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Committee against Torture

Consideration of reports submitted by States parties under article 19 of the Convention

Replies and comments by the Government of Yemen concerning the issues raised in the provisional concluding observations of the Committee against Torture (CAT/C/YEM/CO/2)*, **

[9 February 2010]

* 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.

** Annexes to the present document are available with the Secretariat of the Committee.

Introduction

The Government of the Republic of Yemen received with great interest the list of issues to be taken up in connection with the consideration of the second periodic report of Yemen (CAT/C/YEM/Q/2). This list was compiled after the Committee had studied Yemen's second periodic report on the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the legislative, judicial and administrative measures taken by the Republic of Yemen in that regard and reflects the Committee's interest in human rights' developments in the Republic of Yemen.

The Government of the Republic of Yemen is pleased to provide clarifications in response to the distinguished Committee's questions and, in this regard, wishes to highlight the following points.

- With regard to the judiciary, all trials are conducted in accordance with constitutional and legal procedures and with the principle that the accused is innocent until proved guilty on the basis of irrefutable evidence. An effective institutional mechanism carries out regular appraisals of judges' performances and holds them to account for any errors that they may commit. Under the Constitution and the laws in force, arbitrary detention and torture of suspects or detainees on remand constitute crimes which are not time-barred from prosecution, and the perpetrators of such crimes receive their just punishment.

- It may be worth drawing attention to the judicial reform strategy, which encompasses various objectives and regulatory and legislative measures, providing inter alia for the transfer of the functions of the President of the Higher Council of the Judiciary from the Office of the President of the Republic to the President of the Supreme Court. The laws on the judiciary are currently being amended so as to strengthen the judiciary's independence. The Accountability Council of the Higher Council of the Judiciary, which is responsible for holding to account those judges referred to it, has been restructured. Judicial reforms include measures to boost the role of judicial inspectors in monitoring and inspecting the work done by judges and appraising their performance by conducting periodic and unannounced inspections and receiving citizen's complaints, which they investigate based on desk and field research.

- Extra-judicial, arbitrary or summary executions constitute violations of the Constitution and the laws in force and are unlikely to occur.

- The death penalty is only imposed by the courts for the most serious crimes. It has never been imposed on a Yemeni or foreigner [in Yemen] outside the jurisdiction of a court. Moreover, the law places strict limitations on the imposition of the death penalty and there are judicial safeguards that curb its use, including the right of the President of the Republic, under the legally specified circumstances, to pardon a person sentenced to death. The Yemeni Criminal Code sets the age of full criminal responsibility at 18 years.

- The law prohibits the imprisonment of children in penal facilities and requires the Office of the Public Prosecutor to place juvenile offenders in homes which provide them with care and rehabilitation.

- With regard to Yemen allowing international organizations access to detention facilities, no international organization which has asked to make a visit has been hindered from doing so. The International Committee of the Red Cross, Amnesty International and other organizations bear witness to the Government's flexibility and cooperation with international organizations and, indeed, with all civil society

organizations working in Yemen, in providing access to detention facilities and opportunities to meet with inmates without a guard being present.

- With regard to the establishment of an independent national human rights body in accordance with the Principles relating to the Status of National Institutions (the Paris Principles), we wish to inform the international community that the Cabinet has decided to study this matter, and we are working hard towards this end.

- With regard to Yemen's efforts to combat discrimination and violence against women, the Constitution of Yemen stipulates that citizens are equal in terms of their rights and their duties. The Government has taken a series of measures to combat discrimination and violence against women, including, in particular, the following:

    1. A team of legal experts has been established to review domestic legislation on women and eliminate any discriminatory provisions that are incompatible with international treaties on women's rights.

    2. The problem of violence against women is being addressed in a number of ways, including through a strategy which encompasses various measures and objectives, the most important being the creation of a programme on the elimination of violence against women. In addition, in 2003, the Yemeni network to combat violence against women was established. The First Conference on the Elimination of Violence against Women was held in 2001. Moreover, a number of studies have been conducted on domestic violence.

    3. Regarding so-called "tourist marriages", there have been a few cases in the past, but the authorities have put a stop to this practice by taking strict measures to bring those involved to book.

    4. A gender strategy was adopted six years ago to achieve de facto equality between men and women.

Despite the considerable efforts exerted by our country to promote and protect human rights, many challenges and difficulties continue to hinder the achievement of the ambitious outcome that we seek. A number of these challenges and difficulties are mentioned in this reply.

The Yemeni Government welcomes the resumption of the positive and constructive cooperation with the Committee and should like to emphasize its desire for the Committee to discuss including Yemen in the list of States whose reports are to be considered during the 2010 session. This would provide an important opportunity to inform the Committee about the legislative, administrative and judicial developments which have occurred in Yemen since the submission of the second periodic report.

Lastly, the Government of the Republic of Yemen should like to express its deep gratitude and appreciation to the distinguished Committee members for their ongoing efforts to promote human rights around the world.

Contents

I. Criminal justice reform

Definition of torture (para. 1)

1. In paragraph 1 of the list of issues the Committee refers to the fact that there is no definition of torture in domestic legislation. In this regard, the report mentions the conclusions and recommendations of the legal analysis paper and the [First National Dialogue] Conference on Criminal Justice concerning the lack of legislation containing a definition of torture which is consistent with article 1 of the Convention against Torture. The Conference recommended that an article should be added to the Criminal Code which would define torture in line with article 1 of the Convention. This definition would then constitute a safeguard to ensure that the relevant provisions are correctly applied.

Compensating and rehabilitating victims of torture (paras. 29 and 30)

2. With reference to paragraphs 29 and 30 of the list of issues, concerning redress and compensation measures and rehabilitation programmes for victims of torture, previous reports have drawn attention to the right of defendants to claim compensation for any arbitrary measures taken against them. Moreover, article 63 of the Code of Criminal Procedure stipulates: "Where there is cause, a defendant may sue a plaintiff in court for damages arising from the filing of a civil suit."

3. Article 47 of the Civil Code stipulates: "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." Article 304 stipulates that: "A person responsible for any unlawful act or omission which harms another person, whether it be intentional, quasi-intentional or accidental, shall compensate the injured party for the damage suffered. This shall be without prejudice to the penalties prescribed for offences under the laws in force."

4. Article 144 of the Code of Pleadings stipulates that: "Civil proceedings against judges and members of the Office of the Public Prosecutor may be brought by filing a suit for damages, which shall be lodged and heard in accordance with the procedures specified in this section."

5. Article 153, paragraph 3, of the Code of Pleadings stipulates: "If the court finds for the plaintiff, it shall award appropriate damages and legal costs, overturn the contested judgement and any related judicial measure, order the suspension of the judge or the member of the Office of the Public Prosecutor from duty and refer the matter to the Higher Council of the Judiciary to impose whatever sanctions that it may deem appropriate. It shall likewise order the return of the surety." Article 199 states that a defendant may submit a counter-claim for damages in respect of a suit or a procedure in a suit.

6. It should be noted that the Conference on Criminal Justice recommended that victims of torture should be compensated and programmes for their rehabilitation established, by:

- Adding a provision to domestic legislation clearly stating that victims of torture must be compensated by the State and by the perpetrators of the crime, in addition to receiving any blood money (*diyah*) and indemnities for bodily injury (*arsh*) which is due to them
- Adding a legal provision stipulating the State's obligation to establish psychological rehabilitation programmes and to provide care, including health care, for victims of torture, in keeping with article 14 of the Convention against Torture

7. In order to enable the Committee to assess the Government's plan for reforming the criminal justice system in Yemen (CAT/C/YEM/Q/2, para. 4), we review below the main steps which have already been decided and are being implemented, as well as the future steps which the Government intends to take to implement its reform programme.

Main steps in the criminal justice reform initiative (para. 4)

A. Preparation of the legal analysis paper

8. 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 the holding of a dialogue at a conference at which decision makers and officials of 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 promote the observance of these rights in keeping with the principle of the rule of law.

B. First National Dialogue Conference on Criminal Justice and Yemeni Legislation

9. 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 on 10 and 11 February 2008. The Conference was attended by experts from over 50 governmental institutions and NGOs, including 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 to help develop the criminal justice system on the ground, together with Yemeni legislation. The recommendations deal with all the subjects raised in the legal analysis on harmonizing Yemeni law with the Convention against Torture.

C. Programme to implement the recommendations (under way)

10. The recommendations emanating from the First National Dialogue Conference and the legal analysis were reviewed. In cooperation with the Danish Institute for Human Rights, all the recommendations were incorporated into a single programme comprising six projects, which are described below. Each individual project is organized and managed by a steering committee (the same one for each of the six projects). By Prime Ministerial Order No. 69 of 2008, a committee was established to review the recommendations contained in the closing statement issued by the First National Dialogue Conference on Criminal Justice and Yemeni Legislation — the committee began its work on 28 May 2008 — and an administrative committee and working groups for the six projects were also established. These bodies are supported by the secretariat and the technical working group that facilitates this process (the Ministry of Human Rights). A group of expert reviewers was appointed to provide support and quality control assistance for each of the six projects. The Ministry of Human Rights, including the technical working group, serves as a secretariat for the programme. The implementing agencies and institutions will provide personnel for each project. Whenever it is deemed useful, technical experts may be brought in, while the secretariat and administrative committees will jointly select the group of expert reviewers.

The six projects

1. Project 1: Research and field analysis as a basis for law reform and other initiatives

11. The purpose of this project is to conduct the analyses called for in a number of the Conference's recommendations and to arrive at a more accurate understanding of the current state of affairs before identifying the initiatives to be taken prior to the second national dialogue conference and before making proposals on the implementation of specific recommendations. The project covers all areas. There is a need for research or field analysis to be carried out on the ground as a basis for law reform and other reform initiatives. The recommendations will be addressed by designing an analysis project that focuses on the various governmental and non-governmental bodies which can provide information and statistics relevant to all the areas to be analysed. Target groups will be identified by each body, and the analysis will be designed accordingly. The outcome of the project will be an analytical field report which shall be based on the recommendations and proposals of the Conference on Criminal Justice and the legal analysis, together with proposals on initiatives to implement specific recommendations.

2. Project 2: Increasing awareness of, and disseminating legislation on, "fair trials"

12. The purpose of this project is to analyse the need for better awareness of "fair trial" principles and to develop a plan for systematic awareness-raising of the relevant laws. The plan will be implemented once it has been formally approved by the authorities concerned and funding has been secured. The project will analyse needs and mechanisms for identifying specific target groups of professionals and semi-professionals who work on fair trial issues and could be enlisted to raise awareness of laws. Non-governmental organizations working with such groups will also be involved and, more broadly, dissemination will be assured via the radio, television, and other mass media. The analysis will identify the needs of all target groups and the most effective network for increasing awareness of the laws on fair trials.

3. Project 3: Creating a code of conduct for law officers

13. During the First National Dialogue Conference the need for an official code of conduct which could be used, inter alia, to punish law officers who commit abuses was identified. The purpose of this project is to ensure that this recommendation is incorporated into existing programmes. Other initiatives will be taken by relevant institutions to draw up and apply one or more codes of conduct for all bodies and officers involved in law enforcement in Yemen.

14. Training materials and modules have to be produced and modules for training trainers designed, if our ambition of having enough trainers to train all law officers within two or three years is to be realized. Moreover, in order to ensure the sustainability of the training programme, the programme will have to be incorporated into all the curricula used for informal instruction of law officers. A law should be enacted establishing the code of conduct, as well as sanctions and complaints mechanisms to deal with abuses. The law should also make provision for the study curricula referred to above. A meeting will be held for all law enforcement bodies to discuss the idea behind the project and to present existing initiatives. How the project is to be implemented will be determined on the basis of these discussions. This project is, to a large extent, an integral part of existing law enforcement reform initiatives.

4. Project 4: Prison reform

15. Based on a field analysis of the situation on the ground, the First National Dialogue Conference identified the need for prison reform. The prison reform project is designed to

analyse the current situation with a view to submitting a proposal on reform of the regulatory framework and establishing a programme for implementation. The plan will be implemented once it has been formally approved by the authorities and funding has been secured.

5. Project 5: Technical legal review

16. The purpose of this project is to update the laws on criminal justice and bring them into line with the relevant international treaties and conventions ratified by Yemen.

6. Project 6: Law reform

17. Research and field analysis undertaken in preparation for the second dialogue conference will focus on areas where a legal reform package is needed. The package will be used as the basis of a criminal justice reform programme in Yemen. The purpose of the project is to design a law reform programme and devise the methodology to be used in its implementation.

D. Second and third national dialogue conferences on criminal justice (future steps)

18. The project structure provides the framework for the second national dialogue conference on criminal justice in Yemen. The initiatives proposed by the Government to implement the recommendations of the First National Dialogue Conference, and the data gathered under the six projects will be presented at the conference. The purpose of the conference is to discuss the initiatives proposed by the Government, to solicit inputs and recommendations and to secure wide-ranging commitment from stakeholders, in particular decision makers, before detailed planning begins. On the basis of the second conference, the programme will be finalized and detailed planning will begin. The event will be followed by a third national dialogue conference on criminal justice, at which a discussion paper on the reform programme and related projects will be presented to decision makers and other key stakeholders, including donors, so as to ensure the effective and efficient implementation of the reform programme.

II. Legal provisions (attempted acts of torture, instigation of torture, sexual violence, refugee law)

A. The offences of attempt and instigation of torture in law (para. 2)

19. The Constitution, the Code of Criminal Procedure and a number of relevant laws contain articles which prohibit torture in all its forms and call for respect for human dignity and the protection of human rights. These articles include, in particular, articles 48 and 50 of the Constitution, articles 35, 166–169, 241–247 and 249 of the Code of Offences and Penalties, articles 6, 7, 16, 71, 178 and 469 of the Code of Criminal Procedure, articles 20–23, 43, 44, 47, 52 and 53 of the Code of Military Crimes and Penalties and articles 9 (b) and 90 (d) of the Police Corps Act, as well as stipulations in the directives issued by the Public Prosecutor on the application of the Code of Criminal Procedure.

20. Accordingly, the offences of attempt, instigation or consent to torture are punishable by law. Part II of the Code of Offences and Penalties defines these offences, their elements and how causal linkage is established. Article 7 stipulates that a person shall only be held responsible for an offence which the law defines as such based on its leading to a given outcome, if the conduct of the person, consisting in an act or an omission, was the cause that led to that outcome. Causal linkage shall be deemed to have been established if, in normal life, the conduct of the perpetrator would be likely to have led to the outcome and

its consequences. Casual linkage is not established if another factor was at work which in itself was sufficient to lead to the same outcome. In that case, the person shall only be held responsible for his conduct, if it is prohibited by law, and not for the outcome. Article 8 defines criminal responsibility, stipulating that a person shall only be responsible for an offence that he or she committed intentionally or by an act of negligence.

Attempt

21. Article 18 [of the Code] defines the offence of attempt as one where a person commences an act with the intention of committing an offence and interrupts or aborts it for reasons beyond his control, even if it would have been impossible to commit the full offence owing to the inadequacy of the means used, the absence of the intended object of the offence or the lack of a victim. Article 19 of the Code states that attempt shall always be punished. Unless otherwise stipulated by law, the penalty shall be up to half the maximum penalty prescribed for the full offence. If the penalty is death, a penalty of up to 10 years' imprisonment shall be imposed. The provisions on supplementary penalties for the full offence also apply to the offence of attempt.

