



**International covenant  
on civil and  
political rights**

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HUMAN RIGHTS COMMITTEE

**CONSIDERATION OF REPORTS SUBMITTED BY  
STATES PARTIES UNDER THE COVENANT**

**Fourth periodic report**

**YEMEN\***

[Original: Arabic]  
[21 July 2004]

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\* This report is issued unedited, in compliance with the wish expressed by the Human Rights Committee at its sixty-sixth session in July 1999.

## Introduction

The Republic of Yemen takes note with interest of the concluding observations of the Human Rights Committee at its seventy-fifth session, made after the Committee had considered Yemen's third periodic report on its implementation of the International Covenant on Civil and Political Rights at its 2027th and 2028th meetings on 17 and 18 July 2002 in Geneva, containing an account of legislative, judicial and administrative measures to that end taken by Yemen.

The Government of Yemen welcomes the Committee's constructive remarks, which bespeak the atmosphere of cooperation and mutual understanding that characterized the meetings at which the report was discussed and the statements made by both parties, and are indicative of the Committee's appreciation of Yemen's substantial achievements in strengthening human rights and its efforts to promote them.

The Government is pleased to provide clarifications on the Committee's observations and recommendations in accordance with article 70, paragraph 5 of the Committee's rules of procedure in the context of this, the fourth periodic report of the Republic of Yemen on the fulfilment of its obligations as a party to the International Covenant on Civil and Political Rights. We should also like to point out that this report contains quantified data on Yemen's implementation of the Committee's recommendations in paragraphs 6 to 13 concerning the status of women and in paragraph 15 on the number of persons sentenced to death and executed since the year 2000. The Committee asked us to provide this information within one year following the date at which these matters were discussed. Unfortunately, the Ministry was unable to meet that deadline, as it was in the process of being established on the date in question.

The Republic of Yemen has been able to make considerable strides in developing human rights. It has now signed more than 57 international human-rights instruments, and this trend is reinforced by the fact that there is a large measure of congruence between Yemen's national legislation and the contents of those instruments as regards their treatment of many human-rights issues. Yemen's legislation is second to none as regards its respect for human rights, and this has strengthened the vital role played by the Republic in pursuing the democratic procedure it has adopted in its efforts to attain political, economic and cultural advancement.

Since submitting its third period report on the International Covenant on Civil and Political Rights, Yemen has achieved many positive developments in the area of human rights. Parliamentary elections were held on schedule on 27 April 2003, with free, direct voting. This was the third general election since Yemen attained its unity. The electoral lists contained the names of a total of 8.3 million registered voters, of whom 3 400 000, or 48 per cent, were women. There were 1 369 candidates in all, including 991 who represented parties and 405 who were standing as independents. Eleven of those candidates were women.

The war of the summer of 1994 is over and done with, and the condemned persons on what was known as the "list of 16" were given amnesty under a republican decree. This reflected a national conviction that the country was broad enough for all its people. Appropriate action was taken to deal with their situations and their property, and they were given posts in accordance with their qualifications and capacities under the terms of the general amnesty.

The Government is currently concerned with reform of the judicial system and determined to build and develop its capacities, considering as it does that the judiciary is the key to justice and equality and the basic safeguard of and protection for human rights. A plan for judicial reform was adopted in 1997, and a programme containing a detailed timetable for its implementation was approved by the Council of Ministers in its decision No. 262 of 2001. Achievements to date have exceeded expectations. In particular, action has been taken to activate the provisions of the Constitution and the laws concerning the independence of the judicial power and the independence of courts in their work, and prohibiting any interference with the work of judges or the courts by any agency, individual or corporate entity. By way of giving effect to the effort to ensure the independence of the judiciary, the Council of Ministers, in its decision No. 161 of 2001, specified the penalties by which any such interference would be punishable.

The country's legislation dealing with the status of women within the family and in public life has been reviewed, and in addition, pursuant to a decision adopted by the Council of Ministers in June 2004, a plan is currently in preparation for a comprehensive overhaul of all national legislation to bring it into conformity with international human-rights instruments.

In the field of public education for girls, the Government of Yemen is continuing with the widespread efforts it has undertaken in recent years to encourage women to pursue their education at the primary, secondary and university levels and in the form of vocational and technical training. The accommodation capacity of girls' schools has been expanded. Many organizations have joined forces with the Government in an effort to eliminate the phenomenon of girls dropping out of school, especially at the primary level, by diagnosing the causes of that phenomenon and addressing them. Literacy action aimed at girls and women has been reinforced. Unfortunately, despite the fact that Yemen's legislation guarantees women's right to education, there is still a marked gap between girls and boys in that respect, and it is essential to enhance awareness, among individuals and in society as a whole, of the importance of educating girls, especially in rural areas. It is also urgently necessary to extend the system of educational facilities and schools for girls to cover all rural areas of Yemen.

As regards the rights of children, the promulgation of the Children's Rights Act (law No. 45 of 2002) represents a substantial achievement in this area. The provisions of the Act were drafted in the light of consultations on proposed amendments to certain laws relating to children. One such proposed amendment, to the Juvenile Welfare Act, is expected to be discussed by the House of Representatives during 2004. We may note at this point that final preparations are currently under way to promulgate regulations bringing the Children's Rights Act into force; these preparations are being supervised by the High Council on Maternal and Child Welfare.

The Government has also pursued its reform efforts in the areas of prison conditions and police stations, and is organizing training workshops for prison inmates with a view to rehabilitating them and preparing them for trades that will provide them with an honest source of income and help them become reintegrated into society. In accordance with the principle that inhumane treatment is unacceptable, a judicial enquiry was held to investigate a number of members of the police and security forces who had been found to have overstepped the bounds of the law in certain cases involving correctional measures taken by the competent authorities in past years. Forty-five persons were investigated in all. Some of them were convicted and

sentenced to terms of imprisonment or dismissed from their jobs, while others were ordered to pay compensation to the persons who had suffered by their actions; others again are awaiting trial, and some are still under investigation.

A study on the right of asylum is currently under way, and draft national legislation aimed at regulating the matter of asylum and refugees is in preparation. Yemen is a signatory to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol, and it is currently harbouring no fewer than 100 000 refugees from States in the Horn of Africa. Furthermore, measures are being taken to ensure that human-rights issues are integrated into the curricula of schools, institutes of various kinds, and universities.

Yemen believes firmly in its democratic orientation and is committed to advancing along that road. With a view to disseminating a culture of human rights, it has hosted a number of regional and international conferences and workshops, including the Emerging Democracies Forum, a conference on human rights organized by the United Nations, various conferences on international humanitarian law, and, just recently, the Inter-Governmental Regional Conference on Democracy, Human Rights, and the Role of the International Criminal Court, which was attended by 52 States, a number of regional and international organizations, and national, Arab and international civil society institutions. Yemen has also hosted a number of meetings held for the purpose of dialogue between civilisations and the cultures of different peoples, the most recent of these having been the International Symposium on the Dialogue among Cultures and Civilisations organized by UNESCO last February.

In 2003, an independent ministerial portfolio was created in the form of the Ministry of Human Rights, reflecting a heightened level of concern with human-rights issues.

The newly established Ministry of Human Rights functions in cooperation with an advisory body made up of representatives from 35 non-governmental organizations (NGOs). In coordination with the competent bodies, the Ministry seeks to expand awareness of all rights and freedoms, public and private. It receives complaints from citizens, through a body consisting of jurists and specialists in the field of human rights which has been invested with responsibility for examining and assessing complaints and referring them to the appropriate agency for corrective action to remedy any arbitrary treatment or wrong done to any person. Another function of this body is to undertake field visits to places of preventive detention and prisons, to make sure that nothing unlawful is taking place there and to verify the health, environmental and living conditions in which the detainees are being held.

These rapidly occurring positive developments aimed at strengthening human rights are noteworthy, as they are a meaningful indicator of the attention that is being paid to human rights in Yemen.

Despite Yemen's achievements in this area, however, the experience is still a novelty, and as a result some forms of human-rights violations have persisted. Moreover, the country's socio-cultural heritage has some negative features. The situation requires more effort, patience and persistence, and we look forward to further cooperation with the Human Rights Committee and the international community in that connection. Yemen's legislation is still feeling its way toward the promotion and safeguarding of human political rights. The political will to strengthen and protect those rights is there, but the Government is confronted with real difficulties and

obstacles in its efforts to attain its objectives in that area. For the most part, those difficulties and obstacles may be attributed to economic, social and cultural factors. Yemen ranks among the least developed countries, owing to the scantiness of the economic resources at its disposal, and this is a matter that has been the subject of high-level discussions in an effort to find a suitable approach. As is well known, a culture of human rights cannot take root overnight; it is a long process requiring patience and persistence. Our fundamental concern is to continue, with credibility and conviction, along the road on which we have set out.

Here, then is Yemen's fourth national report on the fulfilment of its obligations under the International Covenant on Civil and Political Rights, which notes and analyses all the legislative and political developments that have occurred and all the measures that have been taken in the Republic of Yemen since the submission of its third periodic report in 2001. The report also contains full statistical data relating to the Committee's recommendations and observations on its predecessor.

In conclusion, the Government wishes to express its esteem for the distinguished members of the Human Rights Committee and to thank them for their untiring efforts to promote human rights throughout the world.

## **GENERAL STATUS OF THE COVENANT**

### **I. Article 1 of the Covenant**

#### **Paragraphs 1, 2 and 3**

We reiterate the statements made in the previous report. The Republic of Yemen is committed to the principles enunciated in this article.

### **II. Article 2 of the Covenant**

#### **Paragraphs 1 and 2**

The legal position with respect to these two paragraphs is as stated in the previous report.

With reference to paragraph 4 of the concluding observations of the Human Rights Committee,<sup>1</sup> the International Covenant on Civil and Political Rights is deemed to be part of Yemen's legal system. This is apparent from article 6 of the Constitution, which states, "The Republic of Yemen confirms its adherence to the Charter of the United Nations, the Universal Declaration of Human Rights, the Charter of the League of Arab States and the generally recognized principles of international law." Those rights are also enshrined in the country's framework of law, and their validity has been proclaimed by Yemeni courts. Furthermore, the Code of Civil Procedure provides an important safeguard in this connection, stating as it does in article 48 that "Any person who suffers an unlawful violation of one of his personal rights may seek an end to such violation, together with compensation for any damage suffered." As the Republic of Yemen has stated before, no provision of the law may be interpreted as conferring any right that violates the rights acknowledged in the Covenant. Yemen regards those rights acknowledged in the Covenant as supplementing the contents of its own domestic legislation.

In an important step toward giving full effect to the rights acknowledged in the Covenant, the Council of Ministers approved, in June 2004, the establishment of a Legal Committee made up of representatives from the various ministries to be entrusted with responsibility for reviewing the country's domestic legislation in the light of international instruments with a bearing on human rights which Yemen has ratified, in order to make sure that that legislation is consistent with the country's international human-rights commitments.

In practice, litigants frequently rely on international instruments that Yemen has ratified in court cases. For example, a judgement issued by the Southwestern Capital District Court in case No. 51 of 1998, which had been brought against the editor-in-chief and the assistant editor of the newspaper *Al-Thawri* and two journalists in its employ, was based on the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. The court acquitted the accused persons, and in its Reasons for Judgement it cited article 19 of the Universal Declaration of Human Rights, article 19, paragraphs (a) and (b), of the International Covenant on Civil and Political Rights, articles 5, 6, 27 and 41 of the Constitution, articles 3, 4 and 5 of the Press and Publications Act, articles 30 and 31 of the Political Parties and Organizations Act, and article 16 of the Penal Code.

### **Paragraph 3 (a) and (b)**

See the clarification under article 14 below, which contains our reply to paragraph 29 of the concluding observations of the Human Rights Committee.

### **Paragraph 3 (c)**

This paragraph is adequately dealt with in the previous report.

## **III. Article 3 of the Covenant**

### **Legislative and institutional situation of women**

In recent decades, the Republic of Yemen has experienced rapid political, economic, social and cultural change, coupled with the establishment and structural development of many new social, economic and cultural institutions.

These factors for change, especially since the advent of the unified State of Yemen on 22 May 1990, have made it necessary to amend much of the country's legislation and enact new laws that reflect the political, economic, social and cultural changes that have been occurring. Among other things, the new legislation affirms women's right to exercise all their economic, social and political rights. Consequently, the 1990s were a decade of progress that reflected the evolving socio-economic, political and cultural situation in Yemen. That period saw an increase in women's participation in the country's political, economic and social life, accompanied by the gradual emergence of a new realization that the changes to Yemen's legislation had, for the most part, come about in response to the altered social situation generally. This implied that the social situation of women was changing for the better, and that change was imposing itself upon

society as a whole, and upon planners, development policy designers and decision-makers in particular. Girls and women were acquiring education, taking training courses, finding jobs, embarking on economic and cultural activities, and broadening the basis of their participation in all areas of life.

