department, the Department for Women and Minors, and the Medical Services and Catastrophe Management Department. Implementing regulations for these bodies and departments were prepared.

98. The Ministry of the Interior completed four phases of the security expansion plan, establishing and reinforcing 220 security directorates, 18 security zones and 176 checkpoints along roads linking the governorates, together with four observation sites along the Mediterranean coast and the Gulf of Aden. The Ministry stepped up cooperation with prosecution and judicial mechanisms and organized high-quality specialized training programmes. In addition, 806 officers and ordinary police women were recruited to the women's police force.

99. Cooperation agreements on counterterrorism were signed with five Arab and foreign States. The figures show that there has been a marked improvement in the efficiency of the security services, as seen in the increase in the number of security service centres, police stations and training programmes and courses for members of the security services. In addition, the computer systems of the Department of Civil Status and Civil Registration were upgraded and identity cards were issued to around 573,000 citizens in 2005, as compared with 436,000 in 2000. At branches of the Department of Immigration and Passports and at ports, computers were hooked up to the main system, and a computer network was installed at the Traffic Department. Overall, by contrast with previous years, 2005 saw a marked increase in the number of recorded crimes and of cases referred to prosecutor's offices and courts of first instance; the number of reported crimes rose by over 94 per cent.

### **B. Ministry of Human Rights initiative on a comprehensive review of criminal justice legislation and its implementation in Yemen**

#### **Analysis of criminal justice legislation in Yemen**

100. In the framework of a memorandum of understanding between the Ministry of Human Rights and the Danish Institute for Human Rights, preparations were made for the first national conference on human rights dialogue which was part of a Yemeni-Danish partnership

programme involving the holding of a series of national dialogue conferences on subjects relating to the observance and realization of human rights in keeping with the rule of law.

101. A series of meetings and in-depth consultations were held with government employees who work on human rights issues, as well as human rights activists and experts, academics who specialize in this area and civil society organizations.

102. The topic of criminal justice under Yemeni legislation was chosen first, because it had attracted the greatest expression of interest out of all the topics proposed for consideration in the context of the cooperation agreement between the Ministry and the Danish Institute for Human Rights.

103. In 2007-2008, a legal analysis was carried out of Yemen's criminal justice legislation and 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 report was the starting point for a dialogue conference at which decision makers and officials in the Yemeni Government discussed how to create a mechanism for the full realization of human rights in the framework of Yemeni criminal law and finalized recommendations on public awareness programmes to ensure the observance of these rights in keeping with the principle of the rule of law.

104. The Ministry of Human Rights, in coordination with the competent ministries, agencies and institutions, endeavours to promote and protect human rights and to develop and strengthen national human rights mechanisms in line with our country's commitment to the international conventions, covenants and treaties to which it is a party. To that end, the Ministry pursues a number of actions, including the following:

(a) Examining national legislation and laws to assess their compatibility with the principles and norms set out in international human rights conventions and treaties to which the Republic of Yemen is party and recommending amendments to them;

(b) Improving awareness of the law by informing citizens of the rights guaranteed to them under the Constitution and disseminating a human rights culture in society at large by means of various awareness-raising techniques.

105. The thematic analysis conducted by the dialogue conference consisted of a review of domestic legislation and regional and international instruments on the subject of criminal justice aimed at identifying loopholes in the legislation and proposing amendments to domestic and international laws.

#### **Preparation of a model and analytical steps**

106. The model prepared consisted of 12 steps set out in a matrix and containing the following details:

### Step 1: compiling a list of rights

107. A list was compiled of 34 rights relating to a range of criminal justice principles that guarantee protection of the rights of both accused persons and victims. 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

Twelve 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 to seek legal redress; 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) Rights while in detention and under investigation

Seven rights come under this heading: the right not to be detained or arrested without a 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; detention or imprisonment in a legally designated facility.

#### (c) Rights during trial

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

#### (d) Rights while serving a sentence

108. Fourteen rights come under this heading: the maintenance of a record book 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.; transportation of prisoners; improving prisoner's social welfare and post-release care.

### Step 2: defining the rights

109. Each of these rights was defined in line with the definitions established in regional and international instruments and domestic laws and with the conception of criminal justice in the Yemeni context.

### Step 3: the Constitution

110. Each article of the Constitution was studied and each provision of the articles analysed was compared to the corresponding entry in the list of rights, in order to identify loopholes, problems and discrepancies and to make comparisons with the definitions of rights (see step 2).

Step 4: national legislation

111. The main national laws and regulations on criminal justice were identified and studied and each provision of the articles analysed was compared to 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.

Step 5: consideration of persons with special needs

112. An analysis was undertaken to assess how the principle of equality before the law is applied with respect to women, children and persons with disabilities.

Step 6: regional instruments

113. The analysis covered the following instruments:

- (a) The Arab Charter of Human Rights
- (b) The Cairo Declaration on Human Rights in Islam

Step 7: international instruments

114. 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.

Step 8: identifying loopholes and problems

115. A number of problems and loopholes were identified as a result of discrepancies between domestic laws (steps 4 and 5) and rights definitions (step 2) and between regional and international instruments (steps 6 and 7) and rights definitions (step 2).

Step 9: identifying loopholes

116. Legislation where there were loopholes and problems was identified.

Step 10: other rights in respect of which loopholes and problems were found

117. The analysis identified a number of other rights in respect of which loopholes and problems were found.

Step 11: national strategies to deal with problems and loopholes

118. Policies and strategies were formulated to address the problems identified in the criminal justice system.

Step 12: comments and recommendations

119. Comments and recommendations were made on ways of addressing the problems or gaps in the legislation.

**Practical example of the analysis of the criminal justice law  
in relation to the right not to be subjected to torture**

**General principles  
Right No. 3**

No.	Subject of right	Right not to be subjected to torture	
1	Definition	The State prohibits any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. The State also prevents such offences and punishes those who perpetrate them, compensating victims and providing for their rehabilitation. No exceptional circumstances whatsoever may be invoked as a justification of torture.	
2	The Constitution	Article 48  (b) No person may be arrested, searched or detained except in cases of flagrante delicto or pursuant to a	

No.	Subject of right	Right not to be subjected to torture	
		<p>warrant issued by a judge or the Department of Public Prosecutions for the purposes of an investigation or the maintenance of security. No person may be placed under surveillance except in accordance with the law. The dignity of any person subject to any form of deprivation of liberty shall be guaranteed. Physical and psychological torture is prohibited. The use of coercion to extract a confession during an investigation is prohibited. A person subject to deprivation of liberty shall have the right to remain silent in the absence of his lawyer. No person may be imprisoned or detained in places other than those subject to the Prisons Regulation Act. Torture and inhuman treatment during arrest, detention or imprisonment are prohibited.</p> <p>(e) The law shall define the penalty applicable to any person who infringes any part of this article and the compensation due for any damage that may be done to a person as a result of such infringement. It shall consider physical or mental torture during arrest, detention or imprisonment as an offence which is not time-barred from prosecution and shall punish any person who practises, orders, or participates in such acts.</p>	
3	Domestic legislation	Code of Criminal Procedures	<p>Article 6:</p> <p>No accused person shall be subjected to torture, inhuman treatment or physical or psychological harm for the purpose of extracting a confession from him. Any statement which an accused person or witness is proven to have made under duress, as a result of any of the aforementioned methods, shall be deemed null and void.</p> <p>Article 38:</p> <p>The statute of limitations on a serious offence is 10 years from the date on which the offence was committed, except for offences for which the punishment is</p>



No.	Subject of right	Right not to be subjected to torture	
			<p>retaliation (<i>qisas</i>), blood money (<i>diyah</i>) or indemnity for bodily injury (<i>arsh</i>). For less serious offences, the statute of limitations is 3 years from the date on which the offence was committed, unless the time limit under article 40 applies.</p> <p>Article 71:</p> <p>A person in police custody shall be detained in separate quarters from convicted prisoners. He shall be presumed innocent and shall not be harmed physically or mentally for the purpose of extracting a confession from him or for any other reason.</p>
4		Code of Offences and Penalties	<p>Article 166:</p> <p>Any public official who, during the course of his duties, uses or orders the use of torture, coercion or threats against an accused person, witness or expert in order to extract a confession or statements or information about an offence shall be subject to a penalty of up to 10 years in prison. This shall be without prejudice to the right of the victim to retaliation (<i>qisas</i>), blood money (<i>diyah</i>) or indemnity for bodily injury (<i>arsh</i>).</p> <p>Article 241:</p> <p>A mandatory penalty of blood money (<i>diyah</i>) and up to five years' imprisonment shall be imposed on anyone who physically assaults another person by any method which results, without that being his intention, in the victim's death.</p> <p>Article 242:</p> <p>A permanent disability is one where the injury results in the permanent severance, separation, partial amputation or loss of function of a limb or the total or partial impairment of a sense. Any serious deformity that cannot normally be remedied shall be deemed a disability.</p> <p>Article 243:</p> <p>A punishment identical to the crime itself shall be imposed on anyone who subjects another person to any kind of physical assault, deliberately inflicting a permanent</p>

No.	Subject of right	Right not to be subjected to torture	
			<p>physical disability by breaking one of that person's joints, plucking out an eye, amputating an ear or inflicting a measurable bodily wound. If the criminal act is confined to impairment of the functioning of a limb or sense, but the form thereof remains intact, or if retribution is prohibited or abated, without the assailant having been given a free pardon, the penalty shall be payment of blood money (<i>diyah</i>) or indemnity for bodily injury (<i>arsh</i>) and a term of up to seven years' imprisonment. If the assault results in a permanent disability which the perpetrator had no intention of causing, the penalty shall be up to three years' imprisonment in addition to payment of blood money (<i>diyah</i>) and an indemnity for bodily injury (<i>arsh</i>), as the case may be.</p> <p>Article 244:</p> <p>A penalty of indemnity for bodily injury (<i>arsh</i>) and up to one year's imprisonment, or the indemnity plus a fine, shall be imposed on anyone who subjects another person to a physical assault of any kind, inflicting an injury that cannot be measured or damaging that person's health. If the assault gives rise to an illness or state of incapacity lasting up to 20 days, the penalty shall be a maximum of three years' imprisonment or a fine. To this shall be added the penalty of indemnity for bodily injury (<i>arsh</i>), if the assault gives rise to an illness or state of incapacity lasting more than 20 days.</p> <p>Article 245:</p> <p>Anyone who injures another person accidentally shall be subject to a penalty of payment of blood money (<i>diyah</i>) or indemnity for bodily injury (<i>arsh</i>), as the case may be, and a term of up to one year's imprisonment or a fine, if the offence gives rise to a permanent disability. If the offence occurred as a result of a breach by the perpetrator of the regulations on the exercise of his functions, profession or trade or of laws and regulations, or if the person was under the influence of alcohol or drugs when the incident occurred, the penalty shall be up to two years in prison or a fine.</p>

No.	Subject of right	Right not to be subjected to torture	
			<p>Article 254:</p> <p>A term of up to one year's imprisonment or a fine shall be imposed on anyone who threatens in any way to commit an offence or a harmful act against another person or his spouse or a relative up to the fourth degree for the purpose of intimidating that other person.</p> <p>Article 313:</p> <p>A term of up to five years' imprisonment or a fine shall be imposed on anyone who deliberately frightens a person into believing that he will harm him or someone for whom he cares and thereby coerces that other person into surrendering to him or a third party property, a legal deed or any item bearing that other person's signature or seal which is convertible into a legal deed.</p>
		Civil Code	<p>Article 175:</p> <p>Coercion is the means by which a person in a position of power forces another person to say or do something which he would not otherwise have said or done. It is carried out by threatening to break the other person's spirit or a limb or a part thereof or to inflict a serious injury on him or by threatening him with a sexual assault or the destruction of his property.</p> <p>Article 304:</p> <p>Any person responsible for an intentional, quasi-intentional or accidental offence or omission that damages another person shall be required to compensate that other person for the damage done. This shall be without prejudice to the penalties prescribed for offences under the applicable laws.</p>
	Consideration for special categories	Children	<p>Juvenile Welfare Act</p> <p>Article 14:</p> <p>It is prohibited to ill-treat or use physical restraint devices on a young person. It is also prohibited to use methods of physical coercion against convicted persons subject to the present Act.</p>