Participation in a crime

Perpetrator

22. Article 21 states that anyone who commits an act which constitutes the element of a crime shall be deemed the author of the crime. This includes any accomplice present at the scene when the crime is committed. An accessory before the fact is defined as someone who prevails upon a person who does not bear criminal responsibility to commit a crime, even if the accessory does not meet all the legal criteria used to define the perpetrator of an offence. Persons who jointly carry out a crime, intentionally or unintentionally, shall be regarded as the perpetrators of the crime.

Instigator

23. Article 22 states that anyone who coaxes another into carrying out a crime shall be regarded as the instigator of the crime. For this person to be punished, the perpetrator must have commenced the crime. For certain crimes, however, instigation may be punishable, even if it has no effect.

Accessory

24. Article 23 stipulates that an accessory is any person who knowingly provides collateral assistance for the commission of a crime. Such assistance may be provided prior to or during the crime, or after the fact, where agreed upon in advance. However, the provision of assistance after the fact without any prior agreement is treated as a special offence.

Penalty for participation in a crime

25. Article 24 stipulates that, with regard to offences carrying discretionary penalties, unless otherwise stipulated by law, the perpetrator, instigator or accomplice to a crime shall be subject to the prescribed penalty for the crime. However, if the participants in the crime did not share the same specific intent, they shall each be punished according to their intent.

Supplementary penalties

26. Article 101 states that, depending on the nature of the crime, the circumstances of its commission, the past record of the defendant and the main sentence imposed, in addition to

the penalty prescribed for the crime, a court may order deprivation of all or some of the following rights and privileges, or the imposition of one or more of the following supplementary penalties:

[Denial of the right to]:

1. Take up employment in a public post or service or with the Office of the Public Prosecutor or in any other profession.

2. Vote for, or be elected to, a public council or assembly.

3. Manage a company or sit on its board of directors.

4. Hold a concession or franchise from the State.

5. Act as a trustee or custodian or agent.

6. Act as an expert or a witness with regard to a contract or transaction.

7. Manage, publish or edit a newspaper.

8. Manage a school or institute of learning or engage in any educational activity.

9. Wear national or foreign decorations or honours.

10. Bear arms.

11. Continue to practise a profession.

12. Enjoy freedom of residence and movement (police surveillance).

13. Use or run premises (closure of premises).

14. Continue to live in Yemen, if a foreigner.

15. Give an undertaking, with or without a surety, to refrain from disrupting security and to maintain good behaviour.

If, at the time of sentencing, the convicted person subject to these penalties held any of the above rights, the deprivation measure shall take effect as soon as the sentence is handed down. The deprivation measure shall remain in effect until the convicted person is rehabilitated. Unless the law provides otherwise, the measure may be imposed temporarily, for a minimum of one year and a maximum of three years, effective from the date on which the main sentence has been served or is extinguished for any other reason,.

Fatal assault

27. Article 241 stipulates that a mandatory punishment of payment of blood money (*diyah*) and up to five years' imprisonment shall be imposed on anyone who assaults another person and thereby unintentionally kills that person. Article 242 defines the infliction of a permanent disability as an injury which leads to the permanent severance, separation, partial amputation or loss of function of a limb or the total or partial permanent impairment of a sense. Any serious deformity that cannot normally be remedied shall be deemed a disability.

28. With regard to the deliberate infliction of a permanent disability and a measureable wound, article 243 of the Code of Offences and Penalties prescribes a penalty of retaliation (*qisas*) for anyone who deliberately carries out an assault with the intention of inflicting a permanent physical disability by breaking a joint, plucking out an eye, amputating an ear or inflicting a measureable bodily wound. If the result of 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 (*diyah*) or indemnity for bodily injury (*arsh*)

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 (*diyah*) and an indemnity for bodily injury (*arsh*), as the case may be.

With regard to the deliberate infliction of less serious harm, article 244 stipulates that a penalty of an indemnity for bodily injury (*arsh*) 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 does not give rise to an illness or incapacity lasting 20 days, the penalty shall be a maximum of three years' imprisonment or a fine. To this shall be added the penalty of an indemnity for bodily injury (*arsh*), if the assault gives rise to an illness or incapacity lasting more than 20 days.

29. With regard to accidental injuries, article 245 stipulates that anyone who injures another person accidentally shall be subject to a penalty of payment of blood money (*diyah*) or of an indemnity for bodily injury (*arsh*), 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, or 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 the laws and regulations, or if the person was under the influence of alcohol or drugs when the offence occurred, the penalty shall be up to two years in prison or a fine.

Coercion and illegal orders

30. In the case of physical coercion and force majeure, the law states that, in cases of murder and torture, neither the individual who is coerced nor the person responsible for coercing him or her shall be exonerated of responsibility. Article 35 of the Code of Offences and Penalties stipulates that a person shall not be deemed to have committed a crime, if he committed a criminal act under pressure of physical coercion that was impossible to resist or in circumstances of force majeure. The person responsible for coercing him or her shall answer for the crime, unless it involved the murder or torture of a human being, in which case neither he nor the person who was coerced shall be exonerated of responsibility. Article 225 stipulates that members of the Armed Forces shall not be made to answer for refusing to carry out an order from a superior officer that was in clear breach of the Code of Offences and Penalties or general international law.

Penalties for public employees and their associates

31. The Code of Offences and Penalties prescribes penalties for breaches of the laws and regulations by public employees and their associates. The nature of the penalty depends on the authority of the office that the person holds. Article 151 stipulates that any public employee who demands or accepts a gratuity or refuses to carry out an action, thereby committing a breach of duty, shall be subject to a term of imprisonment of up to 10 years. If the action taken or not taken involves a right or an entitlement, the penalty will be imprisonment for up to three years. An accessory shall be exempted from punishment if he reports the crime to the judicial or administrative authorities or confesses to it prior to the closing of the preliminary investigation. Article 165 of the Code stipulates that a term of up to three years' imprisonment or a fine shall be imposed on any public official who: uses his official position to breach the laws, ordinances or regulations in effect; refuses to execute orders or decisions issued by a court or any competent body; deliberately obstructs the execution of such orders or decisions, in disregard of his duties; abandons or refuses to do his work with a view to hampering the performance or organization of such work; deliberately makes, proffers or delivers untrue statements that are injurious to others.

32. Article 9, paragraph (b), of the Police Corps Act No. 15 of 2000 stipulates that the police shall not subject a person to physical torture or psychological pressure while gathering evidence or taking statements or during detention or imprisonment. Article 12 of the Police Corps Act stipulates that, in exercising their powers under the Act, the police shall take into account immunities which are granted by the Constitution and by international laws and treaties in effect in the Republic of Yemen. Article 89 of the Police Corps Act requires all officers to abide by, and to implement, the provisions of the Act. Furthermore, they must obey and carry out lawful orders from their superior officer, or a person of higher rank, or the person with the highest seniority. Officers are prohibited from breaching disciplinary rules or violating the laws or regulations in effect. They are required to respect citizens and their rights and to make every effort to facilitate dealings with them and bring them to a successful conclusion.

33. Article 90 of the Police Corps Act lists acts which an officer may not commit, including using his rank or military status to gain for himself or for others, or inflicting harm on others. Article 91 stipulates that, without prejudice to any other provision of the Act, the Minister, having consulted the Cabinet, shall establish a system for oversight, inspections, follow-up and performance evaluations based on norms which apply to all officers.

34. Article 92 of the Police Corps Act prescribes various disciplinary sanctions for officers, as follows. "Without prejudice to any more severe penalty prescribed under the laws in force, officers shall be subject to one of the following disciplinary sanctions:

1. A verbal reprimand.

2. A verbal or written warning.

3. A deduction of up to 7 days' pay at a time for a maximum of two months per year.

4. Suspension.

5. Deferment of annual salary increases for a period of up to six months.

6. Denial of an annual salary increase for a period of one year.

7. Deferment of promotion for at least one year and not more than two years.

8. Dismissal from service, while maintaining pension entitlements.

35. Article 93 provides that, with the exception of a verbal reprimand and a verbal or written warning, a disciplinary sanction may only be imposed on an officer after he has been interviewed and his testimony and defence case have been heard and recorded in writing. The decision to impose a disciplinary sanction must be issued by a disciplinary board, and the officer has the right of legal recourse.

36. Article 96 (a) states that an officer placed in pretrial detention or in detention further to a disciplinary judgement which is not yet final shall, by force of law, be suspended for the period of pretrial detention or pending confirmation of the disciplinary judgement and shall receive one half of his salary until the disciplinary judgement is confirmed. If acquitted of the charges, he shall return to work and shall be paid the half of his salary which was withheld during the period of pretrial detention or pending confirmation of the disciplinary judgement. Article 96 (b) states that an officer who is imprisoned pursuant to a final disciplinary judgement shall forfeit the half of his salary which was withheld during the pretrial detention or pending the final disciplinary judgement. The law stipulates that, while the officer shall retain the rights which he acquired during his time in service, in accordance with the Security and Armed Forces Pensions and Emoluments Act, he shall be dismissed, if he has been convicted for a breach of trust and honour.

37. Article 101 (a) of the Police Corps Act states that a decision to refer a case for disciplinary proceedings is to be issued by the Minister or Deputy Minister, accompanied by a statement of the charges. The officer concerned must be informed of the decision and of the date of the hearing. Notification must be provided at least eight days prior to the date on which the disciplinary board is to be convened. The Director-General of the General Directorate for Oversight and Inspections must likewise be informed. Under article 101 (b) of the Act, any officer summoned to appear before a disciplinary board must be told of the investigations which have taken place and must be shown all relevant documents. He has the right to make photocopies of the documents and to request that his annual performance report or any other documents be entered into the disciplinary file. The officer may attend the hearings and present his defence orally or in writing, or may appoint a lawyer to represent him. If, despite having been notified, the officer does not appear before the disciplinary board, the board can try him *in absentia*.

38. Article 106 prohibits the granting of a promotion to an officer who is being tried by a disciplinary board or a criminal court for a serious crime or a crime involving a breach of trust or an offence against honour or who has been suspended from work while awaiting trial or in detention. In such cases, the officer's post is frozen for a period of one year. If the trial lasts for more than one year and the officer is found guilty, or the court hands down a warning or orders a deduction from his salary or suspension from work for a period of up to five days in either case, upon promotion, the officer's seniority in the new position will be taken into account and he shall receive the salary for that position with effect from the date on which he would have been promoted, if he had not been sent to face disciplinary or criminal proceedings. The officer shall be deemed to have been referred for disciplinary proceedings from the date on which the referral decision was issued.

39. In a number of articles, the Code of Criminal Procedure lists the measures to be taken when violations are committed by law enforcement officers. Article 85 stipulates that law enforcement officers operate under the authority and supervision of the Public Prosecutor. The Public Prosecutor may ask the competent authority to investigate any person who commits a breach of duty or an act of omission. He may ask for disciplinary proceedings to be taken against the person in question, without prejudice to the institution of criminal proceedings.

40. Article 86 stipulates that, if the Public Prosecutor considers that a law enforcement officer has committed a grave breach or that the penalty handed down is inadequate, or if the administrative authority concerned did not respond to a request to investigate a law enforcement officer, the case may be transferred to a court of appeal for it to consider revoking the officer's law enforcement status. This does not prevent a criminal lawsuit from being filed. The court, on its own motion or at the request of its president, may decide to take up a case that is laid before it and may decide to revoke an officer's law enforcement status subject to the conditions laid down in article 85.

41. Article 87 states that the court of appeal shall carry out a preliminary investigation into cases laid before it under the terms of article 86. It shall listen to the statements of the representative of the Public Prosecutor and of the law enforcement officer who is the subject of the complaint. The law enforcement officer must be notified in advance of the allegations of breach of duty which are the subject of complaint. The officer may avail himself of a lawyer. All these procedures must be conducted in the courtroom.

42. With regard to revocation of law enforcement status, article 88 of the Code of Criminal Procedure stipulates that, without prejudice to any disciplinary sanctions imposed on a law enforcement officer, or which may be imposed by administrative supervisors, courts of appeal in the governorates may issue officers with a warning or may revoke their law enforcement status, for a given period of time or permanently, either in their area of jurisdiction or throughout the Republic of Yemen. Article 89 stipulates that a law

enforcement officer who is stripped of his law enforcement powers shall face automatic dismissal. Where the measures apply only in a particular jurisdiction, the officer shall be transferred from that jurisdiction. Under article 90, the authorities in the jurisdiction of the court of appeal, as well as the Public Prosecutor, must be informed of cases where a court rules against a law enforcement officer.

Number of cases in which these legal provisions are applied

43. The Committee asked how many cases there had been in which these legal provisions had been applied. This information is provided in the tables annexed to this reply.

B. Sexual violence (para. 10)

44. The Code of Offences and Penalties contains a number of legal provisions on sexual violence and/or gender-based breaches. Penalties are increased for crimes perpetrated on a female victim, especially for rape and related crimes. These provisions are detailed below.

Abduction and associated offences

45. Article 249 of the Code of Offences and Penalties stipulates a term of up to five years' imprisonment for abduction. If the person who is abducted is a female or a juvenile, or suffers from insanity or a disability, or if the abduction is carried out using force, threats or deception, the penalty shall be a term of up to seven years' imprisonment. If the abduction is accompanied or followed by the infliction of bodily harm, a physical assault or torture, the penalty shall be a term of up to 10 years' imprisonment. This shall all be without prejudice to the victim's right to claim retribution (*qisas*), blood money (*diyah*) and an indemnity for certain wounds (*arsh*), as applicable, depending on the nature of the injury. If the abduction is accompanied or followed by murder, prohibited sexual assault or sodomy, the penalty shall be death.

Penalties for accessories to a crime

46. Article 250 states that the above-mentioned penalties shall be imposed, as appropriate, on anyone who takes part in an abduction or who conceals a person who has been abducted, knowing the circumstances in which the abduction was carried out and the acts that accompanied or followed it. If the accessory or the person concealing the abducted person is aware of the abduction but ignorant of the acts that accompanied or followed it, the penalty shall be limited to a term of up to five years' imprisonment.

Intimidation

47. Article 254 provides that a term of up to one year's imprisonment or a fine shall be imposed on anyone who threatens to commit an offence against, or to harm, another person or his spouse or a relative up to the fourth degree, where the purpose is to intimidate that other person.

Rape

48. Article 269 of the Code provides that if, for any of the approved reasons, the mandatory sharia penalty is not applicable, a term of up to seven years' imprisonment shall be imposed on anyone who rapes a male or a female. If the offence was committed by two or more persons, or if the offender was responsible for the supervision, protection, upbringing, custody or treatment of the victim, or if the offence caused the victim severe physical or health-related damage, or if the victim became pregnant as a direct result of the

offence, the penalty shall be a term of from 2 to 10 years' imprisonment. If the victim was under 14 or committed suicide because of the offence, the penalty shall be a term of from 3 to 15 years' imprisonment. Rape is any act of forcible sexual penetration of a male or female victim which occurs without the victim's consent.

Indecency

49. Part II of the Code of Offences and Penalties lists the penalties for the offence of indecency as follows.

Definition of indecency

50. Article 270 defines indecency as any indecent physical act other than prohibited sexual assault, sodomy or sexual relations between two women, which is committed against another person.

Penalty for indecency without the use of coercion

51. Article 271 prescribes a term of up to one year's imprisonment or a fine of up to 3,000 Yemini rials (YRI) for committing an act of indecency against a living human being without using coercion or deception. The same penalty applies to any person who willingly submits to such an act.

Penalty for indecency using coercion

52. Article 272 prescribes a term of up to five years' imprisonment for committing an act of indecency against a living person using coercion or deception, or with a female under the age of 15, or with a male under the age of 12, or with a person who lacks discretionary capacity for any reason, or where the perpetrator is a relative of the victim or is responsible for his or her upbringing.