The new laws have thus helped Yemeni society emancipate itself from much of its undesirable traditional cultural residue, which had tended to inculcate a view of women as inferior beings, with the result that their role in the family and society was exploited or marginalized. Now, at last, women are free to assume their rightful place.

The evolving legal position of women has resulted in quantum jumps in their lives and enabled them to assume and exercise new functions at many levels, to say nothing of the new rights they have acquired. This has been a decisive factor that has propelled the process of change forward, even though the new laws have not always produced the anticipated results. Law alone, after all, is not enough to ensure that individuals can make full use of the rights to which they are entitled: the law must be effectively enforced. This represents the basic condition for change in the status of women and the elimination of discrimination against them, regardless of the wording of the law. It follows that legislative change must go hand in hand with a change in the way legislators view the growing needs imposed by economic, social and cultural imperatives. Legislative change must be accompanied by change in the outmoded social value system and its burden of antiquated attitudes if law reform is to bring about the elimination of all forms of discrimination against women, and if the principle of equality between men and women in law and in practice is to take root and flourish.

In this report, we shall consider only the main items of legislation with a direct bearing on women's political, economic, social and political rights.

These laws represent policies, measures and institutional actions taken by legislative and executive authorities to give effect to the principle of equality between the sexes.

## **The Constitution**

As noted in the previous report, the Constitution contains provisions designed to ensure that Yemeni women enjoy all the political, economic, social and cultural rights enjoyed by men, without discrimination. These constitutional principles have undoubtedly affected legislation in this area. This issue is summarized in the paragraphs below.

### **1. The political sphere**

Women's participation in political and legal activity emerged when the General Elections Act (law No. 27 of 2001) granted them the right to vote, to stand as candidates, and to participate in constitutional referenda, not discriminating in any way between men and women with respect to those rights, on the grounds that both men and women are fully competent. The legislators, aware as they were of the considerable administrative, organizational and social obstacles that might prevent women's enjoyment of their legal rights, included a provision aimed expressly at encouraging women to exercise their rights as electors.

The General Elections Act gave women the right to participate in constitutional referenda, stand as candidates for election, to vote, and to join political parties. Since its enactment, women have participated alongside men in three constitutional referenda: in 1991, in 1994, and most recently in 2001. Women have also participated in the work of holding and supervising elections. In 1993, a decree was issued establishing the High Committee on Elections, specifying that the membership of the Committee was to include one woman. Supervisory committees of women have also been established for the purpose of overseeing the conduct of elections, paralleling the men's supervisory committees that serve the same function. Moreover, women served as members of the electoral committees and their subcommittees in the country's various electoral districts at the elections of 1993, 1997 and 2003. Women also exercised their right to vote in the presidential election of 1999, and not only their right to vote but their right to stand as candidates in the parliamentary elections of 1993, 1997 and 2003. This shows how far women have come, thanks to efforts to heighten their awareness and encourage them to register as voters. The table below summarizes the progress that has been made in this area.

#### Membership of supervisory committees, by sex

Committee	Year	1993 - present		1993 - present		1993 - present	
	Sex	M	F	M	F	M	F
Supervisory committees		53	1	54	-	59	1
Main committees		903	-	903	903	902	1
Subcommittees		6 051	5 148	-	-	6 051	5 148

The table below shows the percentage increase in participation by women, as appears from the numbers of women inscribed on the electoral lists that were drawn up in preparation for the parliamentary elections of 2003: a total of 3 415 114 women registered as voters in October 2002. This is a large number that shows the evolving situation of women's participation in political activity and their heightened awareness of the importance of the electoral process and their participation in that process. There were a total of 1 369 candidates at those elections, including 991 representing political parties and 405 who stood as independents, and of that number, eleven were women. Only one woman was elected to a seat in the 301-member House of Representatives, however. A number of prominent women were represented on the committee established to monitor the elections, and the team that assisted the international observers included two women among its leaders. The presence of those two women was a great advantage in terms of the team's success in fulfilling its mission, both domestically and internationally. Thousands of women throughout the country took part in the work of monitoring the 1993, 1997 and 2003 elections to make sure they were impartial.

#### Numbers of women voters at the parliamentary elections of 2003

Numbers of registered voters, 2003 elections			
No. of men	Percentage	No. of women	Percentage
4 682 084	58	3 415 114	42
Total: 8 097 162			



### **Local elections**

The present trend toward administrative decentralization (local government) is a new development in Yemen. The first local councils were established at the district and governorate levels. In February 2001, the first elections for local councils were held, and women participated in them as in other elections. Nor did women participate as electors exclusively; on the contrary, they exercised their right to stand as candidates for seats on local councils in the various districts and governorates.

There were 125 women candidates in all, and when the votes were counted, it appeared that 30 women had won seats on district councils, while five had won seats on governorate councils. In addition, two women have recently been appointed to seats on the Consultative Council.

### **Obstacles and difficulties**

There are still comparatively few women members of the House of Representatives and local councils, considering their numbers in the population at large. None the less, this is a step ahead for women, one that confirms their presence both nationally and locally. In our view, the fact that few women have been elected to these councils is attributable to a number of factors, of which the following are the most important:

- Women are sparsely represented in the leadership structures of political parties and in their organizations generally;
- Some parties have been reluctant to include women on their lists of candidates, for a number of reasons, including socio-cultural and doctrinal factors. Political parties' approach to the issue of political participation by women has always been bound up with electoral interests, and women are still seen primarily as voters rather than as candidates;
- Electoral campaigns rely on factors and conditions that women may not be able to meet;
- Women have only a short history of participation in electoral politics, and consequently have little experience of political action;
- Illiteracy is widespread in some social strata, and social customs have been a contributing factor in women's ignorance of their rights and duties.

## **2. The judicial sphere**

In courts of law, women are treated on a footing of equality with men. This is guaranteed by article 51 of the Constitution, which gives every citizen, man or woman, the right of recourse to the courts to protect his or her lawful interests. Every citizen also has the right to submit his or her complaints to the appropriate authority. Article 51 of the Constitution reads as follows:

“Every citizen shall have the right of recourse to the courts in order to protect his lawful rights and interests. He shall also have the right to submit complaints, criticisms and proposals, directly or indirectly, to the organs and institutions of the State.”

The Constitution safeguards every citizen’s right to defend himself or herself in person or by representation during all periods of investigation and before all courts, regardless of whether the defendant is a man or a woman. The Constitution adds that the State shall provide legal assistance to those who are unable to provide for their own defence, according to law. There is nothing in the text to suggest that the reference is to either men or women in particular; the wording is general and comprehensive. It uses the term “citizens”, and this must mean that women are equally entitled to legal services and State assistance if unable to provide for their own defence. Article 49 of the Constitution reads as follows:

“The right of defence, in person or by counsel, is guaranteed at every stage of the judicial process and before all courts, in accordance with the provisions of the law. The State shall provide legal assistance for persons who do not have the means to provide for their own defence, in accordance with the law.”

On the whole, then, these constitutional provisions (articles 49 and 51) guarantee women’s right to equal treatment with men in courts of law. Whether she goes to court as plaintiff or defendant, a woman’s rights are safeguarded on the same footing as a man’s.

This equality before the law is strengthened by article 2 of the Judicial Authority Act (law No. 1 of 1990), which states, “Litigants are equal before the law, regardless of their attributes or situations.”

This wording clearly indicates that litigants, regardless of whether they are male or female, are equal before the law, and that the law disregards their attributes (such as their sex) and situations.

Article 9 of the Code of Criminal Procedure (law No. 13 of 1994), for its part, states that “The right to a defence is guaranteed. An accused person may conduct his defence in person or may have recourse to a representative to defend him at all stages of a criminal prosecution, including the stage of investigation. The State shall provide a poor or needy person with a defender selected from a list of approved lawyers. The Council of Ministers, acting on the advice of the Minister of Justice, shall issue regulations governing the matter of defenders, to be selected from a list of approved lawyers, for poor and needy persons.”

This passage supports and interprets article 49 of the Constitution, which has been discussed above.

Article 149 of the Constitution states that “The judiciary is independent in its judicial, financial and administrative aspects, and the Department of Public Prosecutions is one of its institutions. The courts shall judge all disputes and crimes. Judges are independent in their administration of justice and subject to no authority but that of the law. No party may in any way interfere in a court case or in a matter of justice. Such interference shall be deemed an offence punishable by law, and prosecution in respect thereof shall not be statute-barred.”

Article 151 of the Constitution states, “Members of the judiciary and the Department of Public Prosecutions shall not be subject to dismissal except under the conditions stipulated by the law. They may be transferred to non-judicial posts only with their own consent and the approval of the Council competent to deal with their affairs, except as a disciplinary measure in accordance with the conditions specified in the law regulating the legal profession.”

Article 1 of the Judicial Authority Act states, “The judiciary is independent in the discharge of its functions, and, in their administration of justice, judges are independent and subject to no authority other than that of the law. No party may in any way interfere in a court case or in a matter of justice. Such interference shall be deemed an offence punishable by law, and prosecution in respect thereof shall not be statute-barred.”

The use of the term “judges” in the above passages is clearly a general term that includes not only magistrates but also members of the Department of Public Prosecutions, both men and women. This means that women have the right to exercise judicial functions and to be members of the Department of Public Prosecutions on a footing of equality with men. The wording of these statutory provisions applies equally to women magistrates and to their male counterparts.

This is reaffirmed by the provisions of article 57 of the Judicial Authority Act (law No. 1 of 1991), which lays down general conditions determining who may be appointed to a post as magistrate of a court or exercise the functions of a member of the Department of Public Prosecutions. Those conditions include criteria relating to eligibility for the post, such as age, nationality, and possession of the necessary qualifications, but the sex of a magistrate, male or female, is not one of those criteria. Statistics indicate that there are 32 women magistrates working in Yemen, all of them members of the judiciary in good standing. Furthermore, over 25 women have been appointed to posts in the Department of Public Prosecutions, and recently a number of women working in that institution were promoted to the rank of Member of the Department of Public Prosecutions. A women’s police corps was established in 2000. These women police officers now perform their peace-keeping duties on a footing of equality with their male counterparts. Yemen is one of the few States in the Arab world, and in the Arabian Peninsula and the Gulf region in particular, to have granted women this right.

### **3. The social sphere**

There are a number of laws of relevance for this sphere, including:

#### **Penal Code (law No. 12 of 1994)**

The Penal Code defines acts that are deemed to be criminal offences and prescribes appropriate penalties. The Code does not deal with situations involving either women or men as such; it is concerned with crime and punishment. In other words, the Code does not discriminate between men and women. Any man or woman who commits a criminal offence as defined by the Code deserves to be punished for that offence, without discrimination. The Code treats men and women on an equal footing as regards the death penalty and terms of imprisonment, and those penalties are applied as prescribed by the terms of the Code.

**Code of Criminal Procedure (law No. 12 of 1994)**

The Code of Criminal Procedure contains provisions that are specific to women in some areas. It explicitly sets forth women's rights and status, especially in the matters of pregnancy and nursing, which involve women's social role and the exercise of their right of maternity during their childbearing years. With respect to women's need for care and the opportunity to suckle their children, article 84 of the Code provides that a pregnant woman who is condemned to death or other penalty or to a retaliatory measure shall not be subject to the penalty in question until she has given birth or completed the period of suckling her infant. Certain articles of the Code also make express provision for the safeguarding of women's human rights in matters relating to their family affairs.

**Organization of Prisons Act (law No. 48 of 1991)**

Under this law, various aspects of the welfare of pregnant women serving prison sentences are safeguarded. They are entitled to medical care in accordance with the directions of a medical specialist. Where a woman gives birth in prison, the event may not be recorded in the official records of the municipality concerned. The child may not be kept in prison with its mother once it has reached the age of two years, but must be released into the custody of its father or other relative, except where a physician decides that such release is not feasible because of the child's state of health. Under an amendment to the Act that was recently adopted by the Council of Ministers, every pregnant woman serving a prison sentence shall be given special care during her pregnancy and at her delivery, and the child shall be cared for in a specialized institution.

**Social Welfare Act (law No. 1 of 1996)**

The enactment of the Social Welfare Act was prompted by concern for special groups and persons living in poverty, such as women who are needy or impoverished, disabled persons and orphans. The Act devotes particular attention to women who have no one to support them and other groups entitled to social welfare as defined in the Act. Under this Act, a woman having no one to support her is defined as a woman whose husband has died or has divorced her, an unmarried woman, regardless of whether she has children or not, or a woman over the age of 30 who has never been married. In all these cases, the entitlement is subject to the condition that the woman in question is unable to work and has no regular income, and has no one who is legally required to provide for her support in the event that she is unable to find employment.