No.	Subject of right	Right not to be subjected to torture	
	Regional charters and treaties	Arab Charter of Human Rights	<p>Article 8:</p> <p>(a) No one shall be subjected to physical or psychological torture or to cruel, inhuman, degrading or humiliating treatment.</p> <p>(b) Each State party shall protect every individual subject to its jurisdiction from such practices and shall take effective measures to prevent them. The commission of, or participation in, such acts shall be regarded as crimes that are punishable by law and are not subject to any statute of limitations. Each State party shall guarantee under its legal system redress and the right to rehabilitation and compensation for victims of torture.</p>
		Cairo Declaration on Human Rights in Islam	<p>Article 2:</p> <p>The right to protection from physical injury is safeguarded and may only be breached in accordance with the sharia. The State shall guarantee protection of this right.</p> <p>Article 20:</p> <p>No one may be arrested, deprived of his freedom, exiled or punished except as provided for by law. No one may be subjected to physical or mental torture or any form of humiliating, cruel or degrading treatment. No one may be subjected to medical or scientific experiments without his consent or at the risk of his health or life. Emergency laws may not be enacted to allow the executive authority to engage in such acts.</p>
	Ratified	International conventions and covenants	<p>Article 5 of the Universal Declaration of Human Rights</p> <p>No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.</p> <p>Articles 4 and 7 of the International Covenant on Civil and Political Rights</p> <p>Article 4:</p> <p>1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States parties to the</p>

No.	Subject of right	Right not to be subjected to torture	
			<p>present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.</p> <p>2. No derogation from articles 6, 7, 8 (paras. 1 and 2), 11, 15, 16 and 18 may be made under this provision.</p> <p>3. Any State party to the present Covenant availing itself of the right of derogation shall immediately inform the other States parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.</p> <p>Article 7:</p> <p>No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.</p> <p>Article 37 of the Convention on the Rights of the Child</p> <p>States parties shall ensure that:</p> <p>(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below 18 years of age;</p> <p>(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate</p>

No.	Subject of right	Right not to be subjected to torture	
			<p>period of time;</p> <p>(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;</p> <p>(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.</p> <p>Article 1 of the Convention against Torture</p> <p>1. For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.</p> <p>2. This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application.</p> <p>Article 12:</p> <p>Each State party shall ensure that its competent authorities proceed to a prompt</p>

No.	Subject of right	Right not to be subjected to torture	
			<p>and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.</p> <p>Article 14:</p> <p>1. Each State party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation.</p> <p>2. Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law.</p>
	<p>Loopholes and problems identified</p>	<p>1. The absence of a legal definition of torture.</p> <p>2. Article 38 of the Code of Criminal Procedures stipulates that the statute of limitations on serious offences is 10 years from the date on which the offence was committed, except for offences for which the punishment is retribution (<i>qisas</i>), blood money (<i>diyah</i>) or indemnity for bodily injury (<i>arsh</i>). Torture is classified as a serious offence, as it carries a penalty of 10 years' imprisonment under article 166 of the Code of Offences and Penalties. This means that torture offences cannot be prosecuted more than 10 years after their commission. This is at variance with article 48 of the Constitution, which defines the offence of physical or mental torture as one that is not subject to any statute of limitations.</p> <p>3. The national legislature makes no explicit stipulation that victims of torture are entitled to compensation from the State and the perpetrators of the torture.</p> <p>4. The national legislature does not oblige the State to introduce</p>	

No.	Subject of right	Right not to be subjected to torture	
		rehabilitation programmes for victims of torture as required under article 14 of the Convention against Torture.	
	Loopholes and problems	<ul style="list-style-type: none"> <li>• The Code of Offences and Penalties, with respect to parts 1, 3 and 4 of step 8</li> <li>• The Code of Criminal Procedures, with respect to part 2 of step 8</li> </ul>	
	Other rights in respect of which loopholes and problems were found	<ul style="list-style-type: none"> <li>• The right not to be subjected to cruel, inhuman or degrading treatment or punishment while in detention, standing trial or serving a sentence</li> <li>• The right to seek legal redress</li> <li>• The right to compensation</li> <li>• The right not to be subjected to the use of physical restraint devices</li> </ul>	
	Policies and strategies connected to these problems	<p>Third five-year plan for development and poverty alleviation (human rights focus)</p> <p>National human rights strategy (under development)</p>	
	Recommendations and comments	<ol style="list-style-type: none"> <li>1. Add a provision to the Code of Offences and Penalties defining torture in accordance with the Convention against Torture.</li> <li>2. Amend article 38 of the Code of Criminal Procedures by adding physical or mental torture to the list of offences which, in accordance with article 48 of the Constitution, are not time-barred from prosecution.</li> <li>3. Add a provision to national legislation stipulating that victims of torture must be compensated by the State and by the perpetrators of torture.</li> <li>4. Add a legal provision requiring the State to introduce rehabilitation programmes for victims of torture, in keeping with article 14 of the Convention against Torture.</li> </ol>	



No.	Subject of right	Right not to be subjected to torture	
		<p>5. The State should establish mental and psychological rehabilitation programmes and provide care and health services for victims of torture.</p> <p>6. A national mechanism should be set up with extensive powers to carry out swift and impartial investigations, where there are reasonable grounds to suppose that an act of torture has been committed in territory subject to the jurisdiction of the State, and torture cases should be classified as urgent cases.</p>	

### **First dialogue conference on criminal justice and Yemeni legislation**

120. Under the auspices of the Prime Minister, 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 from 10 to 11 February 2008. The conference was attended by experts from over 50 governmental institutions and NGOs, as well as judges, members of the Department of Public Prosecutions and the police, lawyers, university and college professors and civil society representatives. The participants produced a set of recommendations designed to realize the aims of the criminal justice system on the ground, in conformity with Yemeni legislation. The recommendations dealt with all the subjects raised in the analysis of the compatibility of Yemeni laws with the Convention against Torture.

### **C. Judicial conferences**

121. Judicial conferences were held to identify and address shortcomings and failings in the workings of the judiciary and to develop judicial mechanisms on the basis of a comprehensive strategy for the implementation of carefully studied plans on the ground.

#### **Local conferences**

122. With a view to addressing failings in, and improving and developing the effectiveness of, judicial mechanisms, local conferences entitled “Justice, the foundation of security, development and investment” were held from 21 September to 2 October 2003 in preparation for the first judicial conference.

### Local judicial conferences in 2003

Location	Date
Sana`a City governorate	21-25 September 2003
Aden	23-24 September 2003
Ibb	28-29 September 2003
Hadramawt	28-29 September 2003
Hudaydah	3 September to 1 October 2003
Amran	1-2 October 2003

#### First judicial conference

123. The first judicial conference was held from 13 to 15 December 2003 and produced positive results, helping to assess the working methods of judicial bodies in order to build on the positive and address the negative aspects, supporting the immunity, reputation and independence of the judiciary and the enforcement of judicial decisions, and strengthening cooperation between the judicial authority and the police.

#### D. Establishment of a code of conduct for law enforcement officers

124. The Ministry of the Interior, in cooperation with DEFID, carried out a survey to garner the public's views on the services that the police provide. The survey was part of an integrated security sector development programme designed to reform the police sector and establish a code of conduct for law enforcement officers.

### III. LEGISLATIVE OR INSTITUTIONAL DEVELOPMENTS RELATING TO THE IMPLEMENTATION OF THE CONVENTION

#### Establishment of committees to deal with the implementation of the Convention

125. Article 1 contains a general definition of what is meant by torture. Article 4 requires States to ensure that all acts of torture are offences under their criminal law, the same applying to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture. These offences must be punishable by appropriate penalties which take into account their grave nature. The laws of the Republic of Yemen, in particular the Constitution and the Code of Offences and Penalties, clearly prohibit all forms of torture of any description. Through the Constitution, the Republic of Yemen affirms its commitment to the Charter of the United Nations, the Pact of the League of Arab States, the Universal Declaration of Human Rights and the generally recognized norms of international law. Yemen's laws contain nothing that authorizes the infringement of human rights on any pretext whatsoever. In order to give full effect to the rights set forth in the international instruments to which our country is a party, including the Convention against Torture, a number of committees have been formed, as described below.

### **Committee to harmonize domestic laws with international treaties**

126. In an important step towards the full realization of rights, in June 2004 the Cabinet decided to form a legal committee representing a number of ministries to review domestic laws in the light of the international human rights treaties to which our country is a party with a view to ensuring consistency between Yemen's international human rights obligations and the laws in force.

### **Review of draft amendments to certain laws as they relate to women**

127. The Cabinet issued order No. 94 of 2005, providing for a review of draft amendments to certain laws as they relate to women, including the Code of Offences and Penalties and the Department of Prisons Regulation Act, for the purpose of eliminating any discriminatory provisions.

### **Establishment of a committee to review the recommendations in the final statement of the first dialogue conference on criminal justice and Yemeni legislation**

128. By Prime Ministerial Order No. 69 of 2008 a committee was established to review the recommendations in the final statement issued by the first dialogue conference on criminal justice and Yemeni legislation held from 10 to 11 February 2008. The recommendations called for:

(a) The addition of a provision to the Code of Offences and Penalties defining torture in keeping with the Convention against Torture, in order to ensure that the provisions on the subject of torture are properly applied;

(b) The addition of the offences of physical, psychological or mental torture 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) The addition of a provision to domestic legislation stipulating that victims of physical and mental torture must be compensated 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) The introduction of tougher disciplinary sanctions for any public servant who exploits his position or authority to carry out or have others carry out acts of torture, and the inclusion among these sanctions of a maximum penalty of termination of employment;

(e) The committee began its work on 28 May 2008.

### **Decisions relating to the implementation of the Convention**

129. In the past two years, the Ministry of Human Rights has drafted or participated in the drafting of a series of decisions designed to give effect to human rights and protect the rights of many different groups in Yemeni society. The Ministry was successful in securing a number of Cabinet decisions, including:

(a) Cabinet decision No. 106 of 2003, concerning the establishment of a committee, under the chairmanship of the Minister for Internal Affairs, to carry out visits to prisons in order to assess the situation of prisoners and prison conditions and report back on them to the Cabinet;

(b) Cabinet decision No. 129 of 2004, concerning the implementation of executive proposals on coordination between the Ministry of Human Rights and other human rights institutions;

(c) Cabinet decision No. 198 of 2004, approving the recommendations in a Ministry of Human Rights report on remand centres in Sana`a City governorate;

(d) Cabinet decision No. 199 of 2004, concerning the supervision and management of women's prisons.

130. In 2005, a circular was issued by the Prosecutor-General on the procedures for bringing criminal proceedings against members of the criminal investigation department, the police and the security services.

### **New laws relevant to the implementation of the Convention**

131. We should like to point out that Yemen has spared no effort to develop and update laws to bring them more into line with the international treaties that it has ratified. The most recent such legislation is listed hereunder.

### **Protection against Domestic Violence Act**

132. The Protection against Domestic Violence Act No. 6 of 2008 contains several provisions which guarantee protection to any family member subjected to any form of violence or abuse by another family member. These provisions include the following:

#### Article 4

133. Having due regard to the applicable provisions of the Criminal Code and any other relevant legislation, the present Act shall apply to cases of domestic violence.

134. All proceedings and information relating to cases of domestic violence before any competent body shall be completely confidential.