Number of cases in which these legal provisions have been applied

53. Information on the number of cases in which these legal provisions have been applied is provided in the attached tables.

C. Refugee law (para. 7)

54. The Republic of Yemen is currently reorganizing its legal structure which deals with refugee issues. To that end, it is reviewing the terms of reference of the National Committee for Refugee Affairs in order to strengthen its role and powers in dealing with asylum and immigration issues and to develop appropriate rules and regulations. Moreover, the General Directorate for Refugee and Migration Affairs at the Ministry of the Interior has been established to implement measures in this area.

III. Prisons and detention centres

How basic legal safeguards for detained persons are implemented (para. 3)

55. With regard to the Committee's question in paragraph 3 of the list of issues on how basic legal safeguards for detainees are implemented, the principle is that these safeguards, **which include prompt access to defence counsel and medical examination services, as well as the right to inform relatives**, are maintained and applied by the officials

designated to do so under the relevant laws. The actions of these officials are subject to judicial oversight. Moreover, the competent authorities, which include the courts, the Public Prosecutor and the Ministry of Human Rights, employ various legal and administrative methods to ensure that these safeguards are applied, as explained below.

1. Right to a defence

56. The right to a defence is guaranteed under public law. The penalty for infringing this right is annulment of proceedings. That is to say, if this right is not respected in any way during a trial, the trial shall be deemed to have been unfair. Article 396 of the Code of Criminal Procedure states that all procedures which violate the Code shall be deemed null and void, if this is explicitly provided for in the Code or if the procedure at issue is a substantive one. Article 397 stipulates that if a procedure is nullified due to non-compliance with the legal provisions on bringing criminal proceedings, or on the composition of a court, or on the competence of a court, or the holding of court sessions in public or in camera, or on the grounds for a judgement, or on *the freedom of the defence*, or on the pronouncement of a verdict in open court, or on appeals procedures, or on *major procedural flaws that infringe the rights of the parties*, or on any other matter of public law, the parties shall be entitled to invoke the issue at any stage of the proceeding, and the court shall rule on it on its own motion. If the verdict offers the defendant the choice between imprisonment or a fine, the verdict shall be deemed null and void under public law.

57. Accordingly, the courts are legally required to ensure that the accused has the right to a defence. If this is not the case, their verdicts may be appealed under the Code of Criminal Procedure, article 435 of which stipulates that appeals for cassation may only be lodged in the following cases:

1. If the verdict being appealed involves a violation of the law or an error of law.

2. If the verdict itself is null and void.

3. If an error occurred during the proceedings which affected the verdict.

The essence of the matter is that cases must be conducted according to the proper procedures. The party concerned must prove beyond doubt that the proper procedures were not followed, if there is no record of them in the report of the hearings or in the judgement. If the procedures are documented either in the judgement or the reports, the only way to prove that due process was not followed properly is by claiming at appeal that a forgery has taken place.

58. Article 231 of Act No. 40 of 2002 on Civil Proceedings and Enforcement provides:

(a) Verdicts shall be substantiated. The grounds given for a verdict shall be consistent with each other and with the verdict, otherwise the verdict shall be deemed null and void;

(b) If a judge fails to take account of the defence's main arguments and fails to respond to them, and if the grounds given are at variance with the law or the facts of the case, the opinion shall be deemed to be flawed and the verdict shall be null and void.

59. The Law Profession Regulation Act of 1999 enumerates the rights of the defence counsel. Article 51 states that the courts, the Office of the Public Prosecutor, the police and other bodies with which a lawyer interacts in exercising his profession are required to provide him with everything that he needs to do his job. His requests may not be refused without legal justification. He or his client must be allowed to read or make copies of documents, and the lawyer must be allowed to attend the examination of his client in accordance with the Act. Article 52 of the Act states that lawyers may pursue whatever

course they deem appropriate in order to defend their clients. They shall not be held responsible for anything that is presented in written or oral pleadings to ensure the right to a defence and that does not breach the sharia or prevailing laws.

60. Under the Constitution of Yemen and the country's laws, all persons deprived of their liberty as a result of arrest or detention may institute proceedings before the Office of the Public Prosecutor and various State agencies in order to obtain a prompt ruling on the lawfulness of their detention and an order for their release, if the detention is deemed unlawful. Under article 225 of the Code of Criminal Procedure, an accused person may challenge a detention order, and all 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. Article 226 stipulates that the Office of the Public Prosecutor alone may challenge an order to release the accused from pretrial detention.

61. With a view to enabling accused persons to challenge pretrial detention orders, the Department of Prisons Regulation Act (art. 4) provides that prison governors shall ask for all judicial documents on prisoners' cases and deliver them to the prisoners concerned immediately upon receiving them. They must transmit prisoners' appeals or requests to the courts or the Office of the Public Prosecutor and record them in the relevant register. They are responsible for delivering this information promptly to the competent authorities.

62. With regard to written permission from the issuer of a detention order (a judge or the Public Prosecutor) for a person in pretrial detention to meet his or her family and lawyer, permission is routinely granted in the interests of the prisoner and to ensure the proper application of the law in prisons.

2. Judicial oversight, supervision and inspection of detention centres and prisons

63. The Office of the Public Prosecutor is the body responsible for the supervision and inspection of detention centres and prisons, as well as correctional institutions for juveniles. It is also responsible for ensuring that prisoners' detention is lawful. The Office of the Public Prosecutor and the judiciary oversee the proper enforcement of court judgements. They take appropriate measures to prevent and eliminate any violations committed by prison authorities, prisoners or parties which execute the decisions and instructions of the Office of the Public Prosecutor and the courts on prison sentences. They also oversee compliance with all written orders received from the Office of the Public Prosecutor or the legally competent courts summoning pretrial detainees or convicted persons to appear. Moreover, they supervise the transfer of these persons on the dates determined by the authorities.

64. In 2006, 4,214 inspections of detention facilities and prisons were conducted by public prosecutor's offices at courts of appeal and courts of first instance. In 2007, 1,704 cases were raised with the Judicial Inspectorate.

65. Other guarantees include visits to prisons and prisoners which the Higher Committee for the Welfare of Prisoners and Prison Conditions carries out, as well as visits by field inspection committees to learn about prison and prisoner conditions in Sana`a City and the governorates of Yemen. The work of these committees has resulted in the release of 1,364 prisoners. The Higher Committee for the Welfare of Prisoners and Prison Conditions is tasked, inter alia, with advising prison officials on how to improve prison conditions and drawing up plans for the prevention of violations, as well as providing guidance to prison governors on how to address any violations that come to light.

66. In 2007, the seven committees which were established to carry out field visits learned about the conditions of prisoners and listened to their complaints. They examined the files of prisoners who had served their parole, compiled a list of all prisoners serving

time for debts and verified compliance on the part of justice agencies with procedural and substantive laws. The committees also verified the number of criminal cases pending before the courts and the Office of the Public Prosecutor, the quality of health care provided to prisoners who fall ill, the quality of nutrition and training and rehabilitation programmes, the standards in penal institutions and their capacity to take in new prisoners. As a result of this exercise, 1,041 prisoners were released.

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

3. Judicial inspections

68. In order to ensure that members of the Office of the Public Prosecutor carry out their inspection and oversight duties and other tasks, the Judicial Inspectorate, an organ of the Office of the Public Prosecutor, conducts periodic surprise inspections, examining the work of public prosecutors, evaluating their performance and urging them to process cases with all due care. In 2005, a number of unannounced inspections were carried out further to complaints or instructions from the Public Prosecutor. A total of 61 unannounced inspections were carried out, and 403 members underwent scheduled inspections. There were 46 grievances investigated as a result of the inspections, while 68 grievances were investigated based on alerts received or notices. The Judicial Inspectorate issued 98 warnings and notices. In 2006, there were 30 unannounced inspections carried out further to complaints or instructions issued directly by the Public Prosecutor. Sixty members underwent scheduled inspections. Forty-seven complaints against members of the Office of the Public Prosecutor were investigated following scheduled inspections, while 80 complaints were investigated based on alerts received or notices. The Judicial Inspectorate issued 115 warnings and notices.

69. In 2007, 130 members underwent scheduled inspections, and 9 complaints were examined, based on alerts or notices. Immunity was lifted for two members of the service, while three others were referred to the Accountability Council. Two members were subjected to disciplinary investigations and tendered their resignations, which were accepted. A total of 47 warnings and notices were issued. It should be noted that, in 2005, the Public Prosecutor issued a circular on the procedures for bringing criminal proceedings against law enforcement officers, the police and members of the security services.

70. In 2008, the Inspectorate carried out 46 unannounced inspections at prosecutor's offices in courts of first instance. As a result, four members of the Office of the Public Prosecutor had their immunity lifted.

4. Record keeping and evidence

71. In order to maintain legal safeguards for detainees, the relevant laws stipulate that detention and custody centres must keep records of all information relating to prisoners. This may include, inter alia, court documents, records on prisoner's conduct and physical and mental health, as well as lists of prisoners' possessions. Prison governors must ask for all court documents pertaining to prisoners and hand them over to the prisoner concerned immediately upon receipt. They must also forward prisoners' appeals or any other requests to the courts or the Office of the Public Prosecutor and make a record of them in the proper register. They are responsible for the prompt transmission of this information to the competent authorities.

72. A warrant for arrest or detention issued by the Public Prosecutor must meet certain legal criteria. The prison governor must verify that arrest warrants and detention or release

orders issued by the competent legal authorities are in conformity with legal norms. Similarly, article 8 of the Department of Prisons Regulation Act stipulates that no person may be imprisoned or admitted to prison without a warrant for the execution of a court judgement which has been duly signed by the competent judge or without a detention order which is written on the proper form and has been signed by the legally competent public prosecutor's office and sealed with an official seal bearing the State insignia of the authority concerned. Article 10 stipulates that only persons sentenced to imprisonment pursuant to a valid court judgement may be admitted to prison. The only exception is for cases where persons accused of a particularly serious crime are placed in pretrial detention on a warrant issued by the Office of the Public Prosecutor during the investigation stage or by the competent court during trial. Under article 106 of the Code of Criminal Procedure, police station chiefs are required to record all cases of arrest and enforcement which are handled by the station in a special logbook, indicating the name and rank of the arresting officer or the enforcement officer, the method, the date, the hour, and the reason for the measure and when the arrest period ended. A daily printout of the arrest and enforcement entries, together with relevant details, must be submitted to the Office of the Public Prosecutor.

73. Prison governors will be prosecuted for failing to comply with the above provisions and may be handed down a prison term of between 5 and 10 years and/or a fine of not less than YRI 10,000.

74. With regard to prisoners' complaints, including about not having access to a lawyer, not being able to notify relatives or being denied a medical examination, the law requires prison governors to listen to complaints from any prisoner and take whatever action is required. For this purpose, a special register must be provided in which prisoners and their families may record their grievances. It is for the prison administration to examine this register, to follow up on complaints and to look for a solution, while verifying that all procedures are followed and notifying complainants of the outcome. Article 192 of the Code of Criminal Procedure states that all members of the Office of the Public Prosecutor must visit the penal facilities in their area of jurisdiction and ensure that no persons are being held there illegally. They may also consult and make copies of prison logbooks, arrest warrants and detention orders, talk to 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.

5. Health rights of prisoners

75. Prison administrations are legally obliged to provide medical care and medical advice on preventive health and treatment for prisoners. Under article 23 of the Department of Prisons Regulation Act, prison administrations are required to ensure compliance with public health regulations in prison and must provide treatment, health care and preventive health services to prisoners, employing specialized physicians, in coordination with the Ministry of Health, to do so. Article 24 of the Act stipulates that advice and comments by doctors on health matters, preventive health and treatment and nutrition for prisoners must be followed up by the prison administration. If this is not possible, owing to a lack of resources, the matter must be referred promptly to the Ministry for information and advice.

76. Direct supervision of health-care provision in prisons is undertaken by the Ministry of Health and Housing, through medical clinics at prison facilities, which are staffed by medical personnel. Treatment is provided and, if necessary, prisoners are taken to Government hospitals, where they will be treated free of charge. In certain cases, prisoners are allowed to stay in hospital, if their condition requires it.

Antiterrorism

77. There are no exceptions or restrictions with regard to detainees held on terrorism charges. The measures described above apply to all prisoners without exception. Every person who is summoned for investigation by the competent judicial authorities is entitled to call upon the services of a lawyer of his choice. Examination and trial procedures are often halted when an arrested person requests a suspension pending the arrival of his or her lawyer. If the person does not have a lawyer or does not wish to engage one, the court will appoint a defence lawyer of its choice.

78. It should be noted that trials are conducted subject to the guarantees afforded under the Constitution and the Yemeni laws in force. These guarantees include:

1. The opportunity to meet with family and relatives while in prison.

2. The opportunity for the mission of the International Committee of the Red Cross to visit and talk to detainees.

3. The fact that trials are conducted only in the presence of lawyers and that full guarantees are provided during the investigation and trial.

4. The fact that all those who are discharged can file complaints about any unlawful acts to which they may have been subjected while in prison.

Powers of the Political Security Department (paras. 5 and 6)

79. With regard to the Committee's questions in paragraphs 5 and 6 of the list of issues, concerning the powers of the Political Security Department, the practice of incommunicado detention, and occurrences of mass arrests without judicial process for opponents of the Government, we should like to explain that the Political Security Department and its organization and terms of reference were established by Republican Decree No. 121 of 23 May 1992. Part II, article 3, of the Decree states that the Department reports to the Office of the President of the Republic as the body responsible for oversight.

80. Part IV, article 7, of the Decree defines the Department's functions and grants its officials the powers of law officers. These officials investigate persons against whom there are strong suspicions or there is reliable evidence of involvement in activities against State security. The Department therefore exercises the powers conferred by law on law enforcement bodies and operates in accordance with Act No. 13 of 1994, concerning criminal procedures, and under the supervision and direction of the Office of the Public Prosecutor. All cases of crime and subversive activity which it discovers are passed on to the Office of the Public Prosecutor for investigation in accordance with the law. Part IV, article 7, of the Decree stipulates that the Department exercises its powers and functions and carries out its activities of preventing and uncovering political crimes and other subversive activities in accordance with the Decree and without prejudice to the Constitution and applicable laws. The Political Security Department has the following powers.

1. It grants its officers the powers and authority of law enforcement officers.

2. It investigates persons against whom there are strong suspicions or there is reliable evidence of involvement in activities against State security.

3. It exercises the powers which the law grants to law-enforcement agencies.

81. In part III, article 8, of the Decree, it is stated that when the Department uncovers crime or subversive activity, it shall refer the matter to the Office of the Public Prosecutor for investigation in accordance with the law.

Cases of incommunicado detention and mass arrests

82. The Political Security Department has the status of a police body and is legally empowered to arrest suspects in order to ascertain if suspicions are well-founded. It then hands over those against whom evidence is found to the Office of the Public Prosecutor and the courts. With regard to the claims about arbitrary arrests and detention of opposition members, journalists and human rights defenders, the term "arbitrary detention" is often used based on information obtained from biased and inaccurate sources. There is no truth to the claims that the Political Security Department has practised mass arrests or incommunicado detention for prolonged periods without judicial process. Persons suspected of involvement in crimes against State security are arrested, detained and imprisoned in accordance with judicial process and under the supervision and control of the Office of the Public Prosecutor. We can also confirm that most interrogations are carried out in the presence of lawyers, except in rare cases when there are tight time constraints and there is a need for haste. Lawyers have access to investigation records at all times right up to the trial. Detainees' families and relatives are also allowed to visit on set days, and detainees have access to medical care in Government and private hospitals. Moreover, they are provided with newspapers and magazines. Extensions of pretrial detention are normally granted, by order of a court, to allow for the completion of investigations and evidence gathering and for discussions to correct any erroneous religious beliefs which prisoners may hold and bring them to a correct understanding of Islam. These discussions are held during meetings with a committee of religious scholars which was established by presidential decree. The view taken is that the detainees have been led astray, and those who return to the right path will be released. If, however, there is evidence of involvement in the commission of a criminal offence, the detainee will be referred to the Office of the Public Prosecutor, which will, in turn, refer the person to the courts.