**Arbitral Appointments Act (law No. 22 of 1992)**

The Arbitral Appointments Act contains no provisions that discriminate between women and men. Under this Act, either a woman or a man may be appointed as an arbitrator; there is no legal barrier to the performance of this function by a person of either sex.

### **Public Education Act (law No. 45 of 1992)**

Under this Act, the sexes are on an equal footing with respect to the right to benefit from the opportunities offered by the country's educational institutions. The Act provides that girls are entitled to access to education in accordance with their aptitudes and abilities, no less than boys.

### **Civil Service Act (law No. 19 of 1991)**

The Civil Service Act provides that public posts shall be staffed on the basis of the principle of equal opportunity. However, women are granted special rights under a number of articles, including:

- Sixty days of maternity and parental leave with full pay, and an additional 20 days in cases of a difficult birth or delivery by Caesarean section, or in the event of the birth of twins;
- A woman employee who is suckling an infant is entitled to five-hour workdays until her infant reaches the age of six months;
- A woman employee may be granted leave without pay for not more than one year, if in the judgement of the Administration Unit she needs such additional leave;
- A pregnant woman's daily working hours shall be reduced to not more than four from her sixth month of pregnancy until her child is born;
- Either a male or a female employee may be granted leave without pay for a period of up to four years to enable him or her to accompany his or her spouse outside the country.

## **4. The economic sphere**

Yemen's labour legislation displays concern for women, based on the principles of social justice and safeguarding workplace gender equality under all conditions and in all circumstances for the sake of equal opportunity and gender integration. This orientation is enshrined in the Constitution, article 29 of which states that work is a right, an honour, and a necessity for society's progress, that every citizen has the right to engage in the work he or she chooses for himself/herself within the limits laid down by law, and that no citizen can be compelled to perform any work except within the law and in accordance with the public interest, and in return for a fair wage. The law regulates vocational and professional activities and relations between workers and employers.

### **Labour Code (law No. 5 of 1995)**

The Labour Code affirms that work is a natural right enjoyed by every citizen and a duty incumbent upon everyone who is capable of performing it, with equal conditions, opportunities, guarantees and rights, with no discrimination based on gender, age, race, colour, creed or language. The State regulates the right to work, in so far as possible, through its planning for the continuing development of the national economy. Article 5 of the Code explicitly indicates that

women and men are equal as regards working conditions, rights, duties and relations, without discrimination, and provides for equality between them in the matters of employment, promotion, wages, training, skills development and social insurance.

The Code also grants women a number of advantages, especially during pregnancy and while they are nursing an infant. These advantages include:

- A pregnant woman worker’s workday is limited to five hours beginning in the sixth month of her pregnancy, and the same limitation applies to a nursing woman worker until her infant is six months of age. This limitation may be reduced for health reasons as attested by a certified medical report (para. 43.1);
- Working hours for a nursing woman are computed from the day following the completion of her maternity leave to the end of the infant’s sixth month of life (para. 43.2);
- Under article 44, a woman employee may not be required to work overtime beginning from the sixth month of her pregnancy or during the six months following her return to work after maternity leave, in order to protect her health;
- Under article 45, a pregnant woman employee is entitled to 60 days of maternity leave with full pay, and the employee may not be required to work for an additional period of 20 days in either of the following cases:
  - (a) Where the birth was difficult or delivery by Caesarean section, as attested by a medical report; or
  - (b) In the event of the birth of twins:
- Under article 46, woman may not be employed in industries or activities that are dangerous or demand strenuous physical exertion, or in any kind of work that is hazardous to their health; the Minister of Labour has authority to decide what kinds of work are deemed to be hazardous under this paragraph. Moreover, women may not be required to work at night, except during the month of Ramadan or in such occupations as the Minister of Labour may designate;
- Under article 47, every employer of women is required to ensure that the regulations governing the employment of women are conspicuously posted in the place where they work;
- Article 47 provides that every working women’s is entitled to leave with pay for a period of forty days in the event of her husband’s death, the period to be computed from the date of death, and to leave without pay for a further period of not more than ninety days to enable her to complete the waiting period prescribed by Islamic law. Under article 84, every worker is entitled to 20 days of leave with pay to perform the religious duty of the pilgrimage to Mecca. Under article 2 of the Code, the definition of the term “worker” is stated to include both men and women.

### **Social Insurance Act (law No. 26 of 1991)**

This Act does not discriminate, providing safeguards and rights to insured persons of both sexes. However, it takes the social situation of insured women into account by granting them the right to begin drawing old age pension benefit at the age of 55, whereas men are not entitled to begin drawing such benefit until they reach the age of 60, subject in both cases to the condition that the insured person must have been contributing to the pension plan for not less than 15 years. Alternatively, a woman may begin drawing her benefit once she has made 300 contribution payments, regardless of her age; the corresponding figure for a man is 360.

It is clear from a reading of the content of this law that it grants women a number of advantages that it does not grant to men. These advantages are designed to benefit women and families. In addition, the law makes provision for other safeguards and rights for both women and men: besides old-age pensions, these include death benefit, disability benefit and compensation for work accidents.

### **Insurance and Pensions Act (law No. 25 of 1999, as amended in 2000)**

This law applies to all State employees and all workers, men and women, in both the public sector and the mixed sector. Rights and benefits available under this law include old age pensions, disability benefit, death benefit, health insurance and compensation for work accidents. In addition, it includes a number of provisions advantageous to women in consideration of their family responsibilities and social situation.

#### **Benefits available under social insurance laws:**

- A woman worker is entitled to begin drawing a retirement pension based on her term of service, on an equal footing with a man;
- The laws discriminate in favour of women workers in that they are entitled to begin drawing a retirement pension after a term of service that is five years shorter than the corresponding requirement for men, and at an age that is five years lower than the corresponding age for men;
- A woman working is entitled to begin drawing a retirement pension, regardless of her age, once she has completed 25 years of effective service; the corresponding requirement for men is 30 years of effective service;
- Age 55 is the compulsory retirement age for women workers, whereas the compulsory retirement age for men is 60 years, based on the average age of persons in Yemeni society;
- The laws take a working woman's family and social situation into account with respect to her right to marry, care for her family, or accompany her husband when he leaves the country as a member of a student delegation or the diplomatic corps. She is not denied appropriate compensation for her services, and she may claim an end-of-service benefit, provided she does not qualify for a retirement pension.

## **Civil Code**

Under this law, every Yemeni citizen attains full legal capacity upon reaching the age of 15 years. The Code does not distinguish between men and women in this respect; on the contrary, it expressly provides that when a girl reaches the age of 15, she may conclude contracts, engage in financial transactions, buy, sell and own property and contract debts on an equal footing with a man.

After reviewing these legal provisions relating to women's rights and duties in private and public life, we find that they afford adequate safeguards. They are based on the principle of gender equality, and where they discriminate, they do so in consideration of women's and men's social roles, which are characterized by a division of tasks. However, it is true that the prevailing social assumptions that have given rise to stereotyped views of women's and men's social roles and responsibilities have had a negative impact on some aspects of Yemeni legislation and have also been influential at the enforcement level.

Despite substantial efforts by the Government to promote the advancement of women, enhance their status and foster their participation in the building of society, many obstacles and difficulties remain. These are attributable for the most part to the country's socio-cultural heritage and economic circumstances, and can doubtless be overcome with further support.

### **Promotion of women's participation in public life**

With reference to paragraph 13 of the concluding observations of the Human Rights Committee,<sup>2</sup> the Government, as represented by its agencies that are concerned with women's issues, is working alongside non-governmental organizations to draft policies, programs, plans and projects and to develop field studies designed to heighten awareness of gender mainstreaming issues. Its aim is to plan for and analyse those issues from a perspective that takes gender needs and differences into account in the execution of all its plans and projects. Activities of this kind are prominent among the Government's concerns and are an important aspect of its future orientations, and they have also attracted the favourable attention of international donor organizations that support projects for the advancement of women in Yemen. The most significant efforts in this area to date are outlined below.

### **Institutional mechanisms for the advancement of women**

These mechanisms fall into two categories: governmental institutional mechanisms and non-governmental institutional mechanisms.

#### **I. Governmental institutional mechanisms and programmes**

##### **(a) Governmental institutional mechanisms**

##### **High Council on the Status of Women**

The High Council on the Status of Women was restructured and reorganized in 2003 under a republican decree (No. 25 of 2003). The issue of that decree represented a quantum



jump in the advancement of women and a reaffirmation of the State's concern with women's issues. The Council is concerned primarily with integrating those issues into the country's political, economic, social and cultural orientations.

### **1. National Women's Committee**

The National Women's Committee is one of the most important institutional mechanisms established by the Government for the advancement of women. It is a governmental body responsible for following up the implementation of public policies and strategies with a bearing on women's affairs and their development and women's issues and the integration of those issues into political, economic, social and cultural life. The Committee is a financially independent corporate entity, and the State's general budget includes a yearly allocation expressly for it.

The National Women's Committee, with only limited resources at its disposal, has substantial accomplishments to its credit. Some of its main activities between 2001 and 2003 are outlined below:

- Preparation and organization of the first and second meetings of the High Council on the Status of Women, and participation in meetings of the Gender Committee, two post-Beijing project facilitation committees and the United Nations Population Fund (UNFPA); various meetings with leaders of political parties and the President of the High Committee on Elections with a view to coordination and consultation in connection with the nomination of women candidates and supporting and backing them at local and general elections;
- The Committee has organized many forums, seminars and workshops, notably a forum aimed at supporting women candidates and a seminar held on the occasion of International Women's Day (8 March), and the second National Conference on Women (Women as Fundamental Partners in Development), besides holding many broadly-based meetings of Committee members and coordinators to discuss various issues;
- The Committee, working in coordination with various other organizations, has implemented a number of capacity-building training programs for its employees, coordinators and members. In 2003 there were 29 such programmes, attended by over 300 participants, both men and women;
- The Committee publishes a monthly newsletter for Yemeni women, and has printed many posters, calendars and planners. It has produced three films, one on early marriage, one on women and health and one on women and education, and it has begun work on a series of four films on economic, political and legal empowerment and disabled women. In addition, the Committee has published pamphlets on such issues as the political rights of Yemeni women under legislation currently in force, Islam and violence, and violence against women in Yemen;
- The Committee has participated in a large number of meetings, forums, workshops, seminars and various other activities at the invitation of the organizing national

agencies. It has also participated in many outside activities, most notably meetings of the preparatory committee for the Extraordinary Arab Women's Summit and a series of forums on Women and the Law, Women and Legislation and Arab Women in Countries of Emigration, held in Bahrain and Jordan in 2001. Representatives of the Committee have also attended various activities, including regional, Arab and international conferences, meetings and seminars on women's issues;

- The Committee has conducted various studies and reports with a bearing on women's issues, including in particular studies on the situation of women serving prison sentences, the aspirations of girls who have completed their secondary education and the challenges confronting them, the situation of rural women, and political participation by Yemeni women, and national reports on the status of women in Yemen. The Committee also conducted an evaluation of women's participation in local elections;
- In the area of public policy, in 2001 the Committee prepared a national women's development strategy and participated in the work of reviewing a draft national poverty alleviation strategy from a gender perspective;
- The second National Conference on Women focused on the integration of women in development, poverty alleviation among women in the context of public programmes and projects, raising the level of women's representation in decision-making positions, and condemnation of all forms of violence against women and action to make such violence a criminal offence. The Conference adopted the women's development strategy and an implementation plan;
- The Committee's leaders undertook field visits to a number of ministries as a means of supporting and enhancing the role of the Status of Women Directorate in each of the ministries concerned;
- Preparation of a database of civil society organizations directed by women or whose activities are aimed at women, with a view to creating a mechanism for coordination and communication on shared concerns;
- The Committee, along with eleven civil society organizations, participates in a programme aimed at combating violence against women;
- The Committee organized campaigns in the governorates of Aden, Dhamar, Al-Mahwit, Abyan and Ibb for support and assistance to women candidates for election to the House of Representatives at the 2003 elections;
- An assessment of difficulties and obstacles that have prevented women from obtaining access to the House of Representatives, and publication of the findings in the form of a study entitled *Political participation by Yemeni women: between socio-cultural obstacles and the democratic project*.

## **2. High Council on Maternal and Child Welfare**

This body, which was established by republican decree No. 32 of 1999, is headed by the Prime Minister and comprises a number of prominent persons who are involved with the Council's terms of reference, policy and programmes in the area of appropriate measures to ensure the welfare of mothers and children and safeguard the rights of children at all levels.