135. The court may take account of reports on cases of violence that are submitted to it by the competent authorities.

#### Article 5

136. Except for offences which come under the jurisdiction of the criminal courts, offences against natural persons shall be deemed domestic violence, if they are committed by one family member against another family member.

#### Article 8

137. Any person who provides medical, social or educational services in the public or private sector shall report to the competent authorities, as soon as he discovers or sees them, any signs of violence which he is told are the result of domestic violence. The competent public officials shall take such measures as are necessary to protect a victim from family members when they are notified about a case of domestic violence.

#### Article 9

138. The police and public security officers shall go to the place where the domestic violence occurred in either of the following circumstances:

- (a) Where a report is received that a violent domestic incident is imminent;
- (b) Where a report is received concerning the infringement of a valid legal protection order.

#### Article 11

139. The director of a family protection department or the chief of a family protection section may, in a case of domestic violence, take any of the measures listed below as a precaution to protect the victim or any family member from assault:

- (a) Ask the accused for an undertaking that he will not assault the victim or any member of his or her family.

140. Where the victim or a member of his or her family is at risk, any of the following measures may be taken:

- (a) The person against whom the complaint is brought may be barred from entering the home for up to 48 hours, if there is no other way of protecting the victim or a family member;
- (b) The person may be held for up to 24 hours at the family protection department or one of its sections in order to protect the victim or a family member, if the measures in paragraph 1 of this article fail.

#### **Children's Rights Act**

141. Sections 4 and 5 of the Children's Rights Act No. 45 of 19 November 2002 contain articles on the rehabilitation and welfare of minors and juvenile courts.

## **Section 4**

### **Juvenile welfare and rehabilitation**

#### Article 124

142. No minors under the age of 12 shall be held at a police station or any other security facility. They shall be entrusted to the care of their legal guardian, testamentary tutor or authorized representative or otherwise placed in the nearest juvenile rehabilitation home for a period of up to 24 hours before being brought to the Department of Public Prosecutions, which shall review their situation in accordance with the Minors Act.

143. Where absolutely necessary, a minor over the age of 12 may be held in separate quarters, from any older persons at any police station, provided that he is not held for more than 24 hours.

#### Article 125

144. A juvenile offender under the age of 12 shall not be liable to any of the penalties or measures prescribed in the Criminal Code but shall be subject to the measures provided for in article 36 of the Minors Act.

#### Article 126

145. Social reform homes and institutions shall be organized in a manner which is in keeping with the local community environment and which:

- (a) Facilitates communication between residents and their relatives and the wider environment;
- (b) Applies technical procedures that are tailor-made to the situation 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 influences that would do them physical, moral and psychological harm.

#### Article 127

146. Social reform homes and institutions shall supervise and monitor the education and rehabilitation of minors during the different stages of the process, including the post-rehabilitation stage, and shall endeavour to equip them for a qualified occupation in order to prevent them from relapsing or falling into recidivism after release, because of having to contend with the realities and difficulties of life. Certificates issued to minors shall make no mention of the fact that the recipient was awarded it in a social reform home or institution.

## **Section 5**

### **Juvenile courts**

#### Article 128

147. Public officials appointed by a decision of the Minister taken in consultation with the Minister of Justice shall have police powers, within their respective areas of competence, to investigate juvenile offences, apprehend juvenile offenders, receive and analyse reports and complaints, gather evidence and information and record it in reports which they transmit to the competent authorities.

#### Article 129

148. In the governorate of Sana`a City and the other governorates of the Republic one or more juvenile courts shall be established in accordance with the Minors Act.

#### Article 130

149. A minor accused of an offence shall have a defence lawyer. If he has not already chosen one, the prosecutor's office or the court shall appoint one for him in accordance with the rules laid down in the Code of Criminal Procedures.

#### Article 131

150. Juvenile trials shall be conducted in camera and may only be attended by relatives of the accused, witnesses, lawyers and social workers.

151. The publication in any publishing medium of the minor's name and photograph and the facts or a summary of the case is prohibited.

#### Article 132

152. Minors shall be exempt from paying fees and court costs in cases subject to the present or any other Act.

### **Complaints, requests for clarification, allegations, procedures, judgements and compensation awarded for acts of violence and other cruel, degrading or inhuman treatment or punishment**

#### **Receiving communications and complaints**

153. Dealing with communications and complaints about violations of individual and collective rights is one of the main areas to which the Ministry of Human Rights accords the utmost importance, as attested by the number of complaints and communications which it has examined. In 2007, the Ministry received a total of 936 complaints and communications, studying, analysing and categorizing 695 of them (382 complaints and 313 communications) and proposing solutions for cases involving internal matters under its purview.

154. The communications and complaints had been submitted by individuals, civil society organizations or international human rights organizations or came from stories that had been found in the press. The Ministry decided to establish a specific mechanism to deal with these complaints and communications, investigate the facts, identify the rights violated and liaise with the competent government authorities on meaningful action to deal with the violations committed.

155. In 2007 and 2008, the Ministry of Human Rights received a number of complaints and communications concerning acts of torture committed by law enforcement officers and took steps to deal with them.

### **Expansion of the Department of Public Prosecutions**

156. Article 12 of the Convention against Torture provides: “Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.” In full compliance with this article, the Department of Public Prosecutions, a branch of the judiciary established to serve justice, is tasked with pursuing cases from the initial evidence-gathering stage to the launch of a preliminary investigation, referral to the courts, representation of the prosecution side in court and the enforcement of binding judgements handed down in criminal cases. As an organ of the State, the Department sets out to establish the truth, based on the exigencies of the public interest. No ordinary individual can conduct a case against an accused person, and the Department is no ordinary adversary; its task is to bring the simple truth to light, even if it favours the accused.

157. The Department’s territorial jurisdiction was expanded to include all the governorates of the Republic. In 2005, the Department had 923 members of different ranks, as follows:

- (a) Prosecutor-General (2);
- (b) Chief Counsel-General I (1);
- (c) Counsel-General Grade A (17);
- (d) Counsel-General Grade B (5);
- (e) Chief Public Prosecutor I (17);
- (f) Chief Public Prosecutor Grade A (48);
- (g) Chief Public Prosecutor Grade B (77);
- (h) Deputy Public Prosecutor Grade A (154);
- (i) Deputy Public Prosecutor Grade B (225);



- (j) Assistant Public Prosecutor Grade A (256);
- (k) Assistant Public Prosecutor Grade B (119);
- (l) Prosecution assistants (1).

### **Fact-finding missions**

158. Various State institutions like the Ministry of Justice, the Ministry of the Interior, the Department of Public Prosecutions and the Ministry of Human Rights have organized visits to prisons in different towns and districts in order either to investigate complaints or to conduct unannounced or scheduled inspections. The Higher Committee to Investigate Conditions for Prisoners and in Prisons, which comprises several agencies, visited various prisons in order to interview prisoners, assess their situation, listen to their problems and complaints and make sure that there were no cases of inhuman treatment or torture at these establishments.

159. In 2004, the Ministry of Justice organized assessment visits to several courts and prosecutor's offices attached to special and first instance courts in the governorates of Sana`a City, Sana`a, Jawf, Aden, Rimah, Amran and Sa`dah, as well as other courts in a number of governorates. An assessment was made of how judicial and administrative business was handled in the different divisions and departments of the courts. The obstacles and difficulties confronting judicial work were identified, solutions were proposed and personnel were urged to redouble their efforts and improve their attendance records in order to make the national campaign to clear up the backlog of court cases a success. They were also urged to take steps to make justice more accessible to the public, to process cases expeditiously, to comply strictly with the regulations and laws and to facilitate legal proceedings.

160. In 2004, several judicial officials visited remand centres and central prisons in an effort to improve conditions and the effectiveness of prisoner reform efforts. The main visits are described below:

(a) Visits were made to remand facilities in courts in the west, south-east and east of the Sana`a City governorate and in the courts in Hamdan and the airport building in the governorate of Sana`a, in order to examine conditions and assess the general state and health and legal status of inmates, particularly those whose cases had not been decided and whose psychological and physical health had been adversely affected by spending protracted periods of time at the facilities without any decision being taken on their cases. The officials issued instructions to the managers of these facilities on health provision, the creation of a suitable environment for detention and the release of detainees being held illegally;

(b) A visit was paid to Mansurah Central Prison in the governorate of Aden and an assessment was made of conditions at the prison and the state of the prisoners. The Department of Public Prosecutions requested a list of names of prisoners who had already served their sentence and were still being held because they could not afford to pay their debts, so that it could find a way to resolve their situation.

161. In the same context, between 2005 and 2007, the Ministry of Human Rights organized visits to different prisons and remand facilities by senior Ministry staff or officials from the Ministry's Department of Corrections and Prisons. The visits are described hereunder:

(a) Visits were paid to police stations, criminal investigation departments and the Department of Public Prosecutions to deal with five cases, of which four were successfully investigated and one was left pending, owing to a lack of cooperation by the Department's judicial inspectorate with the visiting team (2005);

(b) A visit was paid to the Bayda' governorate prison to verify a report that a citizen was being held there in place of his brother. An official at the facility refused to allow the inspectors in on the pretext that they did not have written permission from the director of the Department of Prisons. The officer in charge of the mission discovered that more than 20 members of a local tribe were being detained there as hostages;

(c) 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, Izz and Dhamar;

(d) An inspection was carried out in 2006 of remand facilities in the Sana`a City governorate;

(e) An inspection and a visit were paid to a project on vagrancy run by the Ministry of Social Affairs and Labour and the Amal Home for Girls;

(f) An inspection of orphanages and reformatories was carried out in 2006, in cooperation and coordination with the Salih Social Association, and on the occasion of the Id holiday clothing was distributed at the Safe Childhood Centre, the Social Reform Institution for Boys and the Orphans Home;

(g) 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;

(h) A visit was paid to Rada` Prison in June 2007 as a result of a large number of complaints which the Ministry had received from prisoners' relatives and of 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;

(i) A visit was paid to Hudaydah Prison on 8 August 2007 and a report was produced on conditions at the prison and the prisoners. As a result of these visits:

- (i) 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 authorities concerned to comply with the team's recommendations on rectifying the failings which had been identified;

- (ii) Lists were drawn up by the Higher Committee for the Investigation of Prison Conditions of persons who had served two thirds of their sentence. These persons were released in the months of Sha`ban and Ramadan A.H. 1426 under instructions from the President of the Republic, after their outstanding debts had been paid out of the public purse;
- (iii) Some assistance in kind is distributed each month to women prisoners in Sana`a Central Prison.

### **Fact-finding mission on cases of torture**

162. In the framework of preparations for the drafting of Yemen's periodic report on the implementation of the Convention against Torture due for submission this year, the Ministry organized a programme of visits to the courts, security services, prosecutor's offices, central prisons and remand facilities in the governorates of Hajjah, Hudaydah, Ta`izz, Hadramawt and Sana`a City, during which the team met with security chiefs, court judges, public prosecutors, criminal investigation officials and police station chiefs. Interviews were held with a number of detainees in order to verify their legal and health status and identify cases of torture, where they existed. All the interviews were recorded using questionnaires that had been specially designed for the purpose.

163. All the data from these meetings were analysed, making it easier to reach definite conclusions about the extent of compliance on the ground with the recommendations of the Committee against Torture.

164. It is worth adding that the field visits programme yielded some general feedback on the efficiency of, and conditions in, prisons, together with solutions and proposals to help improve efficiency.

### **Recommendations**

165. The inspection team issued the following set of recommendations for the different government institutions concerned:

#### **Recommendations for the Ministry of Human Rights**

- (a) Step up prison inspections to ensure that prisoners' rights are being observed;
- (b) Liaise on a permanent and continuous basis with the competent authorities, in particular the Ministry of the Interior and the Ministry of Justice, in pursuing cooperation on prisoners' issues;
- (c) Offer awareness-raising courses for senior police officers.