Visits by intergovernmental and non-governmental organizations

83. Intergovernmental and non-governmental organizations are allowed to visit all detainees held by the Political Security Department. Officials from the International Committee of the Red Cross carried out seven visits in 2006 and 2007, meeting with detainees and officers of the Political Security Department and verifying that there were no cases of incommunicado detention. This proves that all the allegations recently received by the International Committee of the Red Cross are baseless. Amnesty International carried out six visits to returnees from Guantánamo Bay between 2006 and 2009.

Registration of prisoners

84. The details of all persons detained by the Political Security Department are recorded in special registers which must include specific types of information. Under Presidential Decree No. 8 of 1998, concerning the prisons regulation, and Decree No. 32 of 2002, concerning the administrative forms annexed to the prisons regulation, records must be kept on prisoners taken into detention, as well as on detainees held by the Political Security Department. These records must include all personal data and information on detainees from the moment they enter detention until they go to court or are released.

Measures taken by the Political Security Department in order to improve performance

- The Political Security Department provides its investigating officers, prison officers and officers who make arrests with regular training. Awareness-raising courses are held, together with lectures on humanitarian law and the rights embodied in the Universal Declaration of Human Rights and other international instruments whose principles are incorporated into domestic legislation. Officers are also taught about the legal safeguards which the Constitution and the laws provide for persons in

detention during investigations and about legislation which classifies cruel and inhuman treatment as a punishable offence.

- Senior officers at the Political Security Department make sure that officers involved directly in law enforcement activities abide by, and receive guidance on, the Constitution, the laws in force and international laws and conventions, including international humanitarian law, human rights law and the Convention against Torture. The Department ensures that officers fully respect the law while carrying out their duties, that they do not breach the law or engage in acts of inhumane treatment and that prisoners' lives and dignity are respected.
- The leadership of the Political Security Department makes sure that its law officers attend courses and workshops on legal issues which are organized by the Government jointly with international and national organizations. The purpose is to provide information about international conventions and treaties on humanitarian law, human rights and combating torture and violence, to develop the officers' understanding of the law and to improve their performance.
- Officers are bound to refrain from using incommunicado detention, except in the most exceptional cases, when this measure is used as a disciplinary sanction for prisoners who infringe the rules and regulations laid down in the Prisons Regulation Act.
- The Office of the Public Prosecutor, as the representative of society and the competent authority in this regard, supervises and inspects prisons and detention facilities and is legally empowered to check up on prisoners and listen to any grievances they may have. If the law is being breached, the Office of the Public Prosecutor will take action and carry out regular checks on prison conditions.
- The Ministry of Human Rights carries out visits to prisons, including the facility of the Political Security Department, and monitors prison conditions and prisoners. The Ministry provides guidance to prison governors, stressing that they have an obligation to respect human rights if they are to avoid prosecution. The Ministry submits reports, monitors infringements of the law and issues warnings to the relevant authorities to prevent any repetition of them and ensure that those responsible are held to account.

Prison reform measures and procedures

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

- Modern, central prisons have been constructed in the towns and governorates of Amran, Dali', Mahwit and Makala, and prisoners have been transferred to them.
- Work is continuing on the construction of modern, central prisons in the towns and governorates of Abyan, Shabwah, Baida' and Siy'un with a view to moving prisoners from existing prisons and using the latter for pretrial detention.
- Central prisons in Hajjah, Sa`dah, Dhamar, Ibb and Ta`izz have been rehabilitated under extension and renovation projects.

- Seven remand centres have been built in the governorates of Sana`a City, Hudaidah, Ibb and Ta`izz to reduce overcrowding in central prisons and to create an atmosphere conducive to prisoner reform and rehabilitation.
- Juvenile centres have been opened up in seven of the main governorates.
- The development of an electronic information system in prisons in the governorates of Sana`a City, Ta`izz, Hudaidah, Ibb and Dhamar has been completed, prompting the Department of Prisons to launch the second phase of the project in prisons in the towns and governorates of Hajjah, Sa`dah, Amran, Mahwit, Makala, Hadramawt, Radda', Baida', Lahij and Dali'. The system should help the Department to systematize research into criminal behaviour and ways of dealing with it.

86. 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 providing 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 of the House of Representatives and the *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 the International Committee of the Red Cross (ICRC), the United Nations Children's Fund (UNICEF), the Social Development Fund and the Red Crescent Society).

Difficulties

(a) There is severe overcrowding in prisons. According to data provided by the Department of Prisons, as at 30 November 2006, there were 10,817 prisoners in 22 central prisons in the governorates of the Republic;

(b) There is a shortage of transport resources for prisoners, including staff, ambulances, service vehicles and prison vans;

(c) There is not enough money to carry out necessary construction and renovation work in prisons.

Efforts by the Office of the Public Prosecutor (para. 23)

87. The Department of Prisons, which is attached to the Office of the Public Prosecutor, is responsible for monitoring prisoners from their arrest until they are sentenced. The Department is also responsible for looking into prisoners' grievances and gathering prisoner data.

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

89. In 2007, the second phase of the project began. The aim is to link the Department of Prisons at the Office of the Public Prosecutor to the remaining towns and governorates (Abyan, Lahij, Dali', Baida', Dhamar, Sa`dah, Amran, Hajjah, Sana`a, Makala, Siy'un, Shabwah) and a special criminal court.

The tables below provide data on prisoners.

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

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

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

Numbers of prisoners in Yemen whose data were uploaded on a computer in 2006

		On trial			*Serving a sentence*			
Governorate	*Under investigation*	*Court of first instance*	*Court of appeal*	*High court*	*Deprivation of liberty*	*Debts*	*Fixed penalties (hudud) and retaliation (qisas)*	***Total***
Sana`a City North	214	468	217	72	137	190	9	**1 307**
Sana`a City South	197	380	109	19	102	172	6	**985**
Sana`a	108	128	95	36	32	78	7	**484**
Aden	143	276	27	12	98	150	3	**709**
Ta`izz	140	565	305	48	105	258	16	**1 437**
Hudaidah	83	343	158	33	188	83	7	**895**
Ibb	106	370	346	37	66	133	22	**1 080**
Hadramawt-Makala	32	99	41	8	51	64	2	**297**
Hadramawt-Siy'un	16	41	11	2	41	17	2	**130**
Dhamar	39	185	127	60	28	76	12	**527**
Dali'	11	159	112	24	33	61	9	**409**
Abyan	25	46	24	4	26	42	7	**174**
Hajjah	96	183	101	26	74	82	6	**568**
Sa`dah	24	157	44	8	31	21	1	**286**
Amran	17	195	43	17	34	25	14	**345**
Lahij	31	137	61	15	30	49	10	**333**
Baida'	59	125	101	34	37	46	12	**414**
Shabwah	33	34	26	12	11	9	3	**128**
Mahwit	6	64	17	5	11	13	2	**118**
Raymah	24	37	13	10	3	14	1	**102**
Mahrah	7	16	17	6	14	22	0	**82**
Ma'rib	6	26	11	0	7	20	0	**70**
Totals	**1 417**	**4 034**	**2 006**	**488**	**1 159**	**1 625**	**151**	**10 880**

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

Numbers of prisoners in Yemen whose data were uploaded on a computer in 2005

		On trial			*Serving a sentence*			
Governorate	*Under investigation*	*Court of first instance*	*Court of appeal*	*High court*	*Deprivation of liberty*	*Debts*	*Fixed penalties (hudud) and retaliation (qisas)*	*Total*
Sana`a City North	343	676	229	62	164	245	12	1 731

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

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

Public prosecutor’s offices at appeal courts which were connected to the prisoner database of the Office of the Public Prosecutor

No.	*Name of the office*	*No. of cases entered*	*No. of prisoners*
1	Sana`a City North	1 685	1 254
2	Sana`a City South	602	562
3	Sana`a	670	540
4	Aden	2 741	1 177
5	Ta`izz	3 156	1 340
6	Ibb	2 689	1 230
7	Hudayidah	1 905	1 121
8	Hadramawt-Makala	751	655
9	Hadramawt-Siy’un	318	135
10	Hajjah	952	662

No.	*Name of the office*	*No. of cases entered*	*No. of prisoners*
11	Amran	485	365
12	Mahwit	162	130
13	Dali’	492	330
14	Lahij	399	391
15	Abyan	0	0
16	Shabwah	30	0
17	Ma’rib	0	0
18	Mahrah	112	92
19	Raymah	137	95
20	Special Criminal Court	681	441
21	Aden (public finances and property)	37	25
22	Bayda’	721	437
23	Ta`izz (public finances and property)	42	27
24	Hudaidah (public finances and property)	0	0
25	Hadramawt (public finances and property)	37	30
26	Sana`a City (public finances and property)	0	0
27	Dhamar	0	547
28	Sa`dah	352	321
Totals		**19 156**	**11 907**

90. In 2006, 4,214 inspections of arrest, detention and prison facilities were conducted by public prosecutor’s offices operating in appeals courts and courts of first instance.

Women prisoners (para. 34)

91. Under article 32 of the Department of Prisons Regulation Act, the 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) Juvenile prisoners must be separated from adult prisoners;

(e) Female prisoners must be separated from male prisoners.

92. Under article 27 of the Act, in accordance with the regulations, prisoners who are pregnant must be provided with suitable pre-, peri- and postnatal care under medical supervision. The competent authorities must provide the proper regulation food to prisoners who are pregnant or are mothers. Pregnant prisoners and nursing mothers are exempt in all circumstances from the disciplinary sanctions applicable to prisoners under the Act.

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

94. We stress that these provisions are applied strictly: women police guard women prisoners, who serve their sentences in special women's facilities. The Department of Prisons offers training to women prisoners, providing them, inter alia, with literacy classes, instruction on the Koran and training in sewing, embroidery, handicrafts and computer skills. In 2008, a total of 338 women prisoners received training, mostly in literacy, sewing and embroidery skills.

95. There are now 10 women's police stations in Sana`a City, run by 27 women police officers. Shelters have also been established to provide women prisoners who are released with accommodation, food and legal, psychological and social counselling, and to help resolve any problems and disputes between them and with members of their families. These shelters also provide training in the form of sewing, embroidery and computer courses etc.

Special measures for juveniles (para. 24)

96. A number of actions and measures taken with regard to children are described below:

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

(b) A presidential decree concerning an implementing regulation for the Ministry of Justice was issued, setting out the terms of reference of its Technical Bureau. The terms of reference refer to children, in particular to efforts to improve conditions for children detained or living in correctional facilities and to provide legal guarantees to ensure that their treatment is consistent with domestic laws and international treaties.

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

(d) The Ministry of Justice, in coordination with the Ministry of the Interior and the Ministry of Social Affairs, and with support from UNICEF, is setting up a database on juveniles (as backup for the juvenile justice system). The authorities linked to the database will be the juvenile police, the juvenile prosecution service, the juvenile court and the social services.

Progress achieved

Structures and institutions

97. Work to expand the juvenile justice system has been carried out through the establishment of new authorities, institutions and procedures, as described below:

- Two juvenile courts have been set up and are staffed by two members of the juvenile prosecution service in the governorate of Hajjah
- A presidential decree has been issued establishing the General Department of Juvenile Police at the Ministry of the Interior, and providing for the establishment of three branches, in Ta`izz, Hudaidah and Sana`a governorates respectively, to be staffed by trained women police officers

- A women's and children's affairs section was set up in the Technical Bureau of the Ministry of Justice
- Social welfare facilities have been expanded with the establishment, in Tai'zz and Aden, of two new institutions to provide social support and guidance for girls, and a similar institution for boys in Hajjah governorate. Moreover, with community involvement, an internal oversight system for child protection has been established
- Two child monitoring and protection offices have been set up in Ta`izz and Hudaidah governorates, with the help of the community
- NGOs and civil society organizations are involved in managing juvenile care homes and are encouraged to support and develop programmes to protect juveniles, both in care homes and in related activities

98. The Supreme Council for Motherhood and Childhood, in cooperation and coordination with relevant bodies, has taken steps to improve the situation of children who are in conflict with the law and to establish a national welfare network for such children. The purpose of the network is to:

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

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

Social welfare

100. Social guidance homes of the Ministry of Social Affairs and Labour offer welfare services and activities and psychological rehabilitation to child offenders between the ages of 7 and 15, and facilitate their social reintegration. Programmes and services include:

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

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

102. In 2006, approximately 900 boys and girls were able to benefit from services provided by these homes.

103. In 2007, a total of 586 children received social welfare and psychological rehabilitation services at the homes in the Aden, Ta`izz, Hudaidah, Hadramawt, Ibb and Hajjah governorates and at the Sana`a City home for girls in conflict with the law.

Social guidance and child protection programme

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

- Preventing children from exposure to the risk of delinquency and protecting them from violence, abuse and exploitation
- Encouraging law enforcement bodies to make use of non-custodial measures when dealing with juvenile cases, so as to encourage the rehabilitation of juvenile offenders in the family and community setting
- Providing aftercare for juvenile offenders who have received and served a custodial sentence and helping them to reintegrate into their families and communities, thereby helping to reduce the likelihood that they will reoffend
- Encouraging the community to participate in child protection programmes; creating community-based diversionary measures as a way of protecting children from delinquency; and encouraging communities to help reintegrate child offenders and protect them from violence, abuse and exploitation

105. The work of these centres is based on a community-involvement approach. In this regard, a number of activities have been carried out, including the following:

- A survey was conducted of all the individuals in the community who could participate in the programme, including sheikhs and prominent community figures, members of local councils, head teachers and mosque imams. Consultative meetings were then held with these persons to explain the programme, and the inputs that would be required from them if the programme was significantly to curb child delinquency and protect children from violence and abuse. Training was then provided to community members participating in the programme, so as to hone their skills in this area.
- Once the programme was launched, meetings were held in Ta`izz and Hudaidah to review and assess the level of participation among local community representatives in the protection of children who fall into delinquency or are subjected to violence and abuse in the home or on the street. In approximately 80 per cent of juvenile delinquency cases which occurred in the two governorates in 2008, prosecutors and juvenile courts applied non-custodial measures. Members of local communities were involved in following up on the young persons concerned in the family and community setting. Local community members also helped to protect children found to be at risk of violence, including child victims of domestic violence.

Major difficulties faced in working with juveniles

- Understaffing in juvenile care homes
- Insufficient Government funding for juvenile care homes, especially for vocational, cultural and recreational activities
- Weak role of community associations and institutions in delivering protection services to juveniles at the governorate level, with the exception of Sana`a City and Aden

- Ongoing need for training and awareness-raising programmes for many staff working with juveniles, particularly those working directly with juveniles whether in care homes, public prosecutor's offices, the courts or the police service

Juveniles in prison (15–18 years old)

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

1. The need to isolate children completely from adult prisoners and place them in separate sections where their privacy is respected.