## **3. Women's Development Directorates in the several governorates**

These directorates report directly to the Governor's office. They were established under republican decree No. 265 of 2001, containing regulations for the organization of administration in the governorates and districts of Yemen and also making provision for directorates concerned expressly with women's development in the several governorates. These directorates are entrusted with responsibility for the following tasks:

- Preparation of studies aimed at assessing the situation of women in local communities and formulating proposals for developing and promoting their status and activating their participation in public life;
- Preparation of programmes for enhancing women's awareness and encouraging them to become involved in and contribute effectively to local action;
- Preparation of statistics on women's employment and women's education and investigation of problems in those areas;
- Representing the governorates in activities of relevance for women;
- Providing the governorates with statistical data and information drawn from studies and reports prepared by the directorates.

## **4. Status of Women Directorates within General Directorates for Literacy and Adult Education in the several governorates**

Status of Women Directorates have been established within agencies responsible for literacy and adult education pursuant to a decree issued by the Prime Minister (decree No. 254 of 2000) in the context of the Government's concern to promote effective participation by women in the execution of various activities and programmes within those agencies' fields of competence as set forth in their mandates. Accordingly, General Directorates for Literacy and Adult Education in the several governorates were ordered to establish directorates responsible for the status of women.

## **5. Status of Women Directorates within ministries and government institutions**

In 1999, in response to an initiative on the part of the National Women's Committee, the Prime Minister instructed all government ministries and institutions to establish directorates responsible for the status of women, with a view to enhancing access by women to decision-making posts. Accordingly, Status of Women Directorates have been set up in a number of ministries and government institutions.

The Status of Women Directorate within the Ministry of Social Affairs and Labour was particularly active in 2003. Its initiatives in that year included:

- Inauguration of legal consultation services at six centres in the governorates of Sana'a, Aden, Lahij, Ta'izz and Al-Mahwit, providing legal assistance and promoting awareness of women's legal rights;
- Inauguration of health service facilities in six governorates, with plans to extend them to two more; these facilities provide medical services and offer information, guidance and awareness in the field of reproductive health;
- Organization of National Women's Days as a means of attracting support for women's issues and women's rights;
- Organization of training courses for women participants from economically productive family centres, with the object of giving them self-confidence in decision-making.

The table below shows Status of Women Directorates within ministries, indicating the organizational level and date of establishment of each.

No.	Ministry or government agency	Name of unit	Organizational level	Date established
1	Ministry of Planning and International Cooperation	General Directorate for Women	General Directorate	2000
2	Ministry of Local Administration	General Directorate for Women's Development	General Directorate	2001
3	Ministry of Social Affairs and Labour	General Directorate for the Women Workers' Development	General Directorate	1997
4	Ministry of Culture	General Directorate for Women	General Directorate	2000
5	Ministry of Public Health	General Directorate for Reproductive Health	General Directorate	2000
6	Ministry of Information	General Directorate for Women	General Directorate	1999
7	Ministry of Transport	Directorate	Directorate	2001
8	Ministry of the Interior	General Directorate for Women	General Directorate	2003
9	Ministry of Fishery Resources	General Directorate for Women	General Directorate	2000
10	Ministry of Finance	Directorate	Directorate	2000
11	Ministry of Technical Education and Vocational Training	General Directorate for Women	General Directorate	2002

No.	Ministry or government agency	Name of unit	Organizational level	Date established
12	Ministry of Agriculture	General Directorate for Rural Women's Development	General Directorate	1999
13	Ministry of Education	General Directorate for Women	General Directorate	2002
14	Ministry of Industry and Trade	General Directorate for Women	General Directorate	2003
15	Ministry of Petroleum and Mines	Directorate	Directorate	2000
16	Ministry of Emigré Affairs	Directorate	Directorate	2003
17	Ministry of Youth and Sports	General Directorate for Women	General Directorate	2004
18	Ministry of Religious Endowments	Directorate	Directorate	
19	Ministry of Foreign Affairs	Directorate	Directorate	2003
20	Ministry of Establishments	Directorate	Directorate	2000
21	Ministry of Civil Service and Insurance	Directorate	Directorate	2000
22	Ministry of Defence	Directorate	Directorate	2000
23	Central Statistics Organization	Directorate	Directorate	1997
24	High Council on the Status of Women	Gender-Disaggregated Statistics Unit	Directorate	1998
25	Ministry of Water and Environment	Rural Women's Unit	Unit	2004
26	Ministry of Communications and Information Technology	Directorate	Directorate	2003
27	Ministry of Human Rights	Directorate	Directorate	2003

**(b) Government programmes**

The Government has prepared many general policies and strategies, some relating to women in particular and others more general in nature, but containing programmes and actions that deal with women and women's issues. The aim of these policies and strategies is, in general, to close the gender gap in various areas of development. The following are particularly noteworthy:

**1. National women's development strategy**

This strategy was prepared by the National Women's Committee, after consultation with various bodies and institutions working for the advancement of women, and submitted to the Council of Ministers. In September 2003 the Council of Ministers approved the strategy and adopted a decision (decision No. 212 of 2003) directing all government agencies to implement it. The National Women's Committee was entrusted with responsibility for monitoring the progress

of implementation, working to that end through government channels and agencies and in partnership with civil society organizations, which are regarded as full and effective partners in the task of promoting women's rights.

The objectives and principles of the strategy are as follows:

- To achieve equal rights for men and women, in accordance with Islamic law, the Constitution of Yemen, national legislation and Arab and international instruments to which the Government of Yemen is a party;
- To support Yemen's commitments pursuant to the Beijing Platform for Action and the Convention on the Elimination of All Forms of Discrimination against Women through cooperation with all partners within the Government and civil society institutions;
- To muster the financial and technical resources required for implementation of the strategy;
- To bolster working relations and communication mechanisms with civil society organizations, NGOs and State agencies and institutions. The activation of partnership mechanisms, cooperative relations and working methods with civil society institutions is an important aspect of the strategy.

## **2. National strategy on women and employment (2001-2011)**

This strategy is aimed at providing the training required to enable women to join the workforce and upgrade their occupational capacities. The objectives of the strategy are to improve job opportunities for women, provide ways and means of helping them acquire skills, and create conditions under which women's potential can be turned to account, poverty alleviated, and all health, social, cultural and personal factors detrimental to the well-being of working women eliminated in the interests of society as a whole.

## **3. Basic education development strategy (girls' education component)**

Yemen has made noteworthy progress in providing education services to as many school-aged children as possible. As yet, however, not all of them receive basic education: there are still many children who do not attend school, and many of those children are girls. Furthermore, a balance between quantity and quality has proved difficult to maintain. The basic education development strategy is designed to meet major challenges in this area by:

- Providing education services to tens of thousands of school-aged children, especially in view of the fact that approximately 31 per cent of them still do not attend school;
- Closing the gender gap in school attendance: 56 per cent of all girls of school age still do not attend school, compared to 23 per cent of boys;
- Upgrading the quality of basic education and raising the level of educational inputs;

- Eliminating the dropout phenomenon and increasing internal efficiency, especially in view of the fact that approximately 45 per cent of all pupils do not complete the primary level.

#### **4. Strategy on women and the environment**

This strategy focuses on a number of objectives, of which the most important are as follows:

- Enabling women to contribute to sustainable development through pollution control, environmental preservation and optimal resource management;
- Identifying problems arising from women's interaction with natural resources and solutions that may contribute to pollution control and environmental preservation;
- Proposing plans, programmes and projects that can help activate women's role in managing natural resources adequately and achieving sustainable development;
- Identifying mechanisms and measures that will serve to solve problems arising from women's interaction with the environment and strengthen their role in making decisions on environmental issues;
- Enabling women to manage water resources effectively and beneficially by integrating women into water management and desertification control projects;
- Enabling women to own and manage land resources to achieve food security for their families;
- Promoting women's awareness of the importance of land resources and the fact that it is essential to conserve them under conditions of groundwater scarcity and soil erosion;
- Activating the role of women's voluntary associations in the management and protection of natural reserves and biodiversity;
- Striving for the attainment of objectives and goals of the poverty alleviation strategy with a bearing on the promotion of women's role in environmental preservation.

#### **5. 1998 strategy on child labour**

This strategy was prompted by the fact that as many as 50 per cent of all children enrolled at educational institutions leave school either to enter the official workforce or to work in the informal sector. Hence the strategy, which is designed to:

- Address the phenomenon of child labour and mitigate its impact by providing occupational training and skills development programmes tailored to the needs of this age group;

- Modify existing school curricula to accommodate technical and occupational training and skills development with a view to helping young boys and girls develop the capacities needed to confront the phenomenon of poverty, of which they and their families have been at risk ever since the Government's adoption of economic restructuring under development programmes.

#### **6. National poverty alleviation strategy (2003-2005)**

Under the heading "Population and gender", the strategy notes that "women's participation in economic activity remains at a low level and is concentrated in traditional sectors, notably agriculture, characterized by low productivity and low levels of economic yield and hence income. Statistics show that agriculture accounts for 90.6 per cent of growth in numbers of gainfully employed women, compared to 6.3 per cent for the government services sector. This situation reflects the fact that there are few job opportunities for women outside the agriculture sector, while they play only a limited role in the service sector. This explains why women continue to perform traditional low-income functions and activities, with the result that, in general, they participate in the development process only to a limited extent and contribute little to that process. Hence the persistence of the gender gap." The strategy emphasizes that widespread illiteracy and low educational levels among women constitute a serious barrier to their participation in economic activity and in society in general, and prevent them from benefiting equally from the fruits of development.

#### **7. Population plan of action (2001-2005)**

The population plan of action comprises a set of policies and measures aimed at enhancing the status of women and eliminating all forms of violence and discrimination against them. The principles of the national population policy contained in the plan are as follows:

- That human beings are the most important and the most valued of all resources; God has honoured them in the Koran, and the Constitution guarantees them equality of opportunity in political, social, economic and cultural matters without discrimination;
- That justice, gender equity, the empowerment of women and the elimination of all forms of violence against them are among the pillars of the national population policy, the objectives of which include achieving gender equity in civil, political and legislative rights and duties and enabling women to develop their capacities to the fullest extent.

Other national strategies with far-reaching implications for women and gender relations include:

- Strategic vision of Yemen 2025
- National youth integration strategy



- 1998 national literacy and adult education strategy
- Gender strategy in the area of agriculture and food security
- National population policies, 2001-2020.

**(c) Legislative and legal reforms**

Some national legislation which appeared to contain gender-based disparities has been reviewed in an effort to improve the situation of women and enable them to exercise their rights in full. Some of the laws concerned are in the process of being brought into force, including in particular:

**1. Personal Status Act (law No. 20 of 1992)**

The Personal Status Act is concerned with the rights and duties of spouses and the rights of minor children. The issue of accommodation for the wife and children in the event of divorce, for example, is crucial to the stability of the family and the welfare of all its members. However, many of the articles of the Act require interpretation, and some of its provisions are in need of amendment to bring them into line with women's contemporary situation in the light of the changes that the family and society are currently undergoing. Accordingly, the Council of Ministers has given final approval to a series of amendments submitted by a committee established by order of the Council (order No. 97 of 2001) with a mandate to review draft amendments to various laws with a bearing on women's rights. Article 47 of the Personal Status Act, for example, was updated by law No. 27 of 1998 and law No. 24 of 1999 (under article 47, either spouse has the right to annul the marriage contract if a repulsive defect is found in the other spouse, regardless of whether the defect was present at the time the contract was concluded or appeared later).

**2. Civil Status and Civil Registration Act (law No. 48 of 1991)**

This law is based on the principle of complete equality and non-discrimination among citizens with respect to their rights and the safeguarding of those rights through recourse to the courts: any citizen, regardless of gender, may petition a court to enforce his or her rights. The provisions of the law are consistent with the Constitution of Yemen and the terms of the relevant international agreements, declarations, covenants and pacts. A recently enacted law (law No. 23 of 2003) amending the Civil Status and Civil Registration Act contains the following provisions:

Article 1. Articles 21, 47, 61 and 62 of the republican decree containing law No. 48 of 1991 concerning civil status and civil registration are amended as follows:

Article 21: The persons responsible for reporting the birth of a child are:

1. One of the parents of the child in question;
2. The adult male relatives of the child in question, then his or her adult female relatives, in progressive order of relationship;
3. The director of the hospital, maternity clinic, prison, infirmary or other place where the birth occurred.

Responsibility for reporting the birth devolves upon one of the above-mentioned persons only in default of the persons mentioned before him or her, in the order indicated. A report of a birth submitted by any other person is not accepted.

In all cases, the attending physician or midwife is required to notify the Director, Civil Status of all deliveries within the period specified in article 20 of the law.

**3. Law No. 25 of 2003, amending the Labour Code, states,**

Article 1: A new article, numbered 45 A, shall be added to law No. 5 of 1990, the Labour Code, and shall read as follows:

Article 45 A: Public and private institutions employing fifty or more female workers at the same premises shall establish or cause to be established a facility for the accommodation of the children of the said workers, subject to such conditions and requirements as the Minister shall specify.