#### **Recommendations for the Ministry of the Interior**

- (a) Strengthen the role of the competent authority in monitoring and overseeing custody and remand facilities;

- (b) Show no leniency towards officers at any security facility who ill-treat detainees;
- (c) Ensure that the security services enforce and do not obstruct court decisions of any kind;
- (d) Be proactive in receiving complaints from individuals or detainees and taking legal action on them;
- (e) Provide suitable and sufficient quantities of food to prisoners and prison staff;
- (f) Improve prison infrastructure.

### **Recommendations for the Ministry of Justice and the Department of Public Prosecutions**

- (a) Liaise with the Ministry of the Interior to facilitate the work of the judicial authority, and make it a general rule that any security officer proven to have obstructed or not to have enforced a court order or instruction shall be disciplined;
- (b) Impose a time limit on the processing of cases by the Department of Public Prosecutions and first instance and appeal courts, based on the classification of offences (serious or less serious);
- (c) Ensure that each district of Sana`a City governorate has its own court and prosecutor's office; support the courts and prosecutor's offices by supplying them with judicial staff (judges and members of the prosecution service); assign a judge and a member of the prosecution service for each type of case (serious or less serious offence, etc.);
- (d) Expand and strengthen the role of the Department of Public Prosecutions to include police stations (a representative for police stations).

### **Recommendations for the Ministry of Health**

- (a) Provide sufficient numbers of medical staff for remand centres and central prisons;
- (b) Provide a laboratory to carry out tests on detainees before they are admitted to remand centres and central prisons.

### **Recommendations for the Ministry of Vocational Training and the Ministry of Education**

- (a) Provide vocational training resources to teach prisoners a trade;
- (b) Provide teaching staff to educate and raise awareness among prisoners;
- (c) Recommendations for the Ministry of Water and Sanitation;
- (d) Dig wells and supply water pumps (supply safe and sufficient quantities of drinking water to prisoners);
- (e) Equip and upgrade sanitation plants and carry out regular maintenance work on them.

**D. The difficulties which our country experiences in fulfilling some of its obligations under the Convention**

166. There are a number of difficulties which hamper the implementation of the Convention. We have summarized them here below.

(a) The spread of poverty in the general sense of the term, particularly in rural areas and among women, is one of the problems with the deadliest effect on human rights and freedoms. Poverty is also a structural issue which impedes development and innovation in the field of human rights; energies are currently focused on ensuring a minimum level of rights and a decent living, while demand is growing for a qualitative improvement in public and private rights and freedoms;

(b) The population distribution in Yemen is uneven; 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 populated areas, 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 in general and the Convention against Torture in particular are inadequate;

(d) There are not enough funds and resources to carry out the construction and renovation work that prisons need and supply all the requirements and rights of prisoners;

(e) There are not enough statistics, data or studies on cases of torture;

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

**Part II**

**ADDITIONAL INFORMATION REQUESTED BY THE COMMITTEE**

167. In this part, information will be provided relating to paragraph 8 (b) of the Committee's recommendations (provide detailed statistical data, disaggregated by crime, geographical location, ethnicity and gender, on complaints relating to torture and ill-treatment allegedly committed by law enforcement officials, as well as related investigations, prosecutions, and penal and disciplinary sentences).

168. Yemen, like other countries, is not exempt from such practices [torture], and the Government is taking additional measures to combat them, as they are the work of sick individuals who abuse their legal authority. The State is determined to take action against all forms of torture through legislative, administrative and awareness-raising measures, combined with action on the ground.

169. In 2003, for example, in accordance with the principle of the prohibition of inhuman treatment, several police and security services officers proven to have broken the law were

prosecuted in accordance with the due process measures established by the competent authorities in previous years. Action was taken against 54 individuals, some of whom were tried and sentenced to terms of detention or imprisonment or dismissed from service. Others were ordered to pay compensation to plaintiffs. Others again are awaiting trial or remain under investigation.

#### Members of the police found guilty of breaking the law

Item	Offence	No. of offenders
1	Assault of a person being questioned	8
2	Assault and use of weapons against members of the public	19
3	Killing or exchanging fire with a wanted person during a chase	15
4	Abuse of authority for the purpose of defrauding or stealing from members of the public	9
5	Assaulting and injuring a colleague	2
6	Incitement to murder	1
	Total	54

170. The Ministry of Human Rights received a number of complaints and communications about torture from international bodies. The competent authorities were contacted and appropriate action was taken. The following table shows the action taken.

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

Item	Authority taking the action	Subject	Action taken	Year
1	Department of Public Prosecutions	Torture	Referred to the prosecutor's office at the Sana`a City appeal court for investigation	2007
		Killing by local assembly soldiers	Referred to the prosecutor's office at the Sana`a City appeal court for investigation	
		Torture by the criminal investigation department of the governorate of Amran	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
		Case of torture in Rada` Prison	Referred to the Bayda' security director for investigation	

Item	Authority taking the action	Subject	Action taken	Year
		Concealment by the police of a case of battery	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 by 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	

### **Results of fact-finding missions on cases of torture**

171. The Ministry carried out a series of visits to courts, security offices, prosecutor's offices, detention centres and central prisons in the governorates of Hajjah, Hudaydah, Ta`izz, Hadramawt and Sana`a City, where the team met with security directors, court judges, members of prosecutor's offices, criminal investigation and police station chiefs. Interviews were held with detainees to verify their legal and health status and identify cases of torture, where they existed. All these interviews were recorded in a questionnaire drawn up for the purpose. Reference is made to the team's recommendations (para. 120).

### **Part III**

#### **FOLLOW-UP TO THE COMMITTEE'S CONCLUSIONS AND RECOMMENDATIONS**

172. In this part of the report, information will be provided on the measures that the Republic of Yemen has taken to comply with the conclusions and recommendations that the Committee adopted after considering Yemen's initial report. The relevant information is set out below.

173. In paragraph 6 (a) of its conclusions and recommendations the Committee expresses concern about the lack of a comprehensive definition of torture in the domestic law as set out in article 1 of the Convention, while in paragraph 7 (a) the Committee recommends that the State party adopt a definition of torture which covers all elements of that contained in article 1 of the Convention, and amend domestic penal law accordingly.

### Comment

174. We refer to the information in part I of the present report concerning:

(a) The Ministry of Human Rights initiative on a comprehensive review of criminal justice legislation and its implementation in Yemen (paras. 90-93);

(b) The establishment of committees to deal with the implementation of the Convention (paras. 99-102).

175. In paragraph 6 (b) of its conclusions and recommendations the Committee expresses concern about the nature of some criminal sanctions, in particular flogging and amputation of limbs, which may be in breach of the Convention, while in paragraph 7 (b) it recommends that the State party take all appropriate measures to ensure that criminal sanctions are in full conformity with the Convention.

### Comment

176. We should like to explain that the purpose of *hadd*<sup>2</sup> penalties is to serve God's law. In other words, these penalties are imposed to benefit the community, maintain public order and safeguard human rights. They are not therefore a breach [of the Convention], as has been assumed.

177. The general conditions for the abatement of *hadd* penalties make the application of these penalties virtually impossible; *hadd* penalties are abated under Yemeni law on various grounds, such as the retraction of a confession. Yemeni sharia jurisprudence holds that a *hadd* penalty cannot be imposed if a finding of guilt is based only on circumstantial evidence.

178. Under article 48 of the current Yemeni Code of Offences and Penalties, the President of the Republic may order the suspension or abatement of a *hadd* penalty in the public interest. This does not affect the rights of plaintiffs. The exceptions to *hadd* penalties differ depending on the penalty.

179. The *hadd* penalty for theft is abated under article 299 of the Code of Offences and Penalties as follows:

180. The *hadd* penalty for theft shall be abated, if evidence is provided to the court of any of the following situations:

(a) The stolen item was returned to the rightful owner after the theft and prior to the court proceedings;

(b) The perpetrator may have a claim to ownership;

---

<sup>2</sup> Translator's note: penalties which are fixed (*hadd*) under Islamic law for certain crimes.



(c) The value of the stolen property before the execution of the *hadd* penalty would be less than a set minimum;

(d) The owners of the stolen property forgave the culprit before the court proceedings;

(e) The *hadd* penalty for theft is abated in accordance with the judicial principles on cassation and confessions established by the criminal division of the Supreme Court in its judgement No. 88 of 13 July 1999, where there is doubt about the possible retraction of the confession.

181. With regard to the penalty for adultery, as is well known, adultery can be proved in one of two ways (a confession or discovery). A confession must be freely made four times by an adult of sound mind. If all these conditions are met, a *hadd* penalty must be imposed. If the penalty is imposed on a person who confesses and later retracts his confession, then the penalty is abated. A confession extracted from a person under physical or mental duress is null and void.

182. As for discovery, this means that four good men must witness the accused committing adultery. They must see the man's penis enter the woman's vagina, like a kohl stick entering a kohl pot. If they have not seen this, then the testimony does not give rise to the *hadd* for adultery. If the witnesses disagree about what they saw, then their testimony is invalid. The conditions under which the *hadd* for adultery may be abated are listed in article 266 of the Code of Offences and Penalties as follows:

183. The *hadd* for adultery and like offences shall be abated if it is proved to the court that any of the following conditions obtain:

(a) A condition of marriage has not been met, the marriage is defective or a witness to the marriage was not eligible to act as a witness;

(b) The witnesses or one of the witnesses hesitates to begin the stoning after it is ordered;

(c) The witnesses or one of the witnesses is unable to begin the stoning after it is ordered;

(d) The testimony is flawed, does not meet all the established criteria or is retracted before the execution of the penalty;

(e) Women make a statement that the woman accused by witnesses of adultery is a virgin or is intact;

(f) The case is not proven beyond all possible doubt;

(g) There was coercion or duress;

(h) The adulterer was silent before making a confession or before the testimony against him was given;

(i) The condemned person retracts his confession, which was the basis of the conviction.

184. The *hadd* for adultery under Yemeni sharia case law does not apply if a finding of guilt is based only on circumstantial evidence.

185. It should be noted that the penalty of stoning has not been carried out in Yemen for centuries. To impose it under the Criminal Code No. 12 of 1994 is virtually impossible, because of the exceptions to the *hadd* for adultery provided for in article 266 of the Code.

186. Article 109 of the Code of Offences and Penalties, concerning the discretionary power of judges to impose penalties, provides: “The judge shall determine a suitable punishment between the maximum and the minimum *hadd* penalties prescribed for the offence, bearing in mind all the mitigating or aggravating circumstances, in particular the degree of culpability, the motives for the offence, the gravity of the act, the circumstances in which it occurred, the past record and personal status of the perpetrator, his behaviour subsequent to the commission of the offence, his relationship to the victim and whether or not he has already compensated the victim or his heirs. When imposing a fine, the judge shall take account of the perpetrator’s economic status. If the penalty prescribed for the offence is capital punishment, the judge may impose a maximum of 15 and a minimum of 5 years’ imprisonment.” It is clear from the text that the commutation of penalties, within the limits set by law, is one of the prerogatives accorded to judges. The judge must inform the accused of the circumstances under which commutation may be effected, and if the accused did not invoke these circumstances in his defence, because he was unaware of them or absent, then the judge must inform him of the conditions under which *hadd* penalties are abated. Failure to do so will result in the annulment of the conviction. In this connection, article 46 of the Code of Offences and Penalties states: “A judge hearing a *hadd* case shall explain to the accused all the exceptions to the imposition of *hadd* penalties. If the judge fails to do so, a verdict of guilt shall be null and void.”

187. In paragraph 6 (c) of the conclusions and recommendations, the Committee expresses concern at reports of the frequent practice of incommunicado detention by Political Security Department officials, including occurrences of mass arrests and detention for prolonged periods without judicial process. In paragraph 7 (d) it recommends that the State party take all appropriate measures to abolish de facto incommunicado detention.