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

Numbers of juvenile prisoners (15 to 18 years old), from 2003 to 2008

		Year					
No.	*Name of prison*	*2003*	*2004*	*2005*	*2006*	*2007*	*2008*
1	Sana`a	46	44	53	54	63	56
2	Lahij	3	3	19	9	13	10
3	Ibb	18	9	54	36	24	25
4	Dhamar	7	35	62	36	46	36
5	Amran	8	1	14	14	15	28
6	Dali'	6	–	22	10	–	3
7	Rada'	4	7	26	38	28	31
8	Mahwit	4	1	2	1	1	2
9	Sa`dah	15	34	96	15	25	10
10	Hajjah	5	7	8	24	12	5
Total		**116**	**141**	**356**	**238**	**227**	**206**

Source: Supreme Council for Motherhood and Childhood.

Monitoring detention centres and care homes

Juvenile care homes and homes for juvenile offenders

107. In recent years, the Ministry of Human Rights has organized several visits to juvenile care homes and homes for juvenile offenders, inspecting conditions and identifying residents' needs. In the light of these visits efforts were made to contact Government agencies and members of the business community in order to create support mechanisms to help raise standards in the homes.

108. Indeed, certain failings have been addressed, nutritional and educational requirements have been met and funding has been provided. The institutions that were visited are listed below:

1. Juvenile reform institution (Sana`a City governorate) – following the visit, a list was drawn up of residents who were destitute. Letters were sent to businessmen

asking for their help to pay blood money (*diyah*) and certain debts owed by residents.

2. Amal Reform Institution for Girls (Sana`a City).

3. 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 have been discharged, returned to their home governorates and delivered into the care of their families.

4. Juvenile reform institution (Hudaidah).

5. Juvenile offenders home (governorate of Aden).

6. Juvenile care home (governorate of Aden).

Monitoring and follow-up

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

110. Children participate in monitoring and follow-up on children in juvenile justice institutions, through periodic and unannounced field visits and meetings held by members of the Children's Parliament. Through the Democracy School, they then submit recommendations to the relevant authorities.

Offences involving juvenile offenders, 2007
Office of the Public Prosecutor

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

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

IV. Independence of the judiciary

A. Guarantees of judicial independence

111. Article 149 of the Constitution states: "The judiciary is a judicially, financially and administratively independent authority and the Office of the Public Prosecutor is one of its branches. The courts hear all disputes and offences. Judges are independent and deliver their judgements subject to no authority other than the law. No party may interfere in any way in a case or a matter of justice. Such interference is a legally punishable offence which is not time-barred from prosecution." The penalty for interfering in the administration of justice is stipulated in article 187 of Act No. 12 of 1994, concerning offences and penalties, as follows: "A term of up to three years' imprisonment shall be imposed on any public official or eminent person who, by means of an order, a request, a plea or a recommendation, intervenes with a judge or a court on behalf or to the detriment of a party in a case."

112. Financial independence is one of the main guarantees of judicial independence. This is recognized as a constitutional principle in the above-mentioned article and in article 152 of the Act, which grants the Higher Council of the Judiciary the right to examine and approve the judiciary's draft budget in preparation for its inclusion as a single item in the State's general budget.

113. In accordance with article 150 of the Constitution, guarantees of judicial independence have been established, inter alia, under the Judicial Authority Act, which regulates all matters concerning members of the judiciary, including appointments, transfers, assignments and rights. With regard to their terms of service, the members of the judiciary are treated as a separate category from those whose status is regulated under the Civil Service Act.

114. Members of the judiciary have the right to petition the Supreme Court for an annulment of any decision which is detrimental to their rights, whether the decision is issued by the Higher Council of the Judiciary, by a presidential decree or by any other means.

Appointment and promotions of judges

115. The procedure for appointing judges is spelled out in the Judicial Authority Act, article 57 of which states: "Persons appointed for the first time to a position in the judiciary shall meet the following criteria:

(a) They shall be nationals of the Republic of Yemen who have full capacity and are free from any impediment that prevents them from exercising judicial functions;

(b) They shall be not less than 30 years old and shall only take up a judicial position after completing at least two years of judicial training;

(c) They shall hold a postgraduate certificate from the Higher Council of the Judiciary and an undergraduate degree in Islamic and ordinary law or in legal science from a recognized university in the Republic of Yemen;

(d) They shall be persons of good repute and sound character;

(e) They shall have no previous convictions for an offence against honour or a breach of trust;

(f) An exception for members of the Office of the Public Prosecutor shall be made to the conditions regarding the possession of a certificate from the Higher Council of the Judiciary and the minimum age requirement."

116. Public advertisements announcing competitive examinations for admission to the Higher Institute for the Judiciary are placed in the Yemeni Government newspapers. Applicants (both male and female) take written and oral examinations and successful candidates undertake a three-year course of theoretical and practical study. They receive a certificate from the Institute and are subsequently appointed to the lower ranks of the judiciary pursuant to a presidential decree which is issued after the Minister of Justice has been consulted and the Higher Council of the Judiciary has given its approval. Judges are appointed to courts of first instance or appeal courts pursuant to a decree issued by the Head of State in his capacity as the representative of the people. The Ministry of Justice, with the approval of the Higher Council of the Judiciary, nominates judges on the basis of their seniority and professional competence.

117. The President, Vice-Presidents and justices of the Supreme Court are appointed by presidential decree, based on nominations by the Higher Council of the Judiciary. In accordance with article 59 of the Judicial Authority Act, candidates are selected from a list of names which the Judicial Inspectorate draws up and submits to the Council.

118. With regard to judicial promotions, articles 61 and 62 of the Judicial Authority Act stipulate that promotions must be made from the existing grade to the one directly above it and that the candidate must have spent at least two years at the previous grade. Promotions are also based on professional competence and performance appraisal reports.

Irremoveability

119. According to article 119 of the Constitution, judges and members of the Office of the Public Prosecutor cannot be removed from office. Article 86 [of the Judicial Authority Act] states: "Having due regard for the final paragraph of article 100, judges shall only be removed from office if this is a penalty imposed in a disciplinary case brought under the present Act." This principle is linked to that of the independence of the judiciary, since the judicial function must be kept insulated from the vagaries of general and party politics in order to ensure that parties at law both trust and have confidence in the judiciary.

120. Articles 104 to 120 of the Judicial Authority Act define the functions of the Higher Council of the Judiciary in accordance with article 150 of the Constitution. In brief, the Higher Council of the Judiciary is responsible for ensuring that guarantees concerning the appointment, promotion, dismissal, transfer, retirement and separation from service of judges are applied in accordance with the Judicial Authority Act No. 1 of 1991. The Council is the body empowered to discipline judges and members of the Office of the Public Prosecutor for any breach of their official duties. It also formulates general policy on the development of the judiciary, studies draft laws relating to the judiciary and reviews and approves the judiciary's draft budget. However, the Council is not a judicial body and thus it does not issue instructions or have instructions issued on its behalf on cases which are before courts or judges or on judgements that have been handed down. Nor is the Council an administrative or executive body with the authority to issue administrative or executive instructions on judicial matters. Under article 188 of the Code of Offences and Penalties, a term of up to seven years' imprisonment shall be imposed on any judge who deliberately returns an unlawful judgement having been swayed by a plea, a recommendation, interference or bias in favour of one of the parties in a case.

Transfer of judges and length of time in office

121. The tenure of Supreme Court judges is not time-bound but continues until they reach retirement age or die. As for the appeal courts and courts of first instance, the law regulates the process for transferring judges from one court to another but does not impose any time limits on tenure. Judges will spend between three and five years in the same court without being transferred. Article 65 of the Act states:

> "(a) Judges shall not be transferred or assigned, except in the circumstances specified in this Act;
>
> "(b) Transfers of appeal courts judges shall be effected by presidential decree, subject to referral to the Ministry of Justice, prior consultations with the President of the Supreme Court and authorization by the Higher Council of the Judiciary;
>
> "(c) Transfers of judges of first instance courts shall be effected by decision of the Higher Council of the Judiciary, subject to referral to the Ministry of Justice and to consultations with the President of the Supreme Court;
>
> "(d) Save in the exceptional circumstances recognized by the Higher Council of the Judiciary … judges shall not be transferred from one court to another court unless they have served three years in the first court;
>
> "(e) No judge shall remain in the same court for more than five years without being transferred."

Discipline and accountability of judges

122. Under the Judicial Authority Act No. 1 of 1991, the Higher Council of the Judiciary is empowered to discipline judges and members of the Office of the Public Prosecutor for committing any breach of their official duties. Article 87 of the Act stipulates that, except in cases of flagrante delicto, a judge may only be arrested or held in pretrial detention with the authorization of the Higher Council of the Judiciary. Where a judge is arrested or detained in a case of flagrante delicto, the Ministry of Justice must refer the matter without delay to the President of the Higher Council of the Judiciary in order to obtain permission to continue with the detention or to release the judge on or without bail. Under article 88 of the Act, criminal proceedings may only be brought against judges with the permission of the Higher Council of the Judiciary and at the request of the Public Prosecutor. The Higher Council of the Judiciary will designate the court responsible for trying the judge.

123. The following are the main articles of the Judicial Authority Act which refer to discipline and accountability of judges.

> Article 111:
>
> 1. The Higher Council of the Judiciary has sole competence for disciplining judges and members of the Office of the Public Prosecutor who commit a breach of their official duties. The Council may refer the persons concerned to a disciplinary panel consisting of three panel members or three judges. A judge shall be considered to have committed a breach of duty, if he or she:
>
> (a) Commits an offence against honour or a corrupt act, or is proven to have shown bias in favour of one party in a lawsuit;
>
> (b) Repeatedly fails to attend sittings for no good reason;
>
> (c) Delays taking a decision in a lawsuit;

(d) Fails to set a specific time limit, during closing statements, for the completion of a sentence;

(e) Breaches the confidentiality of deliberations.

2. The Judicial Inspectorate institutes disciplinary proceedings at the request of the Minister of Justice and with the approval of the Higher Council of the Judiciary.

3. An application for the institution of disciplinary proceedings may only be presented based on a preliminary investigation conducted by the Judicial Inspectorate. The investigator must be of a higher rank than the judge being investigated.

Article 112: Having due regard to paragraphs 2 and 3 of the preceding article, the Judicial Inspectorate shall prepare the case to be heard based on all or some of the allegations filed against the judge. One month after receiving a notice of summons to appear, the judge shall appear before the panel in order to present his statements and to make his defence. If the judge fails to appear, the panel shall hear the case in his absence, having first made sure that the notice of summons was in fact served. If it sees no purpose in proceeding, the panel shall send the case file, together with the Inspectorate's comments, to the Higher Council of the Judiciary for it to take whatever action it deems appropriate.

Article 113: If the Higher Council of the Judiciary decides to proceed with a trial, it shall suspend the judge or send him on temporary compulsory leave for a period of up to three months. The Council has the right to review its decision at any time.

Article 114: Disciplinary hearings shall be conducted in camera, and the Higher Council of the Judiciary shall hear the defence of the judge whose case is before it. The judge may attend in person or appoint a representative in his place and may present his defence in writing. The judgement handed down in a disciplinary case shall include an explanation of the grounds for the court's decision. This explanation shall be read out at the hearing (held in camera).

Article 115:

1. The disciplinary measures which the courts may impose are:

(a) A caution;

(b) A reprimand;

(c) A warning;

(d) Withholding a scheduled raise;

(e) Suspension or compulsory leave for a period of up to three months;

(f) Delayed promotion;

(g) Transfer to a non-judicial post;

(h) Dismissal with pension rights or pay.

2. The decision of the Higher Council of the Judiciary shall be transmitted to the Minister of Justice, together with the judgement handed down in the disciplinary proceedings. It shall also be communicated to the judge concerned within 10 days of issuance.

124. The following articles of the Act specify the procedures for overseeing judges' work. Article 89 states: "Without prejudice to the independence of the judiciary in issuing judgements or decisions, the Minister of Justice is entitled to exercise administrative,

financial and regulatory oversight with respect to all courts and judges. The president of each court has the right to oversee the judges that report to him, and the Public Prosecutor has the right to exercise oversight with respect to the members of the Office of the Public Prosecutor in accordance with the relevant laws and decrees." Under article 90 of the Act, a court president is entitled to issue cautions to judges about possible breaches of their duties or official obligations after having heard their testimony. Cautions may be delivered orally or in writing. In the latter case, a copy shall be forwarded to the Minister of Justice. A judge issued with a written caution from a court president may appeal to the Higher Council of the Judiciary within two weeks of receiving notification. The Higher Council of the Judiciary, after hearing the judge concerned, may launch an investigation into the incident which gave rise to the issuance of the caution or may deputize one of its own members or a Supreme Court justice to do so. The Council may uphold or overturn the decision to issue a caution and must notify the Minister of Justice of its decision. The Minister of Justice has the right to caution presidents of courts of first appeal and courts of first instance after having heard their testimony, provided that, where a caution is issued in writing, the judges have the right to appeal to before the Higher Council of the Judiciary. In any event, if the misconduct is repeated or continues after the caution is made final, disciplinary proceedings will be brought.

125. Article 125 of the Act states that the Minister of Justice may issue a written caution to a judge who has breached his or her official duties, after the judge has submitted a written rebuttal but has nevertheless been proven guilty. A judge may appeal to the Higher Council of the Judiciary against a caution within one week of notification. The Council shall hear the statements of the judge and conduct or have one of its members conduct an investigation into whatever aspects of the case it sees fit. It must then issue a decision dismissing the case or upholding the appeal and annulling the caution. Its decision shall be communicated to the Minister of Justice. Under article 92 of the Act, the Ministry of Justice is required to set up a judicial inspectorate, consisting of a chairman, a vice-chairman and a sufficient number of judges chosen from among a number of court justices. These persons must be experienced and competent. They are assigned to this function pursuant to a decision of the Minister of Justice, subject to the approval of the Higher Council of the Judiciary and for a renewable term of at least two years. The chairman must be a member of the Supreme Court.

B. Procedures and measures

126. The Government takes a close interest in matters of justice and the courts and has adopted and implemented a number of policies and procedures to support the independence of the judiciary and boost its role in public life. The process of modernization and development [of the judiciary] encompasses several objectives and areas of focus, with particular stress on human resources as the linchpin of reform. A series of measures and activities have been launched in this regard, the most important of which are listed hereunder.

1. Legislative measures

127. The judiciary has adopted a strategic judicial reform plan, consisting in a number of regulatory and legislative measures: the Judicial Authority Act was amended by Act No. 15 of 2006 and the functions of the President of the Higher Council of the Judiciary were transferred from the President of the Republic to the President of the Supreme Court. These measures were followed and accompanied by reform of the legislative framework governing the courts. A number of draft laws on the judiciary have been set before the Council of Representatives, including:

- A draft law on commercial arbitration
- A draft text amending the Code of Offences and Penalties
- A draft law on court fees
- A draft law on notarization
- A draft text amending the Code of Criminal Procedures
- A draft text amending the Code of Civil Pleadings and Enforcement No. 4 of 2002; the Code was amended by Act No. 2 of 2010
- An amendment to the Commercial Code No. 32
- The issuance of the implementing regulation for the Notarization Act
- The issuance of the implementing regulation for the Act on general provisions for lesser offences
- The issuance of the implementing regulation for the Public Expropriation Act
- The issuance of the implementing regulation on legal aid and legal assistance

2. Regulatory measures

128. The Higher Council of the Judiciary and its secretariat have been restructured. The Council's terms of reference have been rewritten and the Council has been supplied with qualified staff. The Supreme Court and its registry and technical office have been restructured and an implementing regulation has been issued. The Judicial Inspectorate has been restructured and its functions have been defined in conformity with the Judicial Authority Act and the recommendations emanating from the First National Dialogue Conference on Criminal Justice in Yemen. The Inspectorate has been provided with qualified staff experienced in performing judicial oversight functions and inspections. In addition, the Accountability Council of the Higher Council of the Judiciary, which holds judges to account, has been restructured.