**4. Organization of Prisons Act (law No. 48 of 1991)**

Under this law, various aspects of the welfare of pregnant women serving prison sentences are safeguarded. They are entitled to medical care in accordance with the directions of a medical specialist. Where a woman gives birth in prison, the event may not be recorded in the official records of the municipality concerned. The child may not be kept in prison with its mother once it has reached the age of two years, but must be released into the custody of its father or other relative, except where a physician decides that such release is not feasible because of the child's state of health. A recently enacted law, law No. 26 of 2003, making provision for an amendment to the Organization of Prisons Act (law No. 48 of 2001) reads as follows:

- Article 27: Subject to the applicable regulations, every pregnant woman serving a prison sentence shall be provided, before, during and after her delivery, with all necessary care and medical attention in accordance with the directions of a medical specialist. The competent authorities shall provide such pregnant woman or mother with food as directed, and every pregnant or nursing woman contemplated under this article shall be excused in all cases from disciplinary measures to which detainees are subject under the provisions of this Act.

## **5. Citizenship Act (law No. 6 of 1990)**

This Act grants a Yemeni woman who marries an alien the right to retain her Yemeni citizenship, subject to the conditions set forth in the Act. However, the Act disregards the principle of gender equality in the matter of the acquisition of Yemeni citizenship in such a case, even where the husband is a Muslim, in that a Yemeni woman does not enjoy the same advantages as a Yemeni man married to a woman of another nationality: the Act does not treat them equally as regards the acquisition of Yemeni nationality by filiation. But an important step has recently been taken with the enactment of law No. 24 of 2003, making provision for the addition of an article to the Citizenship Act (law No. 6 of 1990). The new article reads as follows:

- Article 10 A: Where a Yemeni woman married to an alien is divorced and is granted custody of her children by him, or where she becomes responsible for their welfare in consequence of the death, insanity or absence of her husband, or where he has not resided with them for a period of one year or longer, such children shall be deemed to be of Yemeni nationality in all respects so long as they remain in their mother's care and until they reach the age of majority. Every such child who reaches that age shall have the right to choose between assuming Yemeni citizenship or assuming his or her father's citizenship.

These legislative amendments are the outcome of the efforts of the Ministry of Human Rights, the National Women's Committee and other organizations working for the advancement of women. All these have played an important role in urging governmental executive and legislative bodies, including the House of Representatives, to take action. The National Women's Committee, supported by other groups with similar aims, produced a list of articles in various laws which it considered should be reviewed and amended. At the present time, pursuant to a decision of the Council of Ministers, a plan to review a number of laws is being prepared with a view to determining to what extent the laws in question are consistent with international instruments dealing with human rights in general and the rights of women in particular.

## **II. Non-governmental programmes**

As of the end of 2003, there were a total of 4,305 community organizations and local branches registered with the Ministry of Social Affairs and Labour.

Between 1990 and 2003, there was a striking increase in the number of organizations registered with the Ministry. The enactment of the Community Associations and Institutions Act (law No. 1 of 2001), which guaranteed freedom to found associations (part I, chapter 2) and contained various provisions regulating the founding of associations and institutions in accordance with democratic principles, was followed by the establishment of no fewer than 266 community associations and institutions throughout the country, dedicated to promoting the advancement of women, enhancing women's awareness of their rights, upgrading their occupational, social and cultural situation and making microcredit facilities available to them.

The table below presents statistical information on grassroots women's associations in Yemen as of 31 December 2003.

No.	Governorate	Charitable organizations	Social organizations	Federations	Agricultural organizations	Professional associations	Total
1	Ibb	22	8	1	3	-	34
2	Abyan	17	9	1	-	-	27
3	National Capital Region	30	22	1	-	-	53
4	Public administration	1	3	1	-	-	5
5	Al-Bayda'	-	2	1	-	-	3
6	Ta'izz	4	17	1	-	3	25
7	Al-Jawf	1	5	1	-	-	7
8	Hajjah	4	1	1	-	-	6
9	Al-Hudaydah	4	6	1	1	-	12
10	Hadhramaut (Al-Mukalla)	6	4	1	1	-	12
11	Dhamar	2	4	1	-	-	7
12	Shabwah	-	2	1	-	1	4
13	Sa'dah	1	-	1	-	-	2
14	Sana'a	2	4	1	3	-	10
15	Aden	2	13	1	-	-	16
16	Lahij	16	1	1	-	-	18
17	Ma'rib	-	1	1	-	-	2
18	Al-Mahwit	3	1	1	1	-	6
19	Al-Mahrah	1	-	1	-	-	2
20	'Amran	5	-	1	1	-	7
21	Ad-Dali'	-	1	1	-	-	2
22	Hadhramaut (Saywun)	4	2	-	-	-	6
Total		125	106	21	10	4	266

There are many associations and organizations currently working in the field of the advancement of women. They are not much different from their predecessors as regards their policies, their training, education and awareness programmes and projects, and their concerns, objectives and general orientation.

### **Obstacles confronting the performance of government mechanisms for the advancement of women**

1. Most of these mechanisms are weak in terms of the qualifications, training and specialized skills of their senior technical personnel working in the field. This has an adverse impact on the effectiveness of their programme planning and the activities they undertake;
2. These mechanisms are presumed to be much alike, and consequently there have been few comprehensive, in-depth analytic studies aimed at determining their actual needs and identifying the various influences exerted upon them. Such studies would be useful in that they would contribute to the creation of a database containing information relating to programmes aimed at the advancement and empowerment of women;

3. Government budget allocations are usually tied to projects with outside funding and the projects and objectives of funding agencies. The burden on those agencies has increased as demand for their services has grown, and the result has been increasing resource scarcity and declining Government support for activities and programmes relating to women's issues;
4. Unsatisfactory methods and poor coordination between different mechanisms.

#### **Unsatisfactory aspects of the work of non-governmental mechanisms**

1. Most of these mechanisms are weak in terms of the qualifications, training and specialized skills of their senior technical personnel working in the field. This has an adverse impact on the effectiveness of their programme planning and the activities they undertake;
2. Non-governmental associations and organizations frequently do not have adequate funds to implement their activities and programmes;
3. These organizations tend to concentrate heavily on activities that are of direct and immediate benefit to the women at whom they are aimed, such as providing assistance in cash and in kind, at the expense of future-oriented, strategic activities aimed at developing beneficiaries' capacities and skills and thereby serving their long-term interests and enabling them to participate effectively in the development process;
4. Large numbers of women tend to participate in the various training and skills development activities offered by these organizations, and at first sight this is a positive indicator of the effectiveness of their work and the growing awareness of the women concerned. A closer look, however, reveals some contradictory aspects: many of the activities in question may be regarded as traditional women's work, such as sewing, embroidery and household management.

For further discussion of relevance to this paragraph of the Committee's concluding observations, we refer the reader to the fifth periodic report of the Republic of Yemen on progress to date in the implementation of the Convention on the Elimination of All Forms of Discrimination against Women.

#### **IV. Article 4 of the Covenant**

##### **The state of emergency**

The legal position with respect to this article was discussed in our previous report. With reference to paragraph 14 of the concluding observations of the Human Rights Committee<sup>3</sup>, we repeat that in the Republic of Yemen, a state of emergency is declared in accordance with clear constitutional provisions and procedures. A state of emergency is declared by republican decree. The declaration must be presented to the House of Representatives within seven days of its issuance in accordance with article 121 of the Constitution. If the House of Representatives has been dissolved, the former House of Representatives is to be convened in accordance with the Constitution. If the House is not convened, or if it is convened but the declaration is not

presented, the state of emergency ceases in accordance with the Constitution. A state of emergency is declared only in circumstances of war, internal unrest or natural disaster and only for a limited period which may not be extended, except with the approval of the House of Representatives.

We may note at this point that despite the difficult circumstances besetting Yemen in the summer of 1994 as a result of a war of secession, the Government was able to respect human rights. No special courts were established; on the contrary, a general amnesty was proclaimed for all those who took part in the unrest, and fundamental human rights were respected and were not violated in any way. The course of democracy has continued since that time, and the war of the summer of 1994 is over and done with. The subsequent extension of the general amnesty, by republican decree, to the persons whose names were included in the "list of 16" reflected the nation's conviction that the Republic of Yemen had room enough for all. Appropriate steps were taken to deal with their situations and their property, and they were given posts suited to their skills and qualifications, in accordance with the declaration of amnesty. Under no circumstances does a declaration of a state of emergency prejudice citizens' freedoms or restrict fundamental human rights, as there is nothing in the legislation of the Republic of Yemen to permit such rights to be undermined during a state of emergency.

#### **V. Article 5 of the Covenant**

The legal position with respect to this article was discussed in our previous report. Inasmuch as Yemen's legislation relating to this matter remains unchanged, we see no need to repeat that discussion here.

#### **VI. Article 6 of the Covenant**

##### **Paragraph 1: the right to life**

The Republic of Yemen is committed to this right in fact and in law, as stated in paragraphs 30 and 31 of the previous report.

##### **Paragraph 2: the death penalty**

With respect to the death penalty and the right to appeal for a lighter sentence or commutation of the death penalty to some other form of punishment, the following points should be made:

- The Constitution of Yemen provides many of the necessary safeguards, and legislation currently in force affords adequate protection of human rights, including in particular the right to security and the right to life. These are broadly consistent with the international safeguards guaranteeing protection for those facing the death penalty adopted by the Economic and Social Council in its nine-paragraph resolution 1984/50 of 25 May 1984 (included in a collection of international instruments published by the United Nations in New York, 1993).
- In Islamic law, the death penalty is regarded as the essence of the Islamic penal system, and consequently to abolish it would be offensive to the feelings of Muslims,

especially in view of the fact that the justification for the continued use of this penalty is that it deters a person who is thinking of committing a capital crime from actually committing it. In Islamic law, the death penalty is permissible as a means of restraining persons from doing evil.

- Accordingly in Yemen's legislation, the death penalty is prescribed for the gravest and most terrible crimes. The list of those crimes includes the taking of life, as in the case of murder (see articles 234, 235, 249 and 246 of the Penal Code), inasmuch as jurists agree unanimously that the rule of a life for a life is the best way of saving human life and frequently preserves it. Furthermore, all are equal under that rule, great and small, wealthy and poor, strong and weak alike. Here we see the meaning of the Koranic verse that runs, "And in the law of retaliation ye have life, O ye of understanding, that ye may fear," which is the word of truth from Almighty God. Persons who commit crimes affecting the stability and unity of the country or its territorial integrity, and persons who weaken its defensive strength, help its enemies or communicate unlawfully with a foreign State to divulge national secrets are also liable to the death penalty (see articles 125, 126, 127 and 128 of the Penal Code).

In addition, the death penalty is applicable as a doctrinal punishment in the case of every person who participates in an armed movement for the purpose of unlawfully seizing lands or property owned by the State or its citizens, resists military force during pursuit, or resists officers duly empowered to enforce its laws, where the death of a human being results from such acts (article 133 of the Penal Code). Moreover, under law No. 24 of 1998, the death penalty may be applied as a doctrinal punishment for abduction and brigandage: article 1 of that law provides that every person who leads a group for purposes of abduction, brigandage or seizing public or private property by force is liable to the death penalty, and every person who participates in the activities of such a group is liable to that same penalty. The crimes enumerated in the Military Penal Code of 1998 also carry the death penalty.

Every person who commits war crimes is liable to the death penalty, where the death of a human being results. Similarly, every person who commits the crimes of arson, pollution or drowning and every person who causes a disaster is liable to the death penalty, where the death of a human being results (articles 137, 138, 139, 140 and 141).

Male and female adulterers are liable to death by stoning, in accordance with the provisions of paragraph 38.2 and article 263 of the Penal Code, and sodomy also carries the death penalty, where the perpetrator is a married man.

In addition, the death penalty is applicable for drug-related offences (exporting, importing, production, possession, purchase and sale) under articles 33, 34 and 35 of the Unlawful Narcotics and Psychotropic Substances Trafficking and Use Act (law No. 3 of 1993). Procuring is also punishable by death where a previous offender is convicted of a second offence (article 280 of the Penal Code).