### **Comment**

188. Imprisonment under Yemeni law means “depriving the accused of his right to freedom for a specified period of time and placing him in a penal institution for the term imposed in the sentence” (Code of Offences and Penalties, art. 39). The Yemeni legislature vests the competent courts with the power to send defendants to prison. Thus imprisonment is only ordered by means of a binding court judgement, and the task of enforcing the judgement is assigned by law to the Department of Public Prosecutions.

189. Under Yemeni law, custodial penalties are all classified under a single heading: imprisonment. This system is designed to prevent the use of torture and degrading and inhuman treatment against prisoners and thus to realize the main purpose of punishment, namely, reform and rehabilitation of offenders.

190. The Constitution and the law have established a number of principles and norms to guarantee prisoners humane and decent treatment. Article 48 (b) of the Constitution states: “The

dignity of any person subject to any form of deprivation of liberty shall be guaranteed. Physical and psychological torture is prohibited. The use of coercion to extract a confession during an investigation is prohibited.” The Yemeni legislature passed a law on the regulation of prisons, namely, Act No. 48 of 1991, and its implementing regulation No. 221 of 1999, stipulating that provision must be made for the reform, re-education, rehabilitation and social reintegration of prisoners through the use of a full range of educational techniques and methods designed to create a desire in prisoners to lead a respectable life and to be good citizens (Prisons Regulation Act, art. 3).

191. Under article 4 of the Prisons Regulation Act, the Department of Prisons is expected to re-educate prisoners and instil in them a love of work and a law-abiding spirit. Prisoners may not be subjected to physical and mental abuse while serving time in prison. Under article 32 of the Act, an area of the prison, known as the reception centre, must be set aside for interviews of 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.

192. In keeping with this system, article 4 of the implementing regulation puts the onus on prison governors to ensure the safety of prisoners and categorize prisoners in the framework of the relevant laws.

193. The Act allows for the use of solitary confinement as a disciplinary measure and empowers prison governors to impose on any prisoner who breaks the rules and regulations issued pursuant to the Act and its implementing regulation, disciplinary measures which include up to two weeks of solitary confinement (Prisons Regulation Act, art. 34). This penalty cannot be imposed unless the prisoner has exercised his right to defend himself and an investigation has been carried out to ascertain that he committed the infraction. The punishment imposed on the prisoner must be recorded in the punishment logbook (implementing regulation, art. 76).

194. With regard to the recommendation concerning reports of the frequent practice of incommunicado detention by Political Security Department officials, the Committee refers in its conclusions and recommendations (para. 4 (h)) to the access that the International Committee of the Red Cross (ICRC) is accorded to persons held by the Political Security Department. In its reports, ICRC makes no mention of the practice of incommunicado detention by the Political Security Department. There is no truth either to the claim concerning occurrences of mass arrests and detention for prolonged periods. Detention by the Political Security Department is carried out under the supervision of the Department of Public Prosecutions, in accordance with the Code

of Criminal Procedures and based on warrants issued by the Department of Public Prosecutions where suspects are believed to be involved in offences against State security. Persons in detention are guaranteed all their rights during the arrest, investigation and trial stages.

195. The competent oversight bodies play their role by conducting regular and unannounced inspections of prisons and police custody and remand facilities and ensuring compliance with the established procedures for the investigation and prosecution of offenders.

196. The Department of Public Prosecutions carries out general oversight and inspection activities in prisons to make sure that due process is observed in respect of persons who have actually been convicted and that no prisoners are being held illegally. Article 192 of the Code of Criminal Procedures stipulates that all Department of Public Prosecutions officials must 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 prisoners and listen to any complaints that they may wish to make. The governors of these institutions must render all necessary assistance and provide these officials with whatever information they request.

197. In order to prevent violations of prisoners' rights, including through arbitrary placement in incommunicado detention, the Government of the Republic of Yemen issued Decree No. 91 of 1995, establishing prosecutor's offices in central prisons in the different governorates to carry out a range of legal tasks and functions, in particular:

- (a) Monitoring and overseeing the administration of prisons to ensure the correct enforcement of judgements, decisions and orders issued by the courts and prosecution service;
- (b) Eliminating any abuses by prison managers or other parties, in accordance with the Prisons Act and its implementing regulation;
- (c) Listening to, receiving and investigating prisoners' complaints, after checking that they are founded, and dealing with them in accordance with the law.

198. In paragraph 6 (b) of its conclusions and recommendations, the Committee expresses concern at the failure in practice to enable detained persons to obtain access to a lawyer or a doctor from the outset of their detention, while in paragraph 7 (c) it recommends that the State party ensure that all detained persons have immediate access to a doctor and a lawyer, as well as contact with their families, at all stages of detention and are given prompt access to judges.

### **Comment**

199. In the tables below we shall list the main legal guarantees of the right of persons in detention to a defence, to health care and to communicate with their families.

**Right to a defence**

1.	Constitution		<p>Article 49</p> <p>The right to defend oneself in person or through a representative is guaranteed by law throughout all stages of investigations and proceedings and before all courts. The State shall provide legal aid to indigent and impoverished persons in accordance with the law.</p>
2.	Domestic legislation	Code of Criminal Procedures	<p>Article 9</p> <p>(a) The right to a defence is guaranteed. The accused may defend himself or engage a representative to defend him at any stage of a criminal case, including the investigation stage. The State shall provide indigent and impoverished persons with an accredited defence lawyer. The Cabinet, upon the recommendation of the Minister of Justice, may issue a regulation concerning the assignment of accredited defence lawyers to represent indigent and impoverished persons.</p> <p>(b) Senior police officers, the Department of Public Prosecutions and the courts shall inform the accused of his rights with respect to the charges against him and the means of defence available to him and shall safeguard his personal and property rights.</p> <p>Article 73</p> <p>Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall have the right to see the warrant and notify a person of his choosing about what has happened and ask for a lawyer. He shall be promptly informed of the charges against him.</p> <p>Article 76</p> <p>Any person placed under temporary arrest on suspicion of having committed an offence shall be brought before a court within 24 hours of his arrest. The judge or member of Department of Public Prosecutions shall inform him of the reasons for his arrest,</p>

		<p>question him, allow him to state his defence and register any objections and shall promptly issue a reasoned order for his placement in custody or release. Under no circumstances may a person be held in custody for more than 7 days without a court order.</p> <p>Article 324</p> <p>All parties in a case shall have equal rights and obligations, whether they are accused persons, representatives of the defence, plaintiffs or respondents. They are entitled to present and discuss evidence and to ask for it to be analysed by experts, subject to authorization by the court.</p>
	Department of Prisons Regulation Act	<p>Article 31</p> <p>Persons in pretrial detention may meet with their relatives and lawyers, provided that they obtain written permission from the entity that issued the detention order.</p>
	Regulation implementing the Department of Prisons Regulation Act	<p>Article 59</p> <p>Without prejudice to the Code of Criminal Procedures, having due regard to article 31 of the Prisons Regulation Act No. 48 of 1991, persons in pretrial detention may see their relatives and lawyers whenever the need arises, provided that they obtain written permission from the entity that issued the detention order.</p>
	Code of Pleadings	<p>Article 17</p> <p>The right to file a suit and to present a defence is guaranteed by the courts in conformity with the law.</p>
	The Law Profession Regulation Act	<p>Article 4</p> <p>The law profession shall pursue the following goals:</p> <p>(a) Endeavour to enforce the law by contributing, together with judicial bodies and the Department of Public Prosecutions, to the promotion of the rule of law, the conduct of fair trials and the defence of public freedoms and human rights;</p> <p>(b) Contribute, together with judicial bodies and the Department of Public Prosecutions, to the streamlining of the justice system, the simplification of legal proceedings and the elimination of obstacles and difficulties confronting parties at law;</p>

		<p>(c) Promote legal awareness, develop legal concepts and contribute to legislative development;</p> <p>(d) Endeavour to ensure the free exercise of the profession in the interests of achieving justice;</p> <p>(e) Provide legal assistance to persons in need.</p> <p>Article 5</p> <p>Lawyers shall achieve their goals and carry out their mission by:</p> <ul style="list-style-type: none"> <li>• Acting on behalf of natural and legal persons in order to claim their rights and defend them before all the courts, the Department of Public Prosecutions, the police and investigation departments, judicial and administrative panels and all legal and other entities investigating any matter that is the subject of a dispute.</li> </ul> <p>Article 51</p> <p>The courts, the Department of Public Prosecutions, the police and other entities before which the lawyer exercises his profession shall provide him with everything that he needs to discharge his duties. His requests may not be refused without a legal justification. He or his client shall be allowed to read or make copies of documents and the lawyer shall be allowed to attend the examination of his client in accordance with the present Act.</p> <p>Article 52</p> <p>Lawyers may pursue whatever course they deem appropriate in order to defend their clients. They shall not be held responsible for anything stated in written or oral pleadings that is necessary to ensure the right to a defence and that does not breach the sharia or ordinary law.</p>
--	--	--

			<p>Article 53</p> <p>(a) A lawyer may not be placed in custody during the course of his duties 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 shall write a report and transmit it to the Department of Public Prosecutions and shall send a copy to the Bar Association or the president of the branch to which the lawyer belongs.</p>
3.	Consideration of persons with special needs	Children	<p>Children's Rights Act</p> <p>Article 130</p> <p>Minors accused of an offence shall be represented by a defence lawyer. If they have not already chosen a lawyer, the Department of Public Prosecutions or the court shall appoint one for them in accordance with the rules laid down in the Code of Criminal Procedures.</p> <p>Juvenile Welfare Act</p> <p>Article 19</p> <p>Minors accused of serious or lesser offences shall have a defence lawyer. If they have not already chosen a lawyer, the Department of Public Prosecutions or the court shall appoint one for them in accordance with the rules laid down in the Code of Criminal Procedures.</p>
		Persons with disabilities	<p>Code of Criminal Procedures</p> <p>Article 280</p> <p>If an accused person is proven to be incapable of defending himself, owing to insanity or a mental impairment that afflicts him following the commission of the offence, his case or trial shall be suspended until his sanity is restored. In such case, the Department of Public Prosecutions or the court hearing the case may give orders for the placement of the accused in a designated, government-run public hospital, until he is discharged or delivered into the care of a relative or friend who must undertake to look after him, stop him from harming himself or others and present him when asked to do so.</p>



**Right to health care**

1.		Constitution	<p>Article 55</p> <p>Health care is a right afforded to all citizens. The State shall guarantee this right by building and expanding hospitals and health institutions. The law shall regulate the medical profession, the expansion of free health services and the dissemination of public health information.</p>
Domestic legislation		Code of Offences and Penalties	<p>Article 105</p> <p>Placement in a treatment facility shall be ordered where the court is provided with proof that, at the time of the offence, the accused was not of sound mind owing to a mental illness. An order shall be issued for placement in a government facility for the treatment of mental disorders. The management of the facility shall submit reports to the court on the condition of the patient at regular intervals of not more than six months at a time. The court, after consulting the competent medical authority, may decide to discharge the person or deliver him into the care of a relative. The court, at the request of the Department of Public Prosecutions or the parties concerned, after consulting the competent medical authority, may order the person's return to the facility, if necessary.</p> <p>The court may apply the preceding paragraph in respect of a person sentenced to a lesser penalty on the ground of diminished responsibility. The time spent in the facility shall be deducted from the prison sentence. Where the court decides to discharge a person prior to the expiry of the sentence, the remainder of the sentence shall be served in a penal establishment.</p>
		Department of Prisons Regulation Act	<p>Article 23</p> <p>The prison management shall ensure compliance with public health regulations in the prison and shall provide treatment, health care and preventive health services to prisoners and employ specialized physicians in coordination with the Ministry of Health.</p>