129. The Higher Institute of the Judiciary Act No. 34 of 2008 lays down the rules on gaining admission to the Institute and provides for the establishment of a timetable for higher studies and a revision of the Institute's curricula. A draft presidential decree was drawn up on the establishment of a criminal investigation department, defining the functions of the department and laying down regulations on its work and the work of regulatory agencies. In addition, a strategy on the development and modernization of the judiciary was designed, together with a regulation on the organization of the Ministry of Justice and its departments and on the restructuring of the Office of the Public Prosecutor. A series of other implementing regulations have been issued, including:

- A regulation on the organization of the Higher Council of the Judiciary
- Rules of procedure for the Higher Council's Accountability Council
- A regulation on the organization of the Supreme Court
- A regulation on the Real Property Register
- A regulation on the establishment of an institute of forensic medicine
- A regulation on the organization of appeal courts and courts of first instance
- The implementing regulation for the Notarization Act

130. The judicial authority has provided commercial divisions and courts with qualified, experienced and impartial staff and with justices and experts. New technologies such as the Internet and archiving systems have been introduced and a general department has been set

up for the commercial courts. Moreover, a programme has been set up to provide judicial officers who deal with commercial cases with training both in Yemen and abroad.

3. Infrastructure support for the judiciary (para. 23)

131. In order to support and strengthen the judicial infrastructure, 21 projects were launched for the creation of judicial office complexes and court buildings in a number of governorates, at a total cost of 2.8 billion Yemeni rials (YRIs). Several projects for judicial office complexes, costing over YRI 2.8 billion, are under way, and a number of public prosecutor's offices have been built and furbished in urban centres, at a total cost of YRI 743.7 million.

Prosecutor's offices established in 2007

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

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

Prosecutor's offices established in 2006

Governorate	*Name of Prosecutor's office*
Aden	Dar Sa`ad
Al-Bayda'	Rada` East
	Rada` West

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

Prosecutor's offices established in 2005

Governorate	*Name of Prosecutor's office*
Al-Bayda'	Rada` East
	Rada` West
Dhimar	Wisab al-Safil
Total	**3**

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

Data on the number of members of the Office of the Public Prosecutor working at different prosecutor's offices in the governorates of Yemen in 2007

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

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

4. Information Technology Department of the Judiciary

132. The Ministry of Justice carried out an automation programme with a view to creating a comprehensive database for judicial bodies and establishing a network to link 27 appeal courts and courts of first instance, in addition to the Office of the Public Prosecutor and the Higher Institute of the Judiciary, to the central network of the Ministry's Judicial Information Centre. An information centre for the Supreme Court was also established. The performance indicators show that the procedures for bringing and deciding cases have been simplified: the proportion of cases before a court of first instance in which a decision was rendered rose from 59 per cent in 2000 to 70 per cent in 2005.

5. Measures to speed up decision-making in court cases

133. In order to deal with the heavy caseload in the courts, 95 judges were appointed as presidents of courts of first instance in a number of governorates. The Judicial Inspectorate was able to follow up on and resolve 397 cases that were still pending when the judge dealing with them was transferred elsewhere or had retired. Based on a series of unannounced inspections, the Inspectorate identified a total of 413 protracted cases pending before courts throughout Yemen and instructed the relevant judges to complete them. The cases were found to be with 54 judges, 13 of them appeal court presidents, 27 presidents of courts of first instance and 14 judges hearing summary offences in courts of first instance. A total of 397 protracted cases were resolved after the judges concerned had been contacted and urged to speed up their deliberations and to communicate their decision to the courts where they had formally served. There are now only 16 cases outstanding, and these were being heard by judges who have since died.

Prosecutor's offices at courts of first instance and appeal courts

134. A total of 47,260 cases were taken up by prosecutor's offices at courts of first instance and specialized courts throughout Yemen in 2006. Of these, 42,315 cases were settled – a completion rate of 90 per cent.

Total number of cases, 2001–2007

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

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

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

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

6. Promotions and transfers of judges

136. Promotions are decided on a regular basis. A total of 1,010 judges and members of the Office of the Public Prosecutor, including 40 women, were given promotions pursuant to Presidential Decree No. 5 of 2008, and a partial mobility exercise involving the transfer of 273 judges and members of the Office of the Public Prosecutor was conducted.

7. Measures to ensure judicial impartiality (inspections and accountability)

137. In the context of reforms to ensure the independence of the judiciary, a draft code of conduct was drawn up for members of the judiciary and circulated among judges and other relevant parties for comments. The Judicial Inspectorate now plays a larger role in monitoring the work of judges and appraising their performance, conducting scheduled and unannounced inspections, receiving complaints from the public and examining them based on desk research and field investigations. In 2006, the Judicial Inspectorate undertook 46 field and unannounced inspections, targeting all judges of courts of first instance and appeal courts, 54 appeal divisions staffed by 162 judges and 250 courts of first instance and specialized courts staffed by 348 judges. The Complaints Department received, reviewed and processed 3,989 complaints. A total of 56 judges were summoned to the Inspectorate for clarifications and interviews about allegations of misconduct. Thirteen cautions were issued to judges proven to have committed a breach of duty and five judges were referred to the Accountability Council for disciplinary proceedings. Advisories were issued to a number of courts, instructing them to address a number of failings.

138. In 2007, several rounds of inspections were held, including 35 unannounced inspections and 12 inspections involving field investigations. Appraisals were carried out of all 297 appeal courts and courts of first instance throughout Yemen, as a result of which 50 judges were summoned for clarifications and appropriate investigations were conducted. Moreover, 12 judges were sent before the Accountability Council and 10 cautions were issued. A total of 28 advisories were sent to judges, and the Complaints Department received and processed 2,886 complaints.

139. In 2008, the Inspectorate conducted unannounced inspections targeting 367 judges and members of the Office of the Public Prosecutor operating in 26 courts of first instance and 7 appeal courts. As a result, 131 judges were summoned, and 253 advisories and disciplinary cases were referred to the Accountability Council. Judges and members of the Office of the Public Prosecutor were notified and issued with cautions in connection with allegations of misconduct.

8. Measures concerning women

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

141. A woman has been appointed to the Supreme Court bench for the first time in Yemeni judicial history. There are 66 women judges, and women also hold senior positions such as those of chief public prosecutor and deputy undersecretary at the Ministry of Justice. A total of 256 women perform technical, clerical and service functions at the Ministry and the courts. The Ministry and its branches employ over 600 women, and that figure is growing.

9. Coordination mechanism with the Ministry of Justice to help modernize and develop the judiciary

142. The Ministry of Justice has adopted several mechanisms to modernize and develop the judiciary based on the Strategy for the Modernization and Development of the Judiciary 2005–2015 and taking account of new developments and the Ministry's new functions. Committees to prepare and review draft implementing regulations and to design plans and programmes have been established. These include:

- A committee to draft an action plan on good governance and the elimination of corruption
- A committee to oversee the implementation of programmes
- A committee to oversee the implementation of the awareness programme being run in the weekly supplement ("Issues and people") of Al-Thawrah newspaper

Circulars designed to help protect human rights are issued. Of these, we draw attention to the following:

- A circular on the urgent consideration of minor offences relating to technical specifications, technical standards and quality control
- A circular on compliance with the legal regulations and procedures for nominating candidates for top positions
- A circular on the recommendations of the Higher Committee on the Question of Prisons and Prisoners

143. There is also a mechanism for conducting legal and judicial studies and research, including, in particular:

- The preparation of a comprehensive study on a judicial map that will allow for the territorial jurisdiction of all public prosecutor's offices and courts of the Republic to be reconfigured in such a way as to guarantee parties at law access to their rights by the simplest possible means
- A feasibility study on the creation of registries for administrative cases
- A study, conducted in accordance with Cabinet Decision No. 2 of 2007, on granting legal aid to the poor and to women and children by appointing judges to assess cases of indigence
- A study by the Juveniles Court in Sana`a City of a project to support the resolution of enforcement and liaison issues relating to young persons
- A detailed comparative study, conducted by the Ministry in 2006, of statistical data and information on the status of women and men

144. In regard to the development of procedures and mechanisms for the administration of justice and efforts to set up training and further training courses, experts from a number of Arab States have been recruited to appraise the administrative mechanisms and procedures used by the courts. In addition, judges have been sent on mission to learn from the experiences of some fraternal and friendly States. The interest taken in the administration of justice is furthermore reflected in the issuance of publications and circulars, the practice of sending interpreters to assist the profoundly deaf when appearing in court or during interrogations and the distribution of informational posters for the profoundly deaf.

145. Several workshops have been held on combating corruption and terrorism and on harmonizing domestic legislation with international counter-terrorism conventions.

Moreover, workshops and courses have been run on juvenile justice and the transparency and independence of the courts. Seminars and workshops have been organized on specialized branches of the judiciary, with a focus on the commercial courts. The strategy developed by the Ministry of Justice includes automation of processes in the courts.

146. The guarantees which the judicial authority offers and puts into practice are rooted in the Constitution and the laws in force. The laws and procedures are applied, bearing in mind human rights and their realization on the ground. Hence, the Ministry of Justice seeks to build the capacities and to develop the skills of the members of the judiciary, based on a programme of training and awareness-raising which, in turn, contributes to the realization and protection of human rights. Consultative meetings, seminars and workshops are run to help improve participants' expertise in the areas of administrative organization, planning, monitoring, inspections and investigations. In this context, we should like to recall the first consultative meeting for directors of appeal courts and specialized court divisions which was held in December 2007, together with a workshop on combating corruption offences.

147. In order to ensure follow-up on human rights issues and matters, a section called the Section on Women, Children and Human Rights was set up as part of the Technical Bureau of the Ministry of Justice to perform various tasks and functions relating to the rights of women and children, human rights, and issues concerning refugees and women prisoners. Sixteen lawyers were contracted to defend women and their rights.

148. With a view to guaranteeing accused persons, particularly the poor, the right to defend themselves before judicial bodies (public prosecutor's offices and the courts), a regulation was issued setting out the procedure for granting legal aid and judicial assistance to men, women and children who are poor.

149. In order to guarantee children and young persons the right to a defence, the Ministry of Justice has organized training for juvenile judges and has taken the initiative of offering children legal aid and judicial assistance, by contracting lawyers to follow up on juvenile cases and to plead on behalf of children and young persons at police stations, public prosecutor's offices and in the juvenile courts. The Ministry of Justice engaged 16 lawyers to provide this service, paying them a fee of YRI 16,000 each per month. This amount was increased, with effect from January 2008, to YRI 30,000 per month (an annual cost of YRI 5,760,000).

V. Difficulties (para. 13)

Development challenges

150. Unresolved issues such as population growth, the wide dispersion of the population, growing rates of illiteracy and unemployment, lack of progress in the areas of production and the acquisition of modern know-how, and the fact that Yemen remains on the list of countries with a low level of human rights development offer vivid and concrete examples of the huge problems confronting the development process in Yemen. The Third Development Plan, which is a component of the long-term planning process, was drawn up to identify, tackle and overcome these challenges and obstacles with a view to realizing the aims set out in the future vision for Yemen.

151. In the past, successive Governments have made unstinting efforts to achieve the kind of economic and social development which has a positive impact on all areas of development and political and institutional life. However, given the socio-economic situation in Yemen, additional efforts are still needed in order to achieve the objectives set,

to escape the cycle of underdevelopment and to realize the ambitions and aims of current and future development processes.

Government measures

152. The Third Socio-Economic Development Plan for Poverty Eradication 2006–2010 is an important starting point for the process of development, for providing a decent and productive life to all members of Yemeni society, for improving the standing of the national economy in the region and for moving forward with the realization of long-term development goals. The document of the Third Development Plan was drawn up based on some first principles and reference documents, namely, the Strategic Vision for Yemen 2025, the Millennium Development Goals, the first and second five-year plans, the Poverty Reduction Strategy, the Economic, Financial and Administrative Reform Programme and the National Reform Agenda.

153. The overall aims of the Plan are encapsulated in two main areas of focus. The first area of focus is on: promoting economic growth in all sectors of the economy; freeing up growth potential in promising sectors; improving the investment climate; harnessing the resources of the private sector in order to achieve economic growth; and making use of the economy's comparative advantage, natural resources and potential. The second area focuses on curbing poverty and liberating the poor from need by developing a comprehensive vision of mechanisms and means for addressing and mitigating the impact of poverty as a structural socio-economic phenomenon.

154. The Third Socio-Economic Development Plan for Poverty Eradication 2006–2010 encompasses a raft of policies and procedures designed to: improve good governance, based on the separation of State powers; develop the judicial authority and boost its independence; reform and modernize the public administration; develop policies and mechanisms to combat corruption; promote freedoms and protect human rights; intensify decentralization efforts and boost the role of local government; provide equal opportunities in education and health; empower women in political, economic and social life; widen the social protection umbrella for citizens; and strengthen social security net programmes in all governorates, bearing in mind the need to strike a balance between rural and urban areas.

VI. Expulsion of foreigners (paras. 14 and 15)

155. Act No. 47, concerning the entry and residence of foreigners, lays down the procedures to be followed when expelling a foreigner and defines the authority with competence in this area. Article 34 of the Act provides for establishment of an expulsion committee to be chaired by the competent undersecretary of the Ministry of the Interior. Expulsions are carried out further to a decision of the Minister of the Interior, which, in turn, is based on a decision of the expulsion committee (art. 30).

156. With regard to the appeals procedures open to foreigners, foreigners have legal capacity to bring cases before the Yemeni courts. There is nothing in the law to prevent a foreigner from appealing against an administrative decision ordering his or her expulsion.

157. Yemen has embraced the principle of non-extradition on political grounds, in keeping with international and regional treaties, in particular the Arab Convention on Judicial Cooperation (the Riyadh Convention), which was signed on 6 April 1983 by the Arab ministers of the interior and ratified by Yemen in 1984, and the Arab Convention on the Suppression of Terrorism, which was signed by the Arab justice and interior ministers on 22 April 1998 and ratified by Yemen in 1999.

VII. Training and awareness-raising programmes for judges and law enforcement officers (paras. 19 and 20)

Training programmes for judges and public prosecutors

158. Judicial reforms have focused on the Higher Institute of the Judiciary, particularly on developing and updating its curricula and supplying it with qualified and specialized personnel. Ongoing efforts are made to build the capacities and improve the skills of judges by providing continuous training in all the areas where judges and members of the judiciary have training needs. Several courses have been held at home and abroad, including for 1,450 judges and members of the Office of the Public Prosecutor. Special external training courses have been held for commercial court judges and lawyers, and a number of courses have been run on commercial law and arbitration, including with reference to commercial treaties and commercial laws. Fifteen judges have been sent abroad to pursue higher studies and 184 have taken part in study visits abroad.

159. The training provided by the Ministry of Justice covers a diverse range of judicial and administrative subjects (courses, seminars, workshops and attendance at domestic and foreign events). In this regard, we should like to draw attention to the following:

- Seven training courses were held between 2006 and 2008 on using non-custodial measures and community-based diversionary measures, as provided for under Yemeni law and international treaties, to deal with juvenile offenders. Over 290 judges and members of the Office of the Public Prosecutor, the police, the Social Welfare Home and local councils took part in the courses.
- The Higher Institute of the Judiciary, in cooperation with the Red Crescent organization, ran a training course on international humanitarian law and the International Criminal Court for 27 judges and members of the Office of the Public Prosecutor.
- A regional training course on international Islamic law was held in Kuwait (attendance).
- A training course on economic empowerment was held in Cairo (attendance).
- A workshop was held on coordination of efforts to eliminate violence against children (attendance).
- A training course was held on supporting legal training for youth workers.