- Inasmuch as the right to security and life stands in the forefront of individual freedom, all other rights being derived from it, we should note at this point the most important safeguards and protective measures contained in the Constitution and the laws referred to in the above discussion:
  - Article 48 of the Constitution states in its paragraph (a), “The State shall guarantee to its citizens their personal freedom and preserve their dignity and security. Cases in which a citizen’s freedom may be restricted shall be defined by the law. Personal freedom can be restricted only by the order of a competent court of law.” The provisions of article 11 of the Code of Criminal Procedure are similar;
  - Article 47 of the Constitution states, “Criminal liability is personal. No crime or punishment shall be defined on any basis other than a provision in Islamic law or the law of the land. Every accused person is innocent until found guilty by a final judicial sentence, and no law may be enacted for the retroactive punishment of any act. The provisions of articles 2, 3 and 4 of the Code of Criminal Procedure are similar.
  - In order to protect individuals’ right to life from arbitrary abuse, article 234 of the Penal Code contains an exhaustive list of cases in which the death penalty may be imposed, as follows:

“Every person who wilfully kills an innocent person shall be liable to the death penalty in retaliation, unless the person entitled to claim the right of retaliation waives his claim. Where such waiver is absolute or subject to the condition of payment of blood-money, or where the criminal dies before judgement is passed, the sentence shall be payment of blood-money, without regard to the views of the victim before the act was committed. A sentence of retaliation shall be subject to the condition that the person entitled to claim retaliation has done so and that the evidence is abundantly clear. Where either or both of these conditions is or are not met and the judge is satisfied from the evidence that the accused person did in fact commit the crime, or where retaliation is not feasible or for any reason is not applicable without having been waived, the offender shall be sentenced to a term of imprisonment of not less than three years and not more than ten years. Where the offender is known for evil deeds or where the murder was committed in a particularly heinous fashion or upon two or more persons, or where the offender has committed deliberate murder before, or where the murder was committed in preparation for the committing of another crime or to conceal one, or where the victim was a pregnant woman or an officer or agent of a public service during or because of or on the occasion of the performance of his duty or service, the offender may be sentenced to death even where the right of retaliation has been waived.”



- Article 434 of the Code of Criminal Procedure provides that “Where an offender is sentenced to death or to retaliation resulting in loss of life or limb, the Department of Public Prosecutions shall be required, even where no appeal has been entered, to submit the case to the Supreme Court with an accompanying brief stating its own view, and that Court may set the sentence aside.”
- Article 469 of the Code of Criminal Procedure states, “No one may be punished for any crime unless he has been convicted and sentenced in due form by a competent court of law.”
- Article 479 of the Code of Criminal Procedures states, “No sentence of death, doctrinal punishment or retaliation shall be carried out upon the convicted person until after the President of the Republic has ratified the sentence.”
- Article 480 of the Code of Criminal Procedure states, “The President of the Republic shall issue a decree authorizing the sentence, doctrinal punishment or retaliation to be carried out. In the case of a death sentence, the decree may authorize the carrying out of the sentence or it may commute it to some other form of punishment, pardon the offender, or the like.”
- Article 484 of the Code of Criminal Procedure, and other articles as well, provide that “Neither a death sentence nor a sentence of doctrinal punishment or retaliation entailing loss of life or limb shall be carried out on an official holiday or on a holiday in the religion of the convicted person. In the case of a pregnant woman, the sentence shall not be carried out until she has given birth, and in the case of a woman who is suckling an infant, the sentence shall not be carried out until the child is weaned within a period of two years, provided the child has a guardian. In such a case, the convicted woman shall be imprisoned until such time as the sentence is carried out.”
- Because Yemeni legislators were well aware of the seriousness and gravity of the death penalty, which extinguishes life and cannot be undone, they wrote provisions into the law making it mandatory, before the sentence could be carried out, for the guilt of the accused person to have been clearly established, for all the legislative and constitutional conditions relating to the penalty to have been met, and for there to be no possible grounds for invalidation of the sentence.

As a rule, cases of unjustifiable homicide are examined by the Criminal Division of the Supreme Court, and consequently death sentences may be set aside if the trial court is found to have been negligent in its duty of examining all aspects of the accused person’s defence, whatever the reason for such failure to meet its lawful responsibilities may have been. In this connection, it will be useful for us to consider the judicial principles regulating the death penalty. Those principles are as follows:

1. The Supreme Court may not uphold a trial court's sentence of retaliation where a court of appeal has ruled that blood-money shall be paid. This principle emerged in the Criminal Division's case No. 26 of 1999, where the Court ruled the "the Supreme Court may not uphold the trial court judge's sentence of death, because the Court of Appeal handed down a different ruling. Consequently, the Court can only confirm or set aside the decision of the Court of Appeal."
  2. Where one of the persons entitled to claim retaliation has waived his claim, the waiver becomes irrevocable for him, and where the persons entitled to claim retaliation have done so and one of them subsequently waives his claim, the court may not award retaliation, but must award payment of compensation (Criminal Division case No. 101 of 24 August 2004).
  3. A fugitive defendant must be allowed to defend himself in all cases involving a sentence of doctrinal punishment or retaliation (article 289 of the Code of Criminal Procedure).
  4. A sentence of retaliation may not be awarded where the evidence consists exclusively of the testimony of one witness.
  5. An oath is not deemed sufficient grounds for a sentence of retaliation. The Supreme Court has ruled that an oath is not acceptable as grounds for upholding such a sentence, even where the murderer so requests and the court maintains that the parties to the case have changed their stands, because in criminal trials no such change is permissible as the case proceeds through the various stages of judicial procedure.
  6. An important principle is that judicial presumptions are not acceptable for a sentence of retaliation (Criminal Division case No. 119 of 1998).
  7. A principle or reasoning used by the Supreme Court to set aside a lower court's ruling is illustrated by the Criminal Division's decision to stay the execution of a death sentence where one of the persons entitled to claim retaliation was a minor descendant of the criminal. The Court ruled that the sentence should not be carried out until the person in question came of age, because of the possibility that he might be prepared to waive his claim, in which case the sentence would be commuted to one of payment of blood-money. This is clearly in the interests of the convicted person (Criminal Division case No. 35/1419 - Supreme Court).
  8. An important judicial rule enunciated by the Supreme Court is that all legislative and constitutional conditions must be fully met before a death sentence can be upheld (ruling dated 16 September 1998).
- Discretionary power of judges in applying penalties
    1. Article 109 of the Penal Code is concerned with the discretionary power of judges in applying penalties. It states, "In considering which of two doctrinal punishments, one greater and one lesser, should apply in the case of a particular

crime, the judge shall take into account all mitigating or aggravating factors, including in particular the degree of responsibility, the motives for the offence, the seriousness of the act, the circumstances under which it was committed, the convicted person's past criminal record, his personal situation, his behaviour in connection with the offence, his connection with the victim, and whether he has compensated the victim or his heirs. In setting a fine, the judge shall take the offender's economic situation into account. Where the prescribed penalty for the offence is death but there are mitigating circumstances, the judge shall sentence the offender to a term of imprisonment of not more than 15 years and not less than five years." It is clear from this article that the judge has the discretionary power to pass a lighter sentence and that the circumstances in which the offence was committed may tell in favour of the accused person, even though they may not have been mentioned as a factor in his defence, owing to his neglect or absence.

2. The law requires the judge to explain the grounds for non-applicability of doctrinal punishments to the accused person in cases of crimes for which such a punishment is prescribed, and failure to do so invalidates a conviction. Article 46 of the Penal Code states expressly, "When considering cases involving doctrinal punishments, the judge shall explain all grounds for non-applicability of such punishments to the accused person, and a conviction shall become null and void where it is proved that the judge has failed to do so."
  3. Where a judge imposes a lighter sentence, he is not required to state in his judgement the reasons that led him to his decision. Under Yemeni law, he has discretion to impose lighter sentences and to assess the factors leading to his decision to do so, subject to the condition that he shall not exceed the limitations laid down in the law in that respect, and provided his decision is reasonable and logical.
- We wish to emphasize that the Yemeni judiciary is a fully independent power that is separate from the other powers of the State. No power whatever interferes in the rulings and decisions of the courts. This is expressly stated in the Constitution and the applicable legislation. In other words, no official whatever in any of the executive agencies of the State or in the legislative power, regardless of his position, can affect the course of judicial proceedings or alter a final judgement handed down by a court in any way. The only power with authority to lighten sentences is the judiciary itself, where it is satisfied from the evidence presented at the hearings and from the arguments presented in court that the accused deserves a lighter sentence than the one imposed by the trial court. It is for the accused person himself or his attorney to bring the evidence in question to the attention of the trial or appellate court concerned. The persons entitled to claim retaliation (i.e. the kinsmen of the victim) may waive their claim, and in that case the court imposes the payment of compensation instead of the death penalty (as retaliation), in accordance with applicable legislation. A sentence of imprisonment may be imposed where the competent court considers that the offence affects the public interest.

**Paragraphs 3, 4 and 5**

The legal position in respect of these paragraphs was stated in the previous report.

With reference to paragraph 15 of the concluding observations of the Human Rights Committee,<sup>4</sup> the matter contained in this paragraph, notably the comment that the right to seek a pardon is not guaranteed for all on an equal footing, is an unsound inference, inasmuch as it appears from an examination of the provisions of the relevant legislation that the right to seek a pardon is available to every offender who has been sentenced to death by a final court ruling. Applications for pardon are made to the President of the Republic, who is empowered under the law to grant pardons and commute sentences. Article 469 of the Code of Criminal Procedure states, "A sentence for an offence may be carried out only pursuant to a final judgement rendered by a competent court," while article 479 states, "A sentence of death, doctrinal punishment or retaliation shall not be executed upon the convicted person until it has been ratified by the President of the Republic." An application for pardon is the last means available to a convicted person for appealing from the penalty imposed upon him, and for that reason it is available only after a final judgement has been made in the case. As long as a final judgement has not yet been handed down, the convicted person has legal recourse at his disposal for seeking to have his conviction set aside or commuted, and consequently has no need to apply for a pardon.

A pardon, then, can be granted by a decree issued by the President of the Republic, who is deemed to be in a better position than anyone else to prevent any adverse impact, in terms of the public interest, that might eventuate from the execution of the death sentence. An execution that is the result of a judicial error cannot be put right, and consequently Yemen's legislation makes provision for the appeal procedure as a means of correcting judicial errors. The law allows a convicted person to appeal to the highest authority in the land to have his sentence overturned, in whole or in part, or commuted to a lighter penalty in the interests of justice. Under article 359 of the Code of Criminal Procedure, a pardon may be granted in the case of either an original sentence or a supplementary sentence, and the article does not specify any offence or offences that may not be the subject of an application for pardon.

Furthermore, where the convicted person has merited the death sentence duly passed upon him in accordance with judicial procedure and the President of the Republic has not seen fit to pardon him, under Yemeni law he has yet one more way of seeking to avoid execution: he can appeal to the persons entitled to claim retaliation, where the case is of that kind. This possibility should be encouraged, as it represents another means of avoiding the death penalty. Indeed, the reason why the law requires the persons entitled to claim retaliation to be present when the execution is carried out is so that they may have an opportunity of showing mercy, and that those in charge of carrying out the execution and persons of good will may have a chance of asking them to do so.

We may note at this point that the State is constantly concerned to communicate with the persons entitled to claim retaliation and endeavour to persuade them and induce them to show mercy to the condemned man. Many a place of execution has been the scene of forgiveness by the kinsmen of the victim, with the result that the condemned man has been spared.

With reference to what the Committee calls "the preponderant role of the victim's family in determining on the basis of financial compensation whether or not the penalty is carried out",

which - according to the Committee - is contrary to several articles of the Covenant, we do not share the Committee's view. Yemeni law seeks to afford the greatest possible scope for avoiding the need to carry out a sentence of death, and the role played by the victim's family is closely associated with the possibility of replacing that sentence with the payment of financial compensation, where the persons concerned waive their personal right of retaliation against the condemned man. Thanks to the fact that the victim's family does play that role, the State and persons of good will in the community can intervene with his kinsmen and endeavour to persuade them not to insist on the sentence's being carried out. If they do relent, they are entitled to financial compensation, such compensation being deemed to constitute an alternative punishment where they have waived their right of retaliation (article 72 of the Penal Code).

A case of lawful retaliation may be settled amicably, and in that case the offender may come to an agreement with the victim's heirs on the payment of blood-money in return for their waiving their right of retaliation (article 94 of the Penal Code).

All this is clearly in the interests of a person condemned to death, and Yemeni law consistently seeks to encourage the victim's kinsmen to waive their right of retaliation and to accept financial compensation instead, so that the retaliatory death sentence need not be carried out. This is in accordance with both the spirit and the letter of articles 6, 14 and 26 of the Covenant, especially article 6, which encourages action by all available means to seek pardon or commutation of the death sentence, and specifies that the sentence may be carried out only pursuant to a final judgement rendered by a competent court. Once a condemned man has exhausted all judicial means of appeal, including a petition for review, which is regarded as an unusual procedure for seeking to have a sentence set aside, he still has the possibility of exercising his right to appeal to the President of the Republic for a pardon. Only after every recourse has failed can the sentence be carried out, once the President of the Republic has ratified the sentence of the court.

In that case, the condemned man is doomed to be executed, and yet the law leaves him one last glimmer of hope: it is that the death sentence may be replaced by the payment of blood-money. As we have seen, the State seeks to persuade the victim's kinsmen to waive their right of retaliation in favour of the acceptance of financial compensation, and there is always the possibility that the condemned man may reach an amicable settlement with them, either directly or through the agency of persons of good will.