			<p>Article 24</p> <p>Follow-up to advice and comments by doctors on health, prevention, treatment and nutrition for prisoners shall be assured by the prison management. If follow-up cannot be ensured, owing to a shortage of resources, the matter shall be referred to the Ministry for information and advice.</p> <p>Article 25</p> <p>The Ministry, in conjunction with the Minister of Health, shall issue a detailed regulation on the organization of medical and health facilities in prisons, define the duties of doctors and doctors' assistants and the procedures for transporting sick prisoners to public hospitals and draw up schedules of decisions on prison food, clothing, bedding and furnishings.</p> <p>Article 26</p> <p>Any prisoner suffering from a mental or psychological disorder shall be taken to a hospital for mental and psychological disorders upon the recommendation of a competent doctor and in accordance with the relevant regulation.</p>
		Regulation implementing the Prisons Regulation Act	<p>Article 6</p> <p>A psychiatrist shall undertake the following duties:</p> <p>(b) Conduct whatever psychiatric tests and diagnoses the prisoner's condition may require and provide psychiatric treatment to any prisoner who needs it.</p>
	Consideration for special groups	Women	<p>Prisons Regulation Act</p> <p>Article 27</p> <p>* Prisoners who are pregnant shall be provided, in accordance with the regulations, with suitable pre-, peri- and postnatal care under medical supervision. The competent authorities shall provide the proper regulation food to prisoners who are pregnant or are mothers. Pregnant prisoners and nursing mothers shall be exempt in all circumstances from the disciplinary measures applicable to prisoners under this Act.</p> <p>[*] Amended by Act No. 26 of 2003.</p>

**Right to communicate with the family**

1.		Constitution	<p>Article 48</p> <p>(d) When a person is arrested for any reason, a person of his choosing shall be notified immediately. The same shall apply when a court order is issued extending his detention. If the person under arrest fails to make such a choice, the information shall be conveyed to his relatives or legal guardian.</p>
2.	Domestic legislation	The Department of Prisons Regulation Act	<p>Article 30</p> <p>In addition to the rights afforded under the present Act, the following facilities shall be provided to prisoners:</p> <p>(a) Visits from their families, relatives and friends;</p> <p>(b) The opportunity to receive and send correspondence;</p> <p>(c) The right to receive and send remittances.</p> <p>Article 31</p> <p>Persons in pretrial detention may meet with their relatives and lawyers, provided that they obtain written authorization from the body that issued the detention order.</p>

200. In paragraph 7 (e) of the conclusions and recommendations, the Committee recommends that the State party should take immediate steps to ensure that arrests and detentions are carried out under independent and impartial judicial supervision.

**Comment**

201. Under article 7 of the Code of Criminal Procedures, an arrest may only be made in connection with acts that are punishable by law. It must be justified by law, and the Department of Public Prosecutions must immediately release any person who is illegally deprived of his liberty or placed in pretrial detention for longer than the period permitted by law or in a court judgement or order.

202. In the table below, we have listed the main legal guarantees that ensure that no person is arrested or detained except under the supervision of the courts.

1.	The Constitution	<p>Article 48</p> <p>(a) The State shall guarantee citizens their personal freedom and preserve their dignity and security. The law shall define the situations in which citizens may be deprived of their liberty. No one may be deprived of his liberty except by a decision of a competent court of law.</p> <p>(b) No one may be arrested, searched or detained except in cases of flagrante delicto or pursuant to a legal warrant issued by a judge or the Department of Public Prosecutions for the purposes of an investigation or the maintenance of security. No person may be placed under surveillance except in accordance with the law. The dignity of any person subjected to any form of deprivation of liberty shall be safeguarded. Physical, psychological and mental torture is prohibited. It is prohibited to extract a confession under duress during an investigation. A person deprived of his liberty shall have the right to remain silent in the absence of his lawyer. No person may be imprisoned or detained in places not subject to the Prisons Regulation Act. Torture and inhuman treatment at the time of arrest or during detention or imprisonment are prohibited.</p>	
2.	Domestic legislation	Code of Criminal Procedures	<p>Article 11</p> <p>Personal freedom is guaranteed. No citizen may be charged with an offence or deprived of his liberty except by order of the competent authorities in accordance with the present Code.</p> <p>Article 13</p> <p>Anyone who has information about a person who has been arrested and imprisoned without a legal justification or in a place not designated for the purpose shall notify the Department of Public Prosecutions. A member of the Department of Public Prosecutions shall go immediately to that place and release the person being held illegally. If he finds evidence that the imprisonment has a legal basis, he shall immediately take the person to a penal institution and shall in all circumstances produce a report on the action taken.</p> <p>Article 72</p> <p>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 issuing authority. In all other cases, arrests shall be under the responsibility of the person making the arrest.</p>

		<p>Article 172</p> <p>Without prejudice to the provisions of chapter II, title 2, of this Code, no person may be arrested or detained except by order of the Department of Public Prosecutions or a court and based on a legal ground.</p> <p>Article 184</p> <p>The accused may only be placed in pretrial detention after being questioned in accordance with the law or if he absconded, where it is deemed to be in the interests of the investigation, or in order to prevent the person from absconding or where it is feared that he may interfere with the investigation. This is all subject to the following conditions:</p> <p>(a) The existence of sufficient evidence to charge him;</p> <p>(b) The offence with which he is charged is punishable by more than six months' imprisonment, or the accused has no known address in the Republic and the offence is punishable by imprisonment;</p> <p>(c) The accused is over 15 years of age;</p> <p>(d) The identity of the accused has not been discovered.</p> <p>A statement shall be taken from an accused person who previously absconded and is served with a custody order within 24 hours of his arrest.</p> <p>Article 185</p> <p>Pretrial detention may not be used in respect of offences committed via the press, except for the offences of obscenity or incitement of depravity.</p> <p>Article 190</p> <p>Where the Department of Public Prosecutions decides to extend a term of custody, it shall submit the documents to a competent court before the 7-day period has elapsed for the issuance of whatever order the court may decide to make after hearing the arguments of the Department of Public Prosecutions and the accused. The court may extend the term of imprisonment for a period or consecutive periods of not more than 45 days in total.</p>
--	--	--

		<p>Article 225</p> <p>The accused may challenge the custody orders and all the parties may challenge orders pertaining to questions of jurisdiction. A challenge shall not interrupt an investigation and a finding of lack of jurisdiction shall not invalidate the investigation process.</p> <p>Article 226</p> <p>The Department of Public Prosecutions alone may challenge an order to release the accused from pretrial detention.</p>
	Code of Offences and Penalties	<p>Article 167</p> <p>A term of up to three years in prison or a fine shall be imposed on any public official who orders or applies a different or higher penalty than the one handed down or refuses to execute a release order for which he has responsibility or deliberately keeps a person in a penal institution after the term in the imprisonment order has expired. In all cases, the official shall be dismissed from his duties.</p> <p>Article 246</p> <p>A term of up to three years in prison shall be imposed on any person who arrests, detains or deprives another of his liberty by any unlawful means. The penalty shall be up to five years' imprisonment if the act is committed by a public official, a person acting in that capacity, a person carrying a weapon or two or more persons, or if the purpose is to insult the victim, or if the victim is a minor, a person suffering from insanity or mental incapacity or if the deprivation of liberty endangered the victim's life or health.</p> <p>Article 247</p> <p>A penalty of up to three years' imprisonment or a fine shall be imposed on anyone who prepares, lends, leases or offers premises for use as an illegal prison or place of detention, without participating in the arrest, imprisonment or detention process.</p>
	Department of Prisons Regulation Act	<p>Article 8</p> <p>No person may be imprisoned or admitted to prison without a warrant for the execution of a court judgement duly signed by the competent judge or a written detention order signed by the legally competent Department of Public Prosecutions and sealed with an official seal bearing the State insignia.</p> <p>Article 41</p> <p>A penalty of not less than five 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.</p>

	<p>Regulation implementing the Department of Prisons Regulation Act</p>	<p>Article 4</p> <p>Prison governors shall carry out the following duties:</p> <p>(c) Verify that all detention, imprisonment or release orders or decisions were issued by the competent legal authority and are in good and due form.</p>	
<p>3.</p>	<p>Consideration for special groups</p>	<p>Women</p>	<p>Code of Criminal Procedures</p> <p>Article 80</p> <p>Anyone serving an arrest warrant may enter the home of the wanted person in order to look for that person. He may enter the home of another person if there is strong evidence that the wanted person is hiding there. The owner or a person present in the home shall grant access and provide reasonable assistance to facilitate the search for the wanted person. If he refuses or resists, the officer serving the arrest warrant may break into the home, subject to the limits laid down in the preceding article. If women are present in the home, due regard shall be paid to the relevant traditions when dealing with them.</p> <p>Article 81</p> <p>Anyone serving an arrest warrant may search the person being arrested in order to take away weapons and any other articles which he may use to resist arrest, abscond or hurt himself or others. The seized items shall be surrendered to the arresting authority. Where the person being arrested is a female, the search may only be carried out by a female, as provided in article 143.</p> <p>Article 143</p> <p>A female may only be searched by another female, who shall be summoned for that purpose by the person conducting the search and whose name and identity card number shall be entered in the record of proceedings. The search shall be carried out in the presence of two female witnesses.</p>

		<p>Children</p>	<p>Department of Prisons Regulation Act</p> <p>Article 29</p> <p>Where a child born in prison has no father or trustworthy relatives, he shall be entrusted to the authority responsible for welfare homes by the governor in whose area of jurisdiction the prisoner is found. The child may remain in the prison for compelling reasons, subject to an order of the Minister.</p> <p>Article 124</p> <p>(a) A minor below the age of 12 may not be held at a police station or any other security facility but must be entrusted to the care of his 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 Minors Act.</p> <p>(b) Where absolutely necessary, minors over the age of 12, may be detained at any police station, in separate quarters from older persons, for a period of up to 24 hours.</p> <p>Code of Civil Procedures</p> <p>Article 184</p> <p>Placement in pretrial detention may only be effected after the accused has been questioned in accordance with the law or the accused absconded, where it is deemed to be in the interests of the investigation, or is necessary to prevent him from absconding or where it is feared that he might interfere in the conduct of the investigation, and subject to the following conditions:</p> <p>(c) The accused must be over 15 years of age.</p> <p>Juvenile Welfare Act</p> <p>Article 22</p> <p>Where the court, during the investigation or trial, decides that the state of a minor's physical, mental and psychological health is such as to necessitate an examination of his person before a decision can be taken on the</p>
--	--	-----------------	--



		<p>case, it shall order the placement of the minor under observation at a suitable facility for whatever period of time may be required. The investigation or trial shall be suspended until the examination is completed.</p> <p>Department of Prisons Regulation Act</p> <p>Article 28</p> <p>No mention shall be made in the country's official records of the fact that a child was born to a woman in prison. The infant may not remain in prison with the mother after reaching the age of 2 but shall be entrusted to the father or a relative, unless a qualified physician decides that the child's condition precludes it.</p>
	Persons with disabilities	<p>Code of Criminal Procedures</p> <p>Article 283</p> <p>Where an order dismissing a case or acquitting a defendant on the ground of diminished responsibility is issued, the issuing authority shall, if the offender is dangerous or the offence was a serious crime, give orders for the defendant to be committed to a government mental hospital until, after reading the report of the hospital director, consulting the Department of Public Prosecutions, where it does not issue the order, and verifying that the defendant has regained his sanity and is no longer dangerous, it decides to release him.</p>

203. In paragraph 7 (f) of the conclusions and recommendations, the Committee recommends that the State party ensure that all counterterrorism measures taken are in full conformity with the Convention.

### Comment

204. Human rights suffered a setback following the events of 11 September 2001. Terrorist operations and a number of criminal acts were staged in Yemen, including the bombing of the United States destroyer the *USS Cole* and the French oil tanker the *Limburg* and bombings in Sana`a and Aden. These incidents severely disrupted peace and public order, damaging the country's prestige, the overall development and investment situation and tourism.