Training courses held for members of the Office of the Public Prosecutor in 2007

No.	*Location*	*Description*	*No. of courses*	*No. of participants*	*Course venue*
1	Abroad	Organized and transboundary crime	1	6	Egypt
2	Abroad	Computer Crimes	1	6	Morocco
3	Abroad	Corruption and money laundering	1	5	Egypt
4	Abroad	Legal regulation of public prosecutor’s offices	1	5	Jordan
5	Abroad	Second Annual Conference of the International Association of Anti-Corruption Authorities	1	2	Indonesia

No.	*Location*	*Description*	*No. of courses*	*No. of participants*	*Course venue*
6	Abroad	Training course for trainers	1	2	France
7	Yemen	Counterfeiting crimes	1	4	Sana`a
8	Yemen	Training of new judicial assistants	1	129	Higher Institute of the Judiciary
9	Yemen	Electronic payments, financial transactions and online banking under Yemeni law	1	15	Sana`a
10	Yemen	Workshop on combating corruption, held in conjunction with the Office of the Advocate General which deals with public finances and property and in cooperation with the German Cooperation Agency (GTZ)	1	98	Office of the Public Prosecutor
11	Yemen	Human rights during trials and in detention, in cooperation with a programme to modernize public prosecutor's offices	1	42	Ta`izz
12	Yemen	Training course on the use of computers, held in cooperation with the programme to modernize public prosecutor's offices	1	63	Sana`a – Aden – Ta`izz
Total			**12**	**377**	

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

Training of members of the Office of the Public Prosecutor in 2004

No.	*Description*	*No. of members who attended the course*
1	Criminal procedures	14
2	International Law	20
3	Special course for assistant public prosecutors	54
Total		88

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

Number and types of courses attended by members of the Office of the Public Prosecutor in 2005

No.	*Description*	*No. of courses*	*No. of members who attended the course*
1	International counter-terrorism framework	1	4
2	International humanitarian law	1	10

No.	*Description*	*No. of courses*	*No. of members who attended the course*
3	Special course for assistant deputy prosecutors	2	106
4	Juvenile judges	2	16
5	Role of judicial inspection	1	14
Total		**7**	**150**

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

Training and capacity-building on children's issues

160. A training manual ("The Hope Manual") was designed for juvenile judges, with the support of the United Nations Children's Fund (UNICEF), and began to be used in 2006. The Supreme Council for Motherhood and Childhood, in cooperation with the Ministry of the Interior and with the support of UNICEF and a Swedish child welfare organization, organized four training courses and awareness-raising workshops for police officers from various governorates of Yemen to provide them with information about the contents of the two Optional Protocols to the Convention on the Rights of the Child.

161. Juvenile justice professionals are offered training and capacity-building to improve their knowledge of the Convention on the Rights of the Child and other relevant international instruments, together with specialized training on legal, social and psychological aspects of their work. Courses are targeted at judges, members of the Office of the Public Prosecutor, the police, social workers, lawyers and representatives of relevant civil society organizations. The main areas of focus are:

- Legal protection of minors in accordance with domestic legislation, the Convention on the Rights of the Child and United Nations norms and principles concerning children
- Skills development for youth workers involved in social work and the delivery of psychosocial assistance
- Promoting the use of non-custodial measures and community-based diversionary measures
- The organizations which deal with these issues
- Briefings and seminars for youth workers on children's rights under domestic legislation and international treaties
- Training and participation in training and missions abroad to learn from the experiences of other countries in providing for the protection and welfare of minors

162. The General Department for Women's and Juvenile Affairs at the Ministry of the Interior runs various training courses for members of the police (males and females) on these themes. A total of 598 persons attended the following courses:

- Using the "Hope Manual", the Department ran a training course on psychological and legal processes for dealing with young persons. The course was designed for 80 female police officers, 40 from security branches in the governorates and 40 from Sana`a City, and relevant legal concepts concerning children were explained. This one-week course was held in July 2007.
- A training course on the worst forms of child labour was held for 30 police officers from security branches in the governorates. The concepts underpinning the Child

Labour Act were explained and information was provided on occupations where child employment is prohibited. The event was held in 2008 by the Ministry of Social Affairs and Labour, with the support of the International Labour Organization (ILO).

- A training course on the protection of children during a state of emergency and on the involvement of children in armed conflict was attended by four police officers and four members of the women's police force. The articles of the relevant Protocol were explained. The course was held by the Ministry of Social Affairs and Labour, with support from the United Nations Population Fund (UNFPA).
- A training course was held for police officers and members of the women's police force in security branches in the governorates and Sana`a City. It lasted five weeks and was designed for 400 participants. Explanations were given on domestic and international laws on children, as well as the Convention [on the Rights of the Child] and the two Optional Protocols thereto. Best practices in dealing with child victims were discussed. The course was held in August and October by the General Department for Women's and Juvenile Affairs, with support from UNICEF. The technical secretariat of the Supreme Council for Motherhood and Childhood, with the participation of members of the national network for the welfare of children, coordinated and conducted field visits to a number of friendly and fraternal States (Jordan, Malaysia and Indonesia) to learn from their experiences and exchange information about juvenile justice. Support for the initiative was provided by UNICEF and a Swedish child welfare organization.

163. The Ministry of the Interior, in cooperation with the Supreme Council for Motherhood and Childhood and with support from UNICEF and a Swedish child welfare organization, organized an awareness-raising week targeting policemen, juvenile court judges, social workers, deputy public prosecutors and public prosecutors from all governorates of Yemen who work in juvenile justice.

164. The Ministry of Justice has designed and run several training courses to improve the skills of professionals who deal with young persons, including appeal court presidents, juvenile court presidents, court judges, chief prosecutors, deputy prosecutors, members of the prosecution service, lawyers who are experts in social issues, members of local councils, directors of social affairs and labour offices and staff of civil society institutions and organizations. These training courses cover the following areas:

- Specific aspects of juvenile justice
- Justice administration and non-custodial measures
- Conversion programmes and non-custodial measures for young persons
- Specific aspects of juvenile justice and principles of correctional justice as applied to young persons
- Supporting psychological, social and legal training for youth workers

Ministry of the Interior programmes

165. The Ministry, in cooperation with the Ministry of Human Rights and civil society organizations, ran several training courses, which were attended by 360 officers and members of the Ministry's women's police force.

VIII. Receiving complaints about misconduct by officials (para. 26)

Legal provisions

166. The laws in force ensure that resolute action is taken against the perpetrators of torture offences. Members of the police and security forces who commit torture offences are legally accountable for their actions vis-à-vis the administration. Disciplinary measures are taken against them by a disciplinary board, which will try them in accordance with article 99 of the Police Forces Act. In addition, under article 101 of the Act, the Minister may issue a decision referring a case for a disciplinary hearing. Without prejudice to the right to a defence, the decision may specify that the person concerned has been accused of torture.

167. These measures do not impinge on the right of a torture victim to lodge a complaint with a State body and to seek legal redress. Yemeni law guarantees prisoners the right to lodge a complaint with State agencies and institutions at any time. Thus, article 51 of the Constitution states: "All citizens have the right of legal recourse as a means of protecting their lawful rights and interests. They also have the right to submit complaints, criticisms and proposals, directly or indirectly, to the organs and institutions of the State." Article 48, paragraph (e), of the Constitution states: "The law shall determine the punishment to be imposed on any person who violates any part of this article and the appropriate compensation to be granted to a person who suffers damage as a result of such a violation. Physical or psychological torture at the time of arrest or during detention or imprisonment is an offence that is not time-barred from prosecution. Every person who perpetrates, orders or participates in this offence shall be liable to prosecution."

168. Article 5 of the Code of Offences and Penalties states: "A person who is sentenced to the penalties prescribed under the present Code shall not thereby be relieved of the obligation to make restitution and pay compensation to the other party." Article 43 of the Code of Criminal Procedure states: "Every person who has suffered damage as a result of a criminal offence may sue for damages in criminal proceedings, regardless of the monetary value of the damage incurred as a result of the offence."

169. Article 44 states: "A civil suit may be brought independently of a criminal case that has already been filed or that is filed during the course of the civil suit. It shall be for the court to take such urgent precautions as it sees fit to protect the injured party, provided that, where the criminal case is suspended as a result of the defendant suffering a mental impairment, a decision in the civil suit is nonetheless taken." Article 47 states: "Where the victim of an offence is a person without capacity who has no legal representation, the Office of the Public Prosecutor or the court hearing the criminal case shall appoint a representative to plead for him or her in the civil suit. Under no circumstances shall the victim be required to pay legal costs in such an event."

170. Article 48 stipulates: "A civil suit for damages shall be brought against the person accused of the offence. If that person lacks capacity and has no representative, the court may appoint a representative or accept representation by the Office of the Public Prosecutor. A civil suit may likewise be brought against those who bear civil responsibility for the actions of a defendant in a criminal case. The Office of the Public Prosecutor may include civil defendants in a case, even where there is no plaintiff, with a view to securing a judgement for payment of the Government's legal costs."

171. Article 55 states: "A civil claim concerning a violation under part II of this Code, regarding the protection of citizens' freedoms, shall be extinguished by lapse of time ... However, if a criminal case is discontinued for any reason whatsoever, this shall have no impact on the conduct of a civil suit brought in conjunction with that case."

172. The Code lays down the procedures to be followed to investigate all complaints against law enforcement officers. The Office of the Public Prosecutor, in its capacity as an independent judicial authority, is empowered to investigate such complaints. As stated in part III, article 149, of the Constitution: "The judiciary is a legally, financially and administratively independent authority and the Office of the Public Prosecutor is one of its branches. The courts hear all disputes and offences. Judges are independent and deliver their judgements subject to no authority other than the law. No party may interfere in any way with the administration of justice. Such interference is a legally punishable offence which is not time-barred from prosecution."

173. Consistent with the above, article 91 of the Code of Criminal Procedure states: "Law enforcement officers are responsible for investigating crimes, apprehending criminals, investigating reports and complaints, gathering evidence and information and recording it in reports for submission to the Office of the Public Prosecutor." Article 193 states: "Every person deprived of his or her liberty is entitled to submit a written or oral complaint at any time to the governor of the correctional facility in which he or she is detained and to ask for the complaint to be forwarded to the Office of the Public Prosecutor. Every governor of a correctional facility to whom a complaint is submitted shall accept it and forward it without delay to the Office of the Public Prosecutor, after having recorded it in the proper register."

174. Article 562 of the Code stipulates: "Police officers shall transmit to the Office of the Public Prosecutor, as received, all complaints which are lodged with them."

175. Paragraph 2 of the General Directives of the Office of the Public Prosecutor on the Application of Criminal Procedures states that law enforcement personnel must accept all crime reports and complaints submitted to them. They and their subordinates must obtain full clarifications and conduct whatever inquiries are necessary to facilitate the investigation of the reports and to deal with them appropriately. They must take every precaution to preserve criminal evidence. All actions taken by law enforcement personnel must be recorded in reports, which they must sign, giving particulars of the time and place when the action was taken. Article 3 of the Directives states: "Every member of the Office of the Public Prosecutor, upon being informed of a criminal offence, whatever its gravity, shall proceed immediately to the scene of the crime." Article 8 states: "Where a complaint is made against a law enforcement officer for a breach or for dereliction of duty, the member of the Office of the Public Prosecutor who receives the complaint shall write to the Director of the Office of the Public Prosecutor for his opinion on the matter, if he considers the complaint to be well-founded. If the complaint is particularly serious, the Director of the Office of the Public Prosecutor shall refer the matter to a public attorney who, in turn, shall consult the Public Prosecutor." Article 9 states: "Members of the Office of the Public Prosecutor shall personally investigate complaints against law enforcement officers. They shall not delegate the task to any other party." Article 30 states: "As soon as a member of the Office of the Public Prosecutor receives a report about an incident, he shall go to investigate it, even if there is a doubt or a dispute over the question of jurisdiction. Upon completing the investigation, he shall forward the details to the Director of the Office of the Public Prosecutor, appending a memorandum setting out his views on the question of jurisdiction." In addition, article 44 stipulates: "The investigator shall not show witnesses that he is sceptical about their testimony, by making intimidating remarks or gestures which inhibit them from stating the facts that they wish to present." Article 62 states: "Where a report is submitted about a serious offence that has already been investigated, the members of the Office of the Public Prosecutor shall investigate the new facts that have been reported." Article 63 states: "Members of the Office of the Public Prosecutor shall personally investigate all allegations brought against an officer of the Armed Forces or the police concerning the commission of a serious offence, regardless of whether or not the offence was committed during or in the course of duty. Military offences shall be investigated by the Office of the Judge Advocate General pursuant to the Military Criminal

Code." Article 64 states: "Where a member of the Office of the Public Prosecutor is informed of a criminal offence committed by a court officer or employee during or in the course of duty, he shall take statements from the complainant and the witnesses and shall then consult the Director of the Office of the Public Prosecutor as to whether to question the accused and continue with the investigation, depending on whether the complaint appears to be founded." Lastly, article 69 of the Directives states: "The accused, the victim, the plaintiff, the civil defendant and the representatives of these persons have the right to be present during all examination procedures. The member of the Office of the Public Prosecutor in charge of the case may conduct an examination in their absence, if the matter is urgent or if he considers it necessary in order to establish the facts, given the nature of the case or the fear that the witnesses could be intimidated or turned in favour of one of the parties. The parties may review the examination record upon their return or when the situation which necessitated the conduct of the examination in their absence no longer obtains."

176. Needless to say, where the Office of the Public Prosecutor determines that a complaint involves a torture offence, it must bring criminal proceedings with a view to having the accused tried by a competent court.

IX. Criminal sanctions (paras. 31 and 32)

177. The report provides clarifications on the judicial and legal safeguards associated with the imposition of the death penalty. With reference to the question on the death penalty contained in paragraph 32 of the Committee's list of issues (CAT/C/YEM/Q/2), the legal analysis paper incorporates the recommendation set out in paragraph 15 of the concluding observations of the Human Rights Committee [CCPR/CO/84/YEM]. The paper and its recommendations were discussed at the First National Dialogue Conference on Criminal Justice and Yemeni Legislation. The Conference produced a set of recommendations on legal and institutional reform in Yemen, including one on limiting the scope of capital punishment as a discretionary penalty, by confining its use to only the most serious crimes. A study is to be carried out on how best to implement these recommendations. It is worth noting that over the period 2006–2008 a total of 283 death sentences were executed.

178. With regard to stoning, this penalty has not been applied in Yemen for centuries. Moreover, the penalty, which is prescribed under the Criminal Code, is virtually impossible to carry out, given the number of exceptions listed in article 266 of the Code.

179. With regard to the minimum age of criminal responsibility, article 31 of the Code stipulates that no person who was below 7 when he or she committed a criminal offence shall be held criminally responsible for the offence. If a minor between the ages of 7 and 15 commits an offence, the court must replace the prescribed penalty with one of the measures laid down in the Juveniles Act. If the offender is over 15 but under 18, the penalty imposed must be half the maximum legally prescribed penalty. If the penalty is death, a term of from 3 to 10 years in a custodial facility shall be imposed. In all events, a custodial sentence must be served in a special facility which offers the offender appropriate treatment. A young person does not bear full criminal responsibility if he or she was below 18 when the offence was committed. If the age of the accused has not been determined, the court shall engage an expert to do so.