In conclusion, to eliminate the role of the victim's family in determining whether or not the penalty is carried out would be to make death sentences inexorable and inevitable, and that would not be in accordance with the spirit of article 6 of the Covenant. The fact that the victim's family plays the role it does is in the condemned man's interest, as it leaves open the possibility that the death sentence will not be carried out, as the family may waive their right of retaliation in favour of blood-money. Since the role played by the victim's family serves the condemned man's interests, to eliminate that role would do the reverse by making death sentences inevitable.

With reference to the Committee's request for detailed information on the number of persons sentenced to death and the number of convicted persons executed since the year 2000, full statistical information on these matters will be found in the tables below.

**1. Statistical data on numbers of persons sentenced to be executed or killed by way of retaliation and awaiting execution, 2000**

No.	Governorate	Retaliation	Execution	Retaliation and execution
1	National Capital Region	1	4	-
2	Sana'a		1	-
3	Ta'izz	3		-
4	Al-Hudaydah	1		-
5	Hajjah	2		-
6	Ibb	2	1	-
7	Dhamar	3	1	-
8	Lahij	1		-
9	Ad-Dali'	1	2	-
10	Al-Bayda'	2		-
11	Ma'rib	1		-
12	'Amran	5		-
Total		20	8	-

**2. Death sentences pronounced by the several levels of courts, 2000**

Sentence	Trial court	Appellate court	Supreme Court	Remarks
Death by way of retaliation	11	5	6	Judgements of trial and appellate courts upheld by the Supreme Court
Execution	7	2		
Total	18	7	6	

**3. Statistical data on numbers of persons sentenced to be executed or killed by way of retaliation and awaiting execution, 2000 to 2003**

No.	Governorate	Retaliation	Execution	Retaliation and execution
1	National Capital Region	2	4	2
2	Sana'a	2	1	
3	Ta'izz	7	1	
4	Al-Hudaydah	4		
5	Hadhramaut	5		
6	Ibb	13	2	
7	Abyan	2	1	
8	Hajjah	14		
9	Dhamar	10		
10	Lahij	1	3	
11	Ad-Dali'	2		
12	Al-Mahwit		2	
13	Al-Bayda'	8		
14	Al-Mahrah	1		
15	Ma'rib	1		
16	Al-Jawf		1	
17	'Amran	6		1
Total		78	15	3

**4. Death sentences pronounced by the several levels of courts, 2000 to 2003**

Sentence	Trial court	Appellate court	Supreme Court	Remarks
Death by way of retaliation	31	29	18	Judgements of trial and appellate courts upheld by the Supreme Court
Execution	7	6	2	
Execution and death by way of retaliation	2	1		
Total	40	36	20	

**5. Number of condemned persons killed by way of retaliation or executed, by governorate, 2003**

No.	Governorate	No. of cases
1	Abyan	1
2	Ibb	3
3	National Capital Region	2
4	Ad-Dali'	1
5	Al-Mahrah	1
6	Ta'izz	1
7	Hajjah	4
8	Hadhramaut	3
9	Dhamar	3
10	Shabwah	1
11	Sa'dah	2
12	Sana'a	1
13	Aden	1
14	'Amran	1
15	Lahij	1
16	Ma'rib	2
17	Al-Bayda'	1
18	Al-Hudaydah	1
Total		30

**VII. Article 7 of the Covenant**

**Prohibition of torture**

Under the legislation of the Republic of Yemen, specifically the Constitution and the Penal Code, all forms of torture are absolutely prohibited. Torture is regarded as a crime by all standards, as will be seen from the discussion below.

**1. Constitution**

Article 48 of the Constitution states in paragraph (e) that "Physical or psychological torture at the time of arrest or during detention or imprisonment is a crime that is not subject to a statute of limitations. Every person who practises, orders or participates in it shall be liable to prosecution."

Article 50, for its part, states, "Penalties shall not be executed by unlawful means."

**2. Penal Code (law No. 12 of 1994)**

Article 35 of the Penal Code runs as follows: "A person who performs an unlawful act under such material compulsion or force that it is impossible for him to resist shall not be deemed to have committed a criminal offence, and responsibility for the offence in question shall



lie with the person exerting the compulsion or force, except where the act involves the killing or torture of a human being, in which case responsibility shall lie with both the person acting under compulsion and the person exerting the compulsion.”

Under article 166 of the Code, “Every public official who in the performance of his duty tortures or subjects to force or threats, either in person or through the agency of another, any suspect, witness or expert as a means of making him admit to or provide views or information about a criminal offence shall be liable to a term of imprisonment of not more than ten years, without prejudice to the victim’s right to retaliation, blood-money or financial compensation for injury.”

Article 167 states, “Every public official who subjects or orders another to subject any individual to a penalty other than the penalty to which he has been sentenced or to a more severe penalty, or refuses to comply with an order for his release, where the official in question is responsible for so complying, or wilfully detains him in a penal institution after the elapse of the time specified in the order concerning his case, shall be liable to a term of imprisonment of not more than three years or to a fine, and shall in every case be dismissed from his post.”

Article 168 states, “Every public official who improperly uses force on any person, relying without justification on the authority of his office, and thereby degrades that person’s dignity or causes him physical pain, shall be liable to a term of imprisonment of not more than one year or to a fine, without prejudice to the victim’s right to retaliation or financial compensation for injury, and shall in every case be dismissed from his post.”

Article 246 states, “Everyone who unlawfully detains or confines any person or deprives him of his freedom by any means shall be liable to a term of imprisonment of not more than three years, or to a term of imprisonment of not more than five years where the offender is a public official, an individual impersonating a public official or an individual bearing arms, where the offence is committed by two or more individuals, where the offence is committed for the purpose of robbery, where the victim is a minor or a mentally handicapped person, or where the offence is such as to deprive the victim of his freedom or to endanger his life or health.”

Article 249 states, “Everyone who abducts an individual shall be liable to a term of imprisonment of not more than five years, or to a term of imprisonment of not more than seven years where the victim is a woman, a young person, or an insane or mentally unbalanced person, or where the abduction is carried out by force, threats or deception, or to a term of imprisonment of not more than ten years where the abduction is accompanied or followed by injury, assault or torture, without prejudice to the victim’s right to retaliation or financial compensation for injury, as the case may be, depending on the harm suffered by the victim. Where the abduction is accompanied or followed by killing, unlawful sexual intercourse or sodomy, the offender shall be liable to the death penalty.”

Article 250, which deals with accomplices, states, “Everyone who participates in an abduction or conceals the abducted person after his abduction shall be liable to whichever of the penalties prescribed in the preceding article is appropriate, depending on the case, where he is aware of the circumstances in which the abduction was carried out and of the acts that

accompanied and followed it. Where the accomplice who conceals the abducted person is aware of the fact of the abduction but ignorant of other acts that accompanied and followed it, he shall be liable only to a term of imprisonment of not more than five years.”

Article 241 states, “Everyone who commits an assault against the person of any individual by any means without intent to kill, but thereby inadvertently causing the death of that individual, shall be liable to the payment of the “heavier” blood-money and to a term of imprisonment of not more than five years.”

Under Article 243, “Everyone who commits an assault against the person of any individual by any means and thereby causes a permanent physical infirmity, as by crippling a joint, gouging out an eye, tearing off an ear or otherwise inflicting a disabling injury, shall be liable to retaliation of a similar kind. Where the assault result in loss of the function of a limb or sense without impairing its appearance, or where retaliation is not feasible or for any reason is not applicable without having been freely waived, the offender shall be liable to the payment of blood-money or financial compensation for injury and to a term of imprisonment of not more than seven years. Where the assault causes permanent disability but the offender did not intend to cause such disability, he shall be liable to a term of imprisonment of not more than three years in addition to the payment of blood-money or financial compensation for injury, as the case may be.”

Article 244 states, “Everyone who commits an assault against the physical integrity of any individual by any means and thereby causes an injury that is not permanently disabling or temporarily impairs the victim’s health shall be liable to the payment of financial compensation for injury and a term of imprisonment of not more than one year, or to the payment of financial compensation for injury and a fine, where the injury is not such as to cause the victim disablement or inability to engage in his usual activities for a period of more than twenty days. Where the assault results in the victim’s disablement or inability to engage in his usual activities for a period of more than twenty days, the penalty shall be a term of imprisonment for a term not to exceed three years or a fine in addition to the payment of financial compensation for injury.”

### **3. Code of Criminal Procedure (law No. 31 of 1994)**

Article 6 of this Code provides that “Torture, inhumane treatment or physical or psychological harm inflicted on an accused person in order to extract a confession from him by force are prohibited. Any statement which an accused person or witness is proved to have made under pressure created by any of the practices mentioned shall be null and void.”

Article 7, paragraph 1 of the same Code states, “Arrests are permissible only for acts punishable by law and must be based on the law.”

Article 16 states, “Except as provided in article 37, criminal offences against the freedom or dignity of citizens or involving violence to extract a confession or for any other purpose shall not be subject to any statute of limitations.”

Article 71 states that “Every detained person shall be held in a place that is separate from the place reserved for convicted persons. Every detained person shall be treated on the assumption that he is innocent, and shall not be harmed physically or psychologically in order to extract a confession from him or for any other purpose.”

Under article 178, “An accused person may not be required to take an oath under Islamic law or compelled to answer, and his refusal to answer may not be taken as evidence confirming the charge against him. Neither deceit nor violence nor any form of pressure consisting of persuasion or compulsion may be used to induce the accused person to confess.”

Article 469 states, “The penalties and measures prescribed by law for any criminal offence may be applied only where a final judicial sentence has been issued by a competent court.”

#### **4. Military Penal Code (law No. 11 of 1998)**

Article 20 in Part III of this Code, which deals with war crimes, states, “Every member of the armed forces who fails in his duty in a region of military operations and robs a prisoner, a corpse or a sick or wounded man shall be liable to a term of imprisonment of not more than five years or a punishment commensurate with the results of his crime, and in addition shall be compelled to restore the stolen item or items or the value thereof.”

Article 21 states, “Every person subject to the provisions of this Code who commits, in time of war, any act causing harm to persons or property protected under international instruments to which the Republic of Yemen is a party shall be liable to a term of imprisonment of not more than three years or a punishment commensurate with the results of his crime. In particular, the acts described below shall be deemed to constitute war crimes punishable under this Code:

1. Torture or mistreatment of prisoners, deliberately causing them severe pain, or subjecting them to scientific experiments;
2. Deliberately causing serious physical or mental harm or impairment of the health of prisoners, whether soldiers or civilians, or compelling them to serve in the armed forces.

Article 22 of the Code adds, “The right to hear allegations concerning the crimes contemplated in this Part shall not be subject to any statute of limitations.”

Article 23 states, “Where one of the crimes contemplated in this Part has been committed, the senior commander and his subordinates shall be deemed responsible for the crime in question, and all of them shall be liable to the penalties prescribed by law, except where the acts involved were committed without their knowledge or volition or where it would have been impossible for them to prevent those acts from being committed.”

Article 43 of Part IX of the Code, which deals with crimes involving the misuse of authority, states, “Every member of the armed forces who misuses his authority by issuing orders or seeking to secure the performance of acts unrelated to his duty or seeking to obtain gifts or financial or other advantages shall be liable to a term of imprisonment of not more than five years or a punishment commensurate with the results of his crime.”

Article 44 reads as follows: “Every member of the armed forces who, relying on his authority or rank, orders those under his command to commit a crime shall be deemed the primary perpetrator of the crime, where the crime is actually committed or has begun to be committed, and shall be liable to a term of imprisonment of not more than five years, without prejudice to the provisions of the general penal law.”

Article 47 states, “Without prejudice to the general penal law, every officer who strikes, causes bodily harm to, acts in such a way as to impair the health of, or assigns additional service to a man under his command as a means of subjecting him to torture, or allows others to injure him, shall be liable to a term of imprisonment of not more than two years and to the payment of compensation. Where the action results in the death of the man concerned, the perpetrator shall be liable to the death penalty.”

Article 52 reads as follows: “Every member of the armed forces who strikes a person of lower rank shall be liable to a term of imprisonment of not more than five years, without prejudice to the provisions of the general penal law.”

Article 35 reads as follows: “Every member of the armed forces who in the performance of his duty tortures or subjects to force or threats, either in person or through the agency of another, any suspect, witness or expert as a means of making him admit to or provide views or information about a criminal offence shall be liable to a term of imprisonment of not more than ten years, without prejudice to the victim’s right to retaliation, blood-money or financial compensation for injury.”

#### **5. Police Forces Act (law No. 15 of 2000)**

Article 7 of Part II of this Act, which deals with the duties of the police, reads as follows: “The task of the police is to preserve public order and public morals and to keep the peace. To that end, it is entrusted with responsibility for:

1. Protecting life, honour and property;
2. Ensuring the security and peace of citizens and residents;
3. Managing prisons and guarding detainees;
4. Guarding public facilities and assisting the public authorities in the performance of their duties in accordance with the provisions of this Act;
5. Performing such duties as are required of them under laws, regulations and decrees.