205. Yemen's unequivocal policy on, and cooperation with the international community in, the fight against terrorism have had remarkable success; national mobilization was critical to confronting this dangerous phenomenon, ensuring as it did that everyone placed the higher national interest before any other consideration and supported the Government's efforts to combat terrorism and protect the rights, property and honour of the people. The Republic of

Yemen, as a partner in the fight against terrorism, took several steps to curb and eradicate this phenomenon, having due regard for the applicable Yemeni laws, since the Government understood that the fight against terrorism must not be waged at the expense of the law and legally established rights. The following measures were taken.

### **Ideological dialogue with individuals who had been led into error, and the release of those who undertook to abide by the law**

206. A committee was formed to begin a dialogue with prisoners who had been detained for involvement in terrorist acts or who had been led to believe that by committing such acts they would be engaging in a form of jihad. Some of them were found to have made plans or arrangements for terrorist acts which had been aborted before execution. Four rounds of dialogue were held, beginning in early 2002. The committee was able to use the dialogue process to persuade 353 young men from Afghanistan that their interpretation of Islam was mistaken. Further to instructions from the President of the Republic and the conclusions reached by the committee of Islamic scholars (*ulama'*) during the dialogue with the prisoners, who had embraced extremist ideas, several young men were released after pledging to abide by the law. They did not commit any further offences.

### **Results achieved by the dialogue committee**

(a) The rejection of all forms and manifestations of violence, extremism and terrorism; an undertaking to obey the authorities and abide by the Constitution and applicable laws, including the Political Parties and Organizations Act;

(b) Maintenance of security and peace; the prevention of acts damaging to the security and independence of Yemen; the observance of the rights of other persons, including their lives, property and dignity; the protection of the interests of States which have concluded treaties with the Republic of Yemen that remain in force; consideration of leave to enter Yemen as an assurance of protection that shall remain in effect until such time as it is revoked by a legally competent authority; and a recognition that no harm may be done to an individual who is assured the protection of the State;

(c) Offering these young men and others the hope of a secure life and the enjoyment of all their rights and freedoms; correcting the mistaken ideas which some of them had held about Islam and which constituted a threat to Islam and to Muslims no less serious than the plans and schemes of enemies;

(d) Defusing the bloody conflict between these young men and the security services; consolidating security and peace; and releasing those who engaged in the dialogue.

### **Referring all persons implicated in terrorism to the courts**

207. All those implicated in terrorism cases were given a fair trial, at which the defendants were afforded the full range of guarantees provided in the Constitution and Yemeni law, including:

(a) The opportunity to see their families and relatives while in prison and to receive visits from, and talk to, the mission of the International Committee of the Red Cross;

(b) Trials conducted only in the presence of lawyers, and the enjoyment of full guarantees during the investigation and trial stages;

(c) The right of all those who were discharged to file complaints about any acts to which they might have been subjected while in prison.

208. The criminal court began the trials of defendants accused of acts of terrorism and bombings in Yemen. On 29 September 2004, the court convicted six defendants of taking part in the bombing in the Port of Aden of the United States destroyer the *USS Cole* and of forming an armed gang for the purpose of disrupting security. In the judgement, the court ordered the confiscation of the items seized in the case and granted the defendants half a month from the date on which the verdict was pronounced to appeal. On 29 August 2004, the same court had convicted 14 defendants in connection with the bombing of the French vessel the *Limburg* and other terrorist acts.

### **Enactment of terrorism laws and ratification of conventions**

209. In addition to the measures taken by the Government of the Republic of Yemen to and meet the direct and indirect challenges which the fight against terrorism entails, the following actions were taken in the framework of a specially prepared plan:

(a) Act No. 35 of 2003, concerning money laundering, was passed, the Act contains 24 articles divided into eight chapters;

(b) A new draft law on the possession of weapons was submitted to the House of Representatives for adoption.

210. In addition, our country, like other Arab States, has implemented the resolutions and treaties adopted by Arab Governments on the subject of counterterrorism, including:

(a) Resolution No. 275, adopted in Tunis in 1996, concerning a code of conduct for Member States of the Council of Arab Interior Ministers;

(b) The Arab Counterterrorism Strategy, adopted at Tunis in 1997;

(c) The Arab Convention on the Suppression of Terrorism adopted by the Council of Arab Interior Ministers and the Council of Arab Justice Ministers at Cairo in April 1998;

(d) Several international counterterrorism conventions have been ratified, as listed in the table below:

Item	Convention	Date of accession
1	International Convention for the Suppression of Terrorist Bombings	23 April 2001
2	Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation	30 June 2002
3	Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf	30 June 2002
4	International Convention against the Taking of Hostages	14 July 2000
5	Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents	9 February 1987
6	Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation	29 September 1986
7	Convention for the Suppression of Unlawful Seizure of Aircraft	29 September 1986
8	Convention on Offences and Certain Other Acts Committed on Board Aircraft	26 September 1986

### **Dissemination of a culture of tolerance and dealing with the root causes of extremism**

211. The Government conducted a review of media, cultural and religious discourse in press, media and educational sources. At the beginning of the 2001/02 academic year, the Ministry of Education amalgamated basic and secondary education, integrating what used to be known as “religious education” (offered at special institutions) and was offered in parallel with general education at institutions that were administratively and financially independent of the Ministry of Education. This process helped to create synergies and optimize resource utilization.

### **Human rights in the framework of countering terrorism**

212. It must be acknowledged that the Government’s drive raises several problems and difficulties which have a direct and indirect impact on human rights. Yemen does not claim to have a perfect record with regard to ensuring the constant and continuous realization of human rights, nor does it claim that the human rights situation has remained unaltered since the events of 11 September, not only in Yemen but throughout the world, including those States which had made great progress on human rights. On the contrary, the institutional, economic and social situation in Yemen inevitably raises certain problems with respect to ensuring the proper observance of human rights and freedoms. This is something of which Yemen is well aware. Yemen is therefore endeavouring, through State institutions, the three powers of State, civil society institutions and also the international community, to find radical solutions to address particular social and institutional weaknesses in order to disseminate a human rights culture and boost the role of oversight and judicial mechanisms in enforcing the laws and regulations in a manner consistent with the preservation and maintenance of human rights.

213. The fact that a parliamentary committee was formed to monitor prisoners being held in connection with terrorism cases and that it produces impartial and independent reports on its findings is proof positive of just how seriously State oversight bodies take the question of the observance of human rights.

214. The State, as part of its transparent approach to dealing with persons detained in connection with terrorism, welcomes local and international organizations which take an interest in these cases, including ICRC and Amnesty International, and offers them the opportunity to meet with senior State and security services officials. It facilitates access for these organizations to detention centres and the conduct of interviews with inmates, and takes various other steps which confirm the Government's sincere determination to work with the international community in promoting and disseminating human rights values and principles as a whole and to cooperate with all local and international human rights organizations, drawing on their experience and expertise to achieve the desired goal of promoting human rights.

215. Overall, the State's efforts to combat terrorism in the context of its security plan cannot be said to have had a direct impact on the human rights situation in Yemen such as to give rise to systematic or ongoing human rights violations. Action is taken to deal with any human rights violations or breaches that do occur, and the perpetrators are brought to justice.

216. In paragraph 6 (f) of the conclusions and recommendations the Committee expresses concern about reported cases of deportation of foreigners without the opportunity for them to legally challenge those measures which, if found to be the case, may be in breach of the obligations imposed by article 3 of the Convention. In paragraph 7 (g) it recommends that the State party ensure that the expulsion, refoulement or extradition of a person to another State is in compliance with article 3 of the Convention.

### **Comment**

217. We should like to explain that the Alien Entry and Stay Act No. 47 of 1991 regulates the entry of foreigners into the Republic of Yemen and their travel within the country. No restrictions are imposed apart from the basic administrative restrictions in effect in many countries with regard to such matters as: the regulations on entry and departure of aliens at ports designated for that purpose by the competent authorities; the need to be in possession of a valid passport or any other equivalent document and to have the permission of the competent authority to enter the country; and the procedures for registration of aliens and regulation of their stay and travel in Yemen. Article 31 of the Act states: "No alien in possession of a special residence card shall be deported unless his presence constitutes a threat to the internal or external security and territorial integrity of the State or the national economy or public health or public morals or he is a burden on the State." Deportations must be carried out by a decision of the Minister for Internal Affairs, subject to referral to the relevant deportation panel.

218. The groups to which the Alien Entry and Stay Act do not apply are accredited members of the foreign diplomatic and consular service in the Republic, provided that they are serving the State which they represent in accordance with international law, and crew and pilots on-board vessels and aircraft arriving in the Republic, subject to the conditions laid down in article 138 of the Act.

219. In paragraph 6 (e) of the conclusions and recommendations the Committee expresses concern about the apparent failure to investigate promptly, impartially and fully the numerous allegations of torture and breaches of article 16 of the Convention and to prosecute alleged offenders. In paragraph 7 (h) it recommends that the State party take measures to establish an effective, reliable and independent complaints system to undertake prompt and impartial investigations into allegations of ill-treatment or torture by police and other public officials, and punish the offenders.

#### **Comment**

220. We refer to part I of the present report, concerning:

- (a) The receiving of communications and complaints (paras. 108-111);
- (b) The expansion of training for members of prosecutor's offices (paras. 111-112);
- (c) Fact-finding missions (paras. 113-116);
- (d) Fact-finding missions to investigate cases of torture (paras. 117-119).

221. In paragraph 7 (i) of the conclusions and recommendations the Committee recommends that the State party strengthen efforts to reduce any occurrences of torture or other ill-treatment by police and other public officials, and collect data that monitors such acts.

#### **Comment**

222. We refer to two subsections of part I of the present report:

#### **Subsection A**

- I. Measures taken by the Republic of Yemen to implement the Convention between the dates of submission of the previous and present reports
- II. Developments relating to the implementation of the Convention during that same period

#### **Subsection B**

- I. Legislative and institutional developments that have a bearing on the implementation of the Convention
- II. New laws relating to the implementation of the Convention

223. In paragraph 6 (g) of the conclusions and recommendations the Committee expresses concern at the failure of the State party to provide detailed information relating to modalities of compensation and rehabilitation of victims of ill-treatment by the State. In paragraph 7 (j) it recommends that the State party ensure the right of torture victims to fair and adequate compensation from the State and set up programmes for the physical and psychological rehabilitation of victims.

**Comment**

224. By Prime Ministerial Order No. 69 of 2008 a committee was established to review the recommendations in the final statement of the first dialogue conference on criminal justice and Yemeni legislation held from 10 to 11 February 2008, concerning the addition of a provision in domestic legislation stipulating that the State and perpetrators of torture must pay compensation for psychological and physical harm done to victims of torture, in addition to blood money (*diyah*) and an indemnity for bodily injury (*arsh*).