180. Under a set of draft amendments, this article has been amended to read as follows: "No penalties or measures shall be imposed on a child who was below 7 when he or she committed an offence. If the child was over 7 but under 15, the court shall impose, by way of an alternative to the prescribed penalty, one of the measures laid down in the Juvenile

Welfare Act. If the perpetrator was over 15 but under 18, the penalty imposed shall be not more than one third of the maximum legally prescribed penalty. If the penalty is death, a term of from 3 to 10 years in a custodial facility shall be imposed. In all events, a custodial sentence shall be served in a juvenile rehabilitation and care facility. A child does not bear full criminal responsibility for an offence committed when he or she was below 18. If the age of the accused has not been determined, the court has the option of engaging a competent physician to do so."

181. During a discussion of the draft amendments with the relevant committee at the Council of Representatives and the national expert, it was agreed that the minimum age of criminal responsibility would be raised to 10 years.

182. The draft amendment to the Juvenile Welfare Act (art. 1 bis) defines a juvenile, for the purposes of the Act, as any person who was over 10 and under 18 when he or she was at risk of delinquency or was considered a danger to society or committed an unlawful act.

183. These provisions are consistent with the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the "Beijing Rules") as they relate to the reduction of penalties. Rule 17.2 states: "Capital punishment shall not be imposed for any crime committed by juveniles."

Paragraph 35

184. With regard to torture and parental discipline, article 146 (c) of the Children's Rights Act stipulates that the State, acting through the Ministry of Social Affairs and the Supreme Council for Motherhood and Childhood, shall protect children from ill-treatment and exposure to physical torture and shall refer cases where children are subjected to such acts to the courts, having due regard for the legitimate and legal right of parents to discipline their children. The draft amendments to the laws on children contain a new draft article restricting the right to discipline a child. The draft article states: "The right to impose discipline shall in no way justify the following acts:

- The infliction of a severe beating which causes a disability or wounds
- Disfigurement or the amputation of a limb
- Burning or the use of materials that damage or affect the body
- Denial of food or drinks
- Expulsion from the home

(b) A term of up to five years' imprisonment and a fine of up to YRI 5,000 shall be imposed on any person entitled to discipline a child who commits any of the offences listed in paragraph (a). This shall be without prejudice to the victim's right to claim payment of blood money and an indemnity for bodily injury, as the case may be. The justification for imposing these restrictions on the right of parents and persons acting in *loco parentis* to discipline children is the desire to avoid this right being abused in such a way as to cause unlawful injury.

X. Trafficking of children (para. 36)

185. The problem of child smuggling in Yemen, in terms of its causes and objectives and the means used, is very different from the problem in Western States, the Americas and the Far East. The circumstances and the factors at play are entirely different from the situation that is known to obtain in certain countries which are notorious for child smuggling. Based

on a review and an analysis of the reports issued by the Harad Reception Centre, together with the findings of a study conducted in 2004, it seems that approximately 90 per cent of child smuggling in Yemen involves children who are used to smuggle goods. The other 10 per cent involves the exploitation of children as beggars in the Kingdom of Saudi Arabia. A child will be exposed to a number of unhealthy psychosocial influences and dangers during the outward and return journey, while staying in the border areas of neighbouring States or while returning to his home region. The Yemeni Government takes the view that this phenomenon is largely a matter of irregular migration by children, not child trafficking.

186. The reports produced by the Harad Reception Centre show that, between May 2005, when the Centre began operating, and August 2006, a total of 862 children, all of them boys, were taken in by the Centre after being returned to Yemen by the Saudi authorities. In 2007, the Centre received a total of 622 children, also all boys. This figure is an indicator of the level of public awareness of the seriousness of this issue and of the problems that a child may face in connection with smuggling.

187. The Government has made numerous efforts to combat this phenomenon, including in the following areas.

1. Plans and strategies

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

- Creating a database that will help to promote understanding of the situation of deprived children
- Developing shared concepts and promoting joint action (governmental institutions and civil society organizations) in order to help deprived children
- Introducing social welfare measures
- Strengthening judicial reform and improving laws on young persons by, for example, raising the age of criminal responsibility and establishing provisions on diversionary measures
- Endeavouring to eliminate violence against children by monitoring and documenting cases and rehabilitating and reintegrating victims

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

- The development of legislation and laws
- Strengthened coordination, cooperation and partnerships
- The development of initiatives and programmes to prevent the spread of this phenomenon
- Protection measures

- Training, capacity-building and the acquisition of know-how
- Awareness-raising and the dissemination of information

2. Development of legislation

190. Draft amendments were drawn up to bring the laws on children's rights into line with the Convention on the Rights of the Child and other international standards. In addition, amendments were introduced in order to establish provisions explicitly criminalizing child smuggling, the exploitation of children in begging and the sexual exploitation of children and to prescribe penalties therefor. A new section (Section 4) was added to the Code of Offences and Penalties under the title "Child exploitation offences". The section consists of three sub-sections, one of which refers to child smuggling.

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

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

3. Strengthened coordination and partnerships

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

4. Studies

193. A field study on child smuggling entitled "Study on the situation in the governorates of Hajjah and Al-Muhwayt" was carried out in 2004. Two rounds of discussions on the findings of the study were held with all governmental and civil organizations, relevant international organizations and the Government, private and foreign media. A feasibility study on social reintegration programmes was conducted from 2005 to 2006. An evaluative study on the problem of child smuggling is due to be carried out in 2010.

5. The media and awareness-raising

194. This area encompasses a range of activities and programmes which are carried out by Government agencies and partner civil society organizations, as described below.

- Public talks and media events have been organized, via the broadcast and print media, to raise awareness of the problem, its dangers and ways of preventing it. Radio programmes and messages have been aired on *Hajjah* and *Fadliyah* Radio and on Radio Sana`a, and a number of articles and news reports on the problem have been published.
- A documentary film to raise awareness of the problem of child smuggling was produced for use in schools, with families and in target communities.
- Consultations were held with the Department of Civil Status and Civil Registration on mechanisms for improving and developing the birth registration system. This will help to curb the practice of forging children's and smugglers' identity documents.
- Awareness campaigns for police officers on the problem of child smuggling have been run by the Department of Moral Guidance at the Ministry of the Interior. These campaigns have helped to sensitize police officers to child smuggling methods, the factors involved and the forms that smuggling takes and have helped to improve controls and methods for intercepting child smugglers.
- An animated film has been produced on the impact and dangers of child smuggling.
- Awareness campaigns have been carried out locally in targeted regions and districts.
- Children are involved in campaigns to raise awareness of this problem in certain districts.
- An awareness workshop for children was held to discuss child smuggling and to design a wall poster including children's drawings.
- Efforts are coordinated with the Council of Representatives to help curb the problem and to mobilize support in the parliament for efforts against child smuggling.
- A publication containing children's drawings and using the slogan "No violence and no smuggling" was produced.

6. Development and improvement of security and judicial measures

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

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

197. Branches of the Ministry of the Interior have referred a number of persons accused of child smuggling to the Office of the Public Prosecutor and the courts. A total of 94 such persons were referred in 2004, 154 in 2006 and 6 in 2007.

198. Child smuggling cases are treated by the Office of the Public Prosecutor and the courts as urgent matters, and a number of convictions have been handed down to child smugglers (terms of imprisonment ranging from six months to three years). In 2005, a total of 22 convictions were handed down against individuals involved in child smuggling.

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

199. Social protection centres for children have been established in the regions of Harad and in Sana`a City. These centres offer assistance, psychosocial support and reintegration for child victims of smuggling who are sent back from the Kingdom of Saudi Arabia overland (through Harad) or by air (Sana`a Airport) or who are picked up by the security services during interception exercises.

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

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

202. The running of the Harad Reception Centre was entrusted to a non-governmental organization, thus boosting the active participation of prominent civil society organizations in child protection programmes. In addition, a child protection team was established at the subdistrict level in the Aflah al-Sham district, in the governorate of Hajjah, as an experiment that could be extended to other districts if it proves successful. A sports leisure

centre for children has been established in the district and supplied with equipment and facilities, as a way of helping to raise awareness among young people in the area and dissuading children from leaving the district.

8. Training and capacity-building

203. A number of training programmes for specialists have been run on combating child smuggling. UNICEF supported a training programme run by the International Organization for Migration (IOM) for staff of a centre which offers protection to smuggled children. The training, which was provided to managers of the centre and social workers from social welfare centres and safe childhood centres, focused on the following areas: protection and psychological recovery; social reintegration; employment procedures in centres and institutions for the protection of smuggled children; and developing skills in identifying child victims of smuggling. A total of 120 individuals received training, with support from UNICEF and IOM.

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

XI. Health protection for women (para. 37)

205. The subject of the minimum age for marriage has been taken up in three draft texts on amendments to the law, namely, the draft text amending the laws on children, which was submitted to the Supreme Council for Motherhood and Childhood, the draft text amending the laws on women, which was submitted to the Women's National Committee, and the draft text on the Safe Motherhood Act, which was submitted by the Ministry of Health and Housing.

206. The article defining the age of marriage met with opposition in the Council of Representatives, however, based on differing views about Islamic jurisprudence. In order to bring national expertise to bear and thus to enrich the debate among the relevant parliamentary committees, the Supreme Council for Motherhood and Childhood held a workshop for members of the Council of Representatives to discuss scientific working papers on the most appropriate age for marriage from a legal, health, social and psychological point of view. The draft texts submitted to the Council of Representatives are still being considered by the Committee on Freedoms and Human Rights and the Committee on Sharia Law.

Female genital mutilation

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

208. Traditional practices (female genital mutilation) are very harmful for the physical and psychological health of girls. Indeed, the International Conference on Population and Development held in Cairo in 1994 referred to female genital mutilation as being prejudicial to women's health and reproductive rights.

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

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

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

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

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

XII. Antiterrorism measures (para. 39)

214. At the request of the Counter-Terrorism Committee established by Security Council resolution 1373 (2001), Yemen has submitted detailed reports on the measures taken by the State to deal with the threat of terrorism. We provide herewith a summary of the legislative, administrative and security measures taken in implementation of the Declaration on Measures to Eliminate International Terrorism, together with information on the implementation by Yemen of relevant international and bilateral treaties.

A. Compliance with Security Council resolutions

215. The Government of Yemen has sent five reports to the Security Council's Counter-Terrorism Committee on the measures which it has taken in all areas of counter-terrorism, including with regard to funding, drying up sources of terrorism funding, and legislation. These measures are listed below:

1. A legal provision prohibiting incitement to commit an act or acts of terrorism has been drafted, and the Government currently has before it a draft law prohibiting incitement to commit terrorism. The legal and legislative procedures for submitting the draft law to parliament are under way. Moreover, the Code of Offences and Penalties (art. 129) classifies incitement, criminal conspiracy and attempt as criminal offences.

2. Any action which leads to a terrorist act is prohibited. The Yemeni Government has introduced numerous security measures, namely: detaining persons suspected of having links to extremist groups; pursuing and prosecuting persons accused of committing terrorist acts; expelling Arabs suspected of having links with

extremist religious movements; and expelling individuals who are living in Yemen illegally.

3. Relations and coordination between the various domestic security services have been improved in order to strengthen their role and active participation in this area.

4. A number of security treaties with fraternal neighbouring States and other friendly States have been concluded on exchanges of information, extradition, the non-use of territory or citizens against the other party to a treaty and undertakings not to harbour terrorists or provide them with money or arms.

Main counter-terrorism treaties ratified by the Government of Yemen

1. Convention for the Suppression of Unlawful Seizure of Aircraft (The Hague, 1970).

2. Convention on Offences and Certain Other Acts Committed on Board Aircraft (Tokyo, 1963).

3. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (1973).

4. International Convention against the Taking of Hostages (1979).

5. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (Rome, 1988).

6. International Convention for the Suppression of Terrorist Bombings (New York, 1988).

7. A number of security cooperation treaties have been signed with all neighbouring Arab and foreign States and some States with which Yemen has shared interests.

8. Yemen has acceded to the Convention on the Marking of Plastic Explosives for the Purpose of Detection (1991) and the International Convention for the Suppression of the Financing of Terrorism (opened for signature in 2000).

B. Legislative procedures and measures

216. The Yemeni Government has taken a number of measures and initiatives to enact legislation, including the following:

1. A draft text amending the Act regulating the possession and carrying of weapons and ammunition was submitted to the parliament. The intention is to impose tighter restrictions on carrying, possessing and trading in weapons.

2. Act No. 35 of 2003, concerning money-laundering, was adopted.

3. Act No. 1 of 2010, concerning money-laundering and terrorism financing, was adopted.

4. A number of bilateral and multilateral counter-terrorism treaties have been signed.

5. Steps have been taken to bring domestic legislation into line with international treaties and instruments ratified by Yemen and with the relevant international resolutions, in particular Security Council resolutions on combating terrorism and terrorism financing.

C. Security measures and procedures

217. The Republic of Yemen has been the victim of various terrorist incidents in recent years, all of them intended to damage the Government, security, public order and the national economy; State leaders have also been targeted. Since there has been an escalation of these acts, in terms of the means used, the forms which they take and their gravity, the Government, through the security services, has adopted the following measures and procedures:

1. Constant efforts are made to pursue those accused of committing terrorist acts. The majority of wanted terrorists have been apprehended and brought before the courts. Some have even been sentenced to death.

2. Serious attention is paid to preliminary information provided to the security services on terrorist cells involved in operations damaging to national and foreign interests. As a result, a number of terrorist operations have been stopped, forestalled and uncovered.

3. Security has been stepped up at embassies and at organizations and investment enterprises operating in Yemen.

4. The security services, together with the Armed Forces, have stepped up security procedures to protect Yemen's commercial and oil ports and provide technical support for this task.

5. Appropriate security precautions are taken at airports and land and sea entry and exit points to prevent terrorists from gaining entry to Yemen.

6. All sea vessels are registered and numbered. The procedure for importing vessels or for manufacturing them locally is regulated, and controls are in place in the coastal governorates to monitor vessel traffic.

7. Efforts have been made to boost security in a number of key and remote areas in the governorates of Yemen.

8. There are strict controls on imports of explosives and explosive devices used in development projects.

D. Financial measures (drying up the sources of terrorism funding)

218. Funding is central to terrorism operations, as it is needed for operations, communications and the procurement of supplies such as weapons, explosives and equipment such as vehicles. In this connection, the Republic of Yemen has taken a range of measures, including the following:

1. Constant monitoring and surveillance systems are in place to identify, and block access to, domestic and foreign sources of funding for terrorist groups.

2. The Central Bank circulates Security Council lists on the freezing of funds, assets and other economic resources of individuals connected with these groups.

3. A publication has been circulated to all banks and exchange offices in the Republic of Yemen instructing them to verify all financial transactions in line with the 40 recommendations on money-laundering issued by the Financial Action Task Force (FATF).

4. A special unit has been set up to monitor and gather information on money-laundering in Yemen in accordance with the Act on Combating Money-Laundering.

219. All these legislative, security and financial measures and the intellectual and religious concepts which Islamic scholars have used to explain the true Islam have been very successful in combating terrorism. Many terrorist operations have been prevented. Yemen has suffered and continues to suffer from terrorism and has paid a high price, as operations in pursuit of terrorists have led to armed clashes. Indeed, Yemen has made incalculable human and material sacrifices in this regard. These counter-terrorism measures taken by the State have had no major impact on human rights guarantees, as they have been directed at just a small number of persons involved in disrupting public order, security and peace. The measures have not affected human rights, as the only persons to have been placed under surveillance, tracked down and arrested are those implicated in unlawful terrorist acts. We can confirm that arrests, seizures and searches are conducted in conformity with the Code of Criminal Procedure and under the supervision of the Office of the Public Prosecutor.