225. The right to compensation is mentioned in several legislative texts, as summarized in the table below.

**Right to fair compensation**

1	The Constitution	<p>Article 51</p> <p>Citizens shall have the right of recourse to the courts to protect their rights and legitimate interests. They shall also have the right to submit complaints, criticisms and suggestions, directly or indirectly, to State agencies and institutions.</p> <p>Article 48 (e)</p> <p>(e) The law shall determine the punishment to be imposed on any person who infringes any paragraph of this article and an adequate amount of compensation for any damage that may be done to a person as a result of such infringement. Physical or mental torture during arrest, detention or imprisonment is an offence which is not time-barred from prosecution. All persons who practise, order, or participate in such acts shall be punished.</p>	
2	Domestic legislation	Code of Criminal Procedures	<p>Article 56</p> <p>A plaintiff may abandon his case, whatever its current status, and pay the outstanding costs, without prejudice to the right of the defendant, to claim damages, where applicable.</p> <p>Article 63</p> <p>The defendant, where applicable, may claim damages before the court for the harm caused by the filing of the civil suit.</p>

		Code of Offences and Penalties	<p>Article 61</p> <p>A judgement awarding the right to payment of blood money (<i>diyah</i>) and indemnity for bodily injury (<i>arsh</i>) may only be delivered if the wounds sustained by the victim as a result of the offence warrant such a judgement.</p>
2		Code of Offences and Penalties	<p>Article 80</p> <p>The payment of blood money (<i>diyah</i>) and an indemnity for bodily injury (<i>arsh</i>) may be combined with compensation for the victim or his heirs for treatment and loss of earnings during treatment.</p> <p>Article 166</p> <p>A term of up to 10 years' imprisonment shall be imposed on any public official who, in or during the course of his duties, uses or orders the use of torture, coercion or threats to extract a confession or statements or information about an offence from an accused person, a witness or an expert. This shall be without prejudice to the victim's right to retaliation (<i>qisas</i>), blood money (<i>diyah</i>) or an indemnity for bodily injury (<i>arsh</i>).</p>
		The Civil Code	<p>Article 47</p> <p>Any person whose civil rights are violated shall be entitled to ask for the violation to cease and to claim compensation for the damage suffered.</p> <p>Article 304</p> <p>A person responsible for any unlawful act or omission, be it intentional, quasi-intentional or accidental, which damages another person shall compensate the injured party for the damage suffered. This shall be without prejudice to the penalties prescribed for offences under the laws in force.</p>
		Code of Pleadings	<p>Article 144</p> <p>Civil proceedings against judges and members of the Department of Public Prosecutions may be brought by filing a claim for damages which shall be lodged and heard in accordance with the procedures specified in this section.</p> <p>Article 153</p> <p>(a) If the suit is dismissed on formal grounds, the plaintiff shall be sentenced to 30 days' imprisonment, the surety shall be confiscated and adequate compensation shall be awarded to the judge or the member of the Department of Public Prosecutions as appropriate.</p>



			<p>(b) If the suit proves to be unfounded, the plaintiff shall be sentenced to 60 days' imprisonment, the surety shall be confiscated and adequate compensation shall be awarded to the judge or the member of the Department of Public Prosecutions as appropriate.</p> <p>(c) If the court upholds the suit, it shall award the plaintiff adequate 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 from his functions and refer him to the Higher Judicial Council for the imposition of whatever penalty that it may deem appropriate. It shall likewise order the return of the surety.</p> <p>Article 199</p> <p>The defendant may submit the following counter-claims:</p> <ul style="list-style-type: none"> <li>• A claim of a debt for payment</li> <li>• A claim for damages in respect of the suit or a procedure in the suit</li> </ul>
3	Consideration for special groups	Children	<p>Code of Criminal Procedures</p> <p>Article 47</p> <p>Where the victim of an offence lacks capacity and has no legal representative, the Department of Public Prosecutions or the court hearing the criminal case may appoint a representative to claim the victim's civil rights. Under no circumstances shall this result in the victim incurring legal fees.</p>

226. In paragraph 6 (h) of the conclusions and recommendations the Committee expresses concern at the situation of women who have served their prison sentences but who remain in prison for prolonged periods. In paragraph 7 (k) it recommends that the State party continue and expand efforts to establish "half-way homes" for women in order to avoid their remaining in prison beyond the expiration of their sentence.

### Comment

227. The issue of continued detention of women who have served their prison sentences and whose families refuse to allow them to return to the family is a problem that has to do with the level of social awareness among the families concerned, most of which view these women with contempt and are convinced that it would bring dishonour upon them to live in the same house as them after their release.

228. In order to deal with this form of rejection by society and families, the Government allows these women to remain in prison; this is a humanitarian issue which the State deals with in this

way in order to protect the women concerned from situations where their lives could be at risk or they could be forced into offending. It is a radical solution to a problem which can only be eradicated with additional resources and through greater understanding. The government authorities concerned are looking at ways of improving prison conditions, in conjunction with a number of international bodies and organizations, including by resolving the problem of women who have served their prison sentences but remain in prison. Several measures have been taken in this regard, including the construction of a refuge for women offenders (Al-Adawaiyah Women's Home) in the governorate of Sana`a, with funding from the Social Development Fund. The Government allocated a sum of YRI 1,124,000 for the purpose. The management of the project will be entrusted to an association, the Association for the Protection of Women's Legal Rights, and an agreement has been signed between the Association and the Social Development Fund. Furnishings and equipment should be provided for the home, which will look after and rehabilitate women prisoners who have been released but have no families. The home will accommodate 50 women in the first year, together with 20 children; a nursery is included in the project. Pursuant to a directive issued by the director of the Prisons Department in circular No. 2003/7/6/590 dated 3 August 2008, female prisoners who have served their sentence may not remain in prison unless they submit a written request to the Department of Public Prosecutions, together with a statement of their reasons. These women will remain in prison temporarily, until a final decision is taken and they find a place to live. The Ministry of Human Rights has undertaken to build a refuge to house women prisoners after their release in order to provide follow-up care. The land has been set aside for the home, pending the arrival of a sponsor for the construction of the home.

229. In paragraph 6 (i) of the conclusions and recommendations, the Committee expresses concern at the low minimum age of criminal responsibility and at the detention of child offenders as young as 7 years in specialized hospitals or social protection institutions. In paragraph 7 (l) it recommends that the State party review the minimum age of criminal responsibility and ensure that all protective institutions and other places of detention meet international juvenile justice standards, including those of the Convention.

### **Comment**

230. Under article 15 of the Juvenile Welfare Act No. 24 of 1992 juvenile courts are to be established in the seats of the governorates, pursuant to a decision of the Judicial Council adopted upon the recommendation of the Minister of Justice. In fact, the Higher Judicial Council issued a decision providing for the establishment of nine juvenile courts in nine governorates, the appointment of women judges to preside over them and the creation of nine juvenile prosecutor's offices. These courts consist of a judge and two social workers. The judges, deputy public prosecutors and social workers have all been trained.

231. Yemen's courts also play a role in juvenile cases; every court of first instance hears and makes decisions on cases involving matters such as child maintenance and custody.

232. Under article 29 of the above-mentioned Act, males and females may not be placed in the same rehabilitation and welfare home nor may there be any contact between them during questioning and investigations by the Department of Public Prosecutions or the courts or during the serving of a sentence.

233. Under article 36 of the Minors Act, a minor below the age of 10 who commits an offence under the Criminal Code is not liable to the penalty prescribed in the Code but is subject rather to one of the measures specified in the article.

234. The State has enacted legislation to deal with the problem of juvenile delinquency from the point of view of prevention or remedial actions, taking due account of the circumstances and social and cultural background of each young person. Under article 3, paragraph 3, of the Children's Rights Act No. 45 of 2002, legal protection must be provided to prevent violations of children's rights in keeping with the sharia and applicable laws.

235. According to article 131 of the Children's Rights Act, trials of minors must be conducted in camera with only relatives, witnesses, lawyers and social workers attending. It is prohibited to publish a child's name and picture or the facts or a summary of a case in any type of publication.

236. Under article 132 of the Children's Rights Act, minors are exempt from paying legal fees and court costs in proceedings brought under the Act or any other law.

237. Under article 11 of the Juvenile Welfare Act, a minor below the age of 12 may not be held at a police station or any other security facility but must be entrusted to the supervision of his legal guardian, testamentary tutor or authorized representative or otherwise placed in the nearest juvenile rehabilitation home for up to 24 hours. A minor over the age of 12 may be held at any police station for up to 24 hours and must be placed in separate quarters from older prisoners.

238. Under article 19 of the same Act, minors accused of serious or lesser offences must be represented by a defence lawyer. If they have not already chosen a lawyer, the Department of Public Prosecutions or the court will appoint one for them in accordance with the rules laid down in the Code of Criminal Procedures.

239. Under article 8 of the Juvenile Welfare Act, the Department of Public Prosecutions launches investigations and prosecutions in juvenile cases. While conducting interviews and investigations, investigators must take account of the minor's age, the gravity of the charges, the minor's physical and mental state and social background and any other personal details.

240. Under article 16 of the Minors Act, the juvenile courts have sole jurisdiction for hearing cases of minors accused of an offence or at risk of delinquency. They also have jurisdiction for other offences under the Act. If a person who is not a minor participated in the offence, only the minor will be presented to the juvenile court.

241. Under article 25 of the Act, a parent or the legal guardian or custodian of a minor must be told of any measure of which the minor must be informed by law and any judgement that affects him, and these persons may pursue the means of appeal established by law on the minor's behalf.

242. A list of measures is found in section II of the Juvenile Welfare Act. Article 36 provides: "Except for confiscation and the closure of premises, no minor under the age of 10 who commits an offence may be subject to any of the penalties or measures laid down in the Criminal Code." A minor may only be subject to one of the following measures:

(a) A caution: here, the court will reprimand the child for doing wrong and warn him not to repeat it;

(b) Placement: here, the minor is entrusted to the care of a parent, a guardian or a testamentary tutor. If none of these persons is fit to raise the child, the minor will be placed with a suitable family member. If no such person exists, the minor will be placed with a trustworthy person who undertakes to raise him or with a family that promises to look after him;

(c) Enrolment in vocational training: the court will send the minor to a designated vocational training centre;

(d) Imposition of specific obligations: the minor is barred from frequenting certain types of places or premises or must report to certain persons or institutions at set times or must undergo counselling sessions or is subject to such other restrictions as are imposed by a decision of the Minister;

(e) Probation: the minor will be placed in his normal environment, under supervision, and must perform the duties specified by the court. A term of probation may not exceed three years. If the minor fails the probation, the matter will be referred to a court to take whatever measures it deems appropriate;

(f) Placement in a juvenile rehabilitation home: the minor is placed in a juvenile welfare home that is run or accredited by the Ministry. The home must submit reports at least every six months on the minor's general state and behaviour so that the court can take whatever decision it deems appropriate;

(g) Placement in a special hospital: the minor is placed in a hospital where he can receive the care that he needs. The court will monitor his treatment at regular intervals of not more than one year at a time.

243. In paragraph 7 (n) of the conclusions and recommendations the Committee recommends that the State party consult closely with the Office of the High Commissioner for Human Rights, the United Nations independent human rights mechanisms and country-based programmes to develop appropriate education and training programmes aimed at enforcing the prohibition of torture and ill-treatment.

## **Comment**

### **National human rights capacity-building project**

244. Through cooperation between the Ministry of Human Rights and the United Nations Development Programme (UNDP), and in the framework of the national human rights capacity-building project, a number of training events were run for public officials engaged in human rights activities and for law enforcement officers. In addition, several activities were undertaken to disseminate a human rights culture, including in particular, the construction and refurbishing of the Ministry's information centre, the delivery of infrastructure support for the Department of Communications and Complaints, involving inter alia the establishment of an electronic network for all units of the Department, infrastructure support for the Ministry's Department of Welfare and Reform and participation in the organization of visits by senior Ministry officials to most of the governorates.

245. A series of activities were carried out in cooperation with civil society organizations, including: human rights training courses for police officers, which were delivered in all the governorates in coordination with the Human Rights Information and Training Centre; institutional support for the National Organization for the Defence of Rights and Freedoms (HUD) to increase its involvement in human rights protection and the organization of training courses for lawyers on human rights protection; the holding of human rights training workshops for police officers, lawyers and media professionals, in conjunction with the Zahra Women's Charitable Association; and assistance with the production of two books, *Your guide to your rights* and *A guide to criminal proceedings*, in coordination with the Women's Centre for Human Rights and Democracy in Aden.

246. In paragraph 9 of the conclusions and recommendations, the Committee recommends that the State party widely disseminate the reports submitted by Yemen to the Committee and the Committee's conclusions and recommendations, in appropriate languages, through official web sites, the media and non-governmental organizations.

### **Comment**

247. We refer to the information in part I of the present report concerning our country's national reports on the implementation of international treaties and instruments (para. 33).

-----