Article 9, paragraph 5, reads as follows: “They [i.e. the police] shall not use physical torture or psychological pressure on any person at any stage of gathering evidence, detention or imprisonment.”

Article 8 in Chapter 10, Part I, which deals with the duties of officers, reads as follows: “Every police officer shall observe and apply the provisions of this Act. He is duty-bound not to commit any disciplinary infraction or breach of laws and regulations in force.”

In point of fact, various Government agencies, including the Ministry of Justice, the Ministry of the Interior, the Department of Public Prosecutions and the Ministry of Human Rights, have conducted many field inspections of prisons in various cities and districts of Yemen, in some cases to investigate complaints, in others to carry out unannounced inspections or routine inspections. Furthermore, the High Committee on Verification of the Situation of Detainees and Prisons, which is made up of representatives from a number of relevant agencies, has organized a number of field visits to various prisons in the course of which it has interviewed detainees to look into their conditions of detention, hear about their problems and listen to their complaints. It is clear from the reports of these bodies that Yemen’s prisons are free of any form of inhumane treatment or torture.

### **Female genital mutilation and domestic violence against women**

With reference to paragraph 6 of the concluding observations of the Human Rights Committee,<sup>5</sup> we understand the Committee’s concern about these practices, which persist only in some coastal regions. They are not indigenous to the Yemeni people. The Government has taken numerous measures aimed at combating and eliminating them, including in particular:

- Issue of a decree by the Minister of Health (decree No. 1/3 of 2001) prohibiting physicians and nurses from performing female circumcision in public or private hospitals and health centres. Anyone contravening this decree is liable to prosecution. This decree is an initial step that points to further measures in future. The competent authorities at the Ministry of Health are actively pursuing monitoring and follow-up activities to make sure the decree is being enforced;
- Action to promote health awareness, especially in the coastal regions, with a view to informing people about the harmful effects of this practice. Health programmes have been organized for this purpose, especially in the field of maternal and child welfare. These programmes focus on reproductive health, and they have had a positive impact in reducing the incidence of this practice, which is the result of widespread ignorance and illiteracy in some remote coastal regions that have been influenced by African customs. To mention only a few of the many examples that might be adduced, the Ministry of Public Health’s Reproductive Health and Family Planning Directorate, working in cooperation with the Pacific Institute for Women’s Health and the MacArthur Foundation of the United States, organized a seminar on women’s health which adopted a number of recommendations, notably one emphasizing the role of the Ministry of Public Health in addressing the issue of female genital mutilation by active enforcement of the Minister’s decree and monitoring the work of enforcement. Health education with a view to fostering awareness of the hazards and harmful effects of female genital mutilation is an important activity, as are expanded studies

and field research aimed at determining the incidence of this phenomenon in Yemen and the harm it causes and the preparation of strategic plans and programmes to eliminate the practice. In addition, the National Women's Committee has conducted a special study on the issue, and has produced posters and brochures on reproductive health and female genital mutilation;

- As a direct approach to combating the practice, four NGOs in Al-Hudaydah Governorate have received funding for the purpose of enhancing awareness of the hazards of female genital mutilation and its adverse impact on women's health in three specific regions, two in the city of Al-Hudaydah itself and one in a rural area of the governorate. The NGOs in question have used many direct, sophisticated methods to convey health-related messages, such as holding information sessions, using music and poetry, and inviting religious leaders, physicians and other senior health-care personnel to organize meetings and discussions aimed at everyone in the community on the subject of the adverse effects of female genital mutilation on women's health;
- Over the period 2000-2003, the National Women's Committee executed a project in Aden Governorate aimed at combating practices of this kind and enhancing health awareness among all social groups. The Committee proposes to submit the issue to the country's legislative institutions in an effort to have female genital mutilation prohibited and make anyone who performs it, whether a lay person or a professional (physician, nurse, etc.), liable to prosecution;
- The Ministry of Health has given courses on the harmful effects of female genital mutilation in various parts of the country, including Al-Mahrah, Haydan, Sa'dah, the Hadhramaut coast, Wadi Hadramaut, and the inland desert regions of Hadhramaut.

We should like to direct the Committee's attention to the fact that these efforts on the part of the Government and civil society institutions will require more time before the social causes that encourage this practice can be eliminated.

Domestic violence against women is a social phenomenon that does occur, although there have been very few studies and surveys on it. According to the system of social and cultural values that Yemeni society has inherited, it is something that is not reported. Between 2001 and 2003, the National Women's Committee carried out an awareness-enhancement programme with eleven civil society organizations, with technical support from the UK organization Oxfam and funding from the World Bank. Under the programme, a series of study and research projects on domestic violence were conducted, dealing with its various aspects, its effects on women and its impact on development. The outcomes of the programme were as follows:

- Establishment of a network to oppose violence against women (SHIMA) in May 2003 and preparation of its statutes. SHIMA has published a book containing a number of studies and research projects on the subject conducted between 2001 and 2003;
- Training of women trainers in the area of violence issues and how violence against women is connected to development;

- Preparation of a study entitled “Violence against women in Yemen”;
- Various works explaining that Islam does not countenance violence against women;
- Preparation of a brochure on the Convention on the Elimination of All Forms of Discrimination against Women from an Islamic standpoint, going through the Convention article by article and showing how each is supported by Islamic law, based on the Holy Koran and the *sunna* (practice) of the Prophet Muhammad;
- Preparation of a play entitled “Enough violence!”, which was presented by the Aden Troupe for the Performing Arts. The play, which deals with the subject of early marriage and the practice of not allowing girls to attend school, was performed in Sana‘a, Aden and Abyan;
- Training of 392 men and women preachers and teachers of Islamic religion in the National Capital Region and in Dhamar, ‘Amran and Sana‘a Governorates with a view to defining the problem and condemning it on the grounds that it is incompatible with the values of Yemen’s Islamic society and has an adverse impact on development. The project, which was executed in cooperation with Oxfam, was designed to enhance awareness of the hazards of violence for individuals and for society in general;
- Awareness training for law enforcement personnel, lawyers, media personnel, men and women preachers and teachers to enable them to understand the hazards of violence against women and the problems resulting from it;
- Nine training courses on opposition to violence and knowledge of the Convention on the Elimination of All Forms of Discrimination against Women in a number of governorates, including Abyan, Dhamar, ‘Amran, Al-Mahwit, Ad-Dali‘, Al-Bayda’, Ma’rib, Hajjah and Sa‘dah; the courses were attended by some 300 participants, both men and women, from governmental and non-governmental organizations;
- A meeting of imams from mosques and preachers at a training session organized by the Ministry of Religious Endowments and Guidance. The Ministry opened a dialogue with these religious officials on the role which it hoped they would be able to play in society, support for girls’ education, reproductive health, and the integration of women into public life in a context of the precepts of Islamic law; 170 copies of a brochure explaining how Islam does not countenance violence against women were distributed;
- Assessment of the effect of the training in terms of the positions, orientations and behaviour of the trainees revealed positive indicators: recognition of the phenomenon, knowledge of its various forms, an understanding of the link between it and development, knowledge of some ways of avoiding it, such as negotiation and dialogue, and realization that it must be condemned because it is inconsistent with the values of the Islamic religion;

- A number of meetings with leaders of the Ministry of the Interior, the Ministry of Religious Endowments, the Ministry of Education and the Ministry of Health. The meeting with the representatives of the Ministry of Health produced a quick response in the form of further prison reform and the release of women detainees who had served their sentences and who had no guardian. Emigration, passport and citizenship reform was also achieved: passports are now issued to women without being subject to their guardians' consent;
- The National Women's Committee organizes a yearly conference on the occasion of International Women's Day (8 March) to shed light on women's issues. On International Women's Day in 2004, the first National Conference to Oppose Violence Against Women was held; the theme of the conference was "Opposing Violence Against Women".

Moreover, there are a number of NGOs that offer psychological and legal support services to battered women. The Committee to Oppose Violence Against Women (COVAW) is a civil society institution that has undertaken a number of activities, including a national campaign on arbitrary divorce. The Yemeni Psychological Health Association provides substantial human and psychological services by operating a psychological support telephone hotline. Among other things, the Association provides assistance to women who have been the victims of domestic violence. The National Women's Committee also makes substantial efforts in this area, and there are many NGOs operating in the field of women's rights and working to eliminate violence against them, and the State provides these organizations with material and moral backing.

All Yemen's legislation respects the humanity of every human being, man or woman, equally, and the laws impose severe penalties on anyone who assails the physical integrity of another person, whether man or woman. Article 244 of the Penal Code (law No. 12 of 1994), for example, states that in cases of deliberate injury, "Everyone who commits an assault against the physical integrity of any individual by any means and thereby causes an injury that is not permanently disabling or temporarily impairs the victim's health shall be liable to the payment of financial compensation for injury and a term of imprisonment of not more than one year, or to the payment of financial compensation for injury and a fine, where the injury is not such as to cause the victim disablement or inability to engage in his usual activities for a period of more than twenty days. Where the assault results in the victim's disablement or inability to engage in his usual activities for a period of more than twenty days, the penalty shall be a term of imprisonment for a term not to exceed three years or a fine in addition to the payment of financial compensation for injury." Under the provisions of this article, everyone who commits an act of violence or assault causing injury to a woman is subject to the penalties there prescribed, namely imprisonment and payment of financial compensation, regardless of whether the violence or assault takes place in the home or outside the home.

### **Corporal punishment**

With reference to paragraph 16 of the concluding observations of the Human Rights Committee,<sup>6</sup> we should like to make it clear that doctrinal punishments are prescribed by Islamic law in fulfilment of the rights of Almighty God, i.e. they are ordained for the benefit of the community and the protection of public order.



Generally speaking, the grounds for non-applicability of doctrinal punishments are such as to make the use of those punishments nearly impossible. Under Yemen's legislation, they become non-applicable under a variety of circumstances, such as revocation of a confession. According to Islamic law in Yemen, a doctrinal punishment is not applicable where a conviction is based on factual evidence alone.

Article 48 of Yemen's Penal Code states that the President of the Republic must order the postponement or cancellation of a doctrinal punishment where the public interest so requires, in so far as that is unrelated to a private claim. The grounds for non-applicability of doctrinal punishments vary from one penalty to another.

As regards grounds for non-applicability of the doctrinal punishment for theft, for example, article 299 of the Penal Code states, "The doctrinal punishment for theft shall not apply where it is proved before a court that one of the following conditions has been met:

1. Seizure of the stolen item after the theft and before the matter has been brought to court;
2. Possible claim of ownership;
3. Value of the stolen item shown to be less than the legal minimum before application of the doctrinal punishment;
4. Waiver by the owners of the stolen property before the matter has been brought to court;"
5. In addition, the doctrinal punishment for theft is not applicable where the court suspects that a confession may be withdrawn. This is in accordance with the judicial principles enunciated by the Criminal Division of the Supreme Court in its decision No. 88 of 13 July 1999.

Doctrinal punishment for adultery: as is well known, adultery can be proved either by confession or by evidence. A confession must be freely made by an adult person of sound mind, on four separate occasions. Where these conditions are met, the doctrinal punishment is applicable, but where the accused person withdraws his confession before the punishment has been applied, it ceases to be applicable. A confession made under physical or moral compulsion is not valid.

As regards evidence, four male witnesses of good character must testify against the accused that they witnessed his penis entering his partner's vagina, as the kohl-stick enters the kohl-jar, and if they do not so testify, their testimony is not enough to make the doctrinal punishment for adultery applicable. Moreover, if they differ in their testimony, their testimony is invalid.

Article 266 of the Penal Code, which deals with the grounds for non-applicability of the doctrinal punishment for adultery, reads as follows:

“The doctrinal punishment for adultery confirmed before a court shall not be applicable in the following cases:

1. Non-fulfilment of any of the conditions relating to chastity, or confusion in the account of any one of the witnesses;
2. Hesitation on the part of the witnesses, or any one of them, in beginning the stoning after judgement has been given;
3. Inability of the witnesses, or any one of them, to begin stoning after judgement has been given;
4. Inconsistency in the testimony or absence of one of the conditions relating to it, or revocation of testimony before execution of the judgement;
5. Testimony by women that the woman in the case is a virgin or has an overgrowth of genital scar tissue after testimony of adultery has been given against her;
6. An allegation of possible doubt;
7. An allegation of compulsion or constraint;
8. Silence on the part of the adulterer before his admission or the uttering of testimony concerning adultery on his part;
9. Revocation of the convicted person’s admission where the conviction is based on that admission.

According to Islamic law in Yemen, the doctrinal punishment for adultery is not applicable where a conviction is based on factual evidence alone.

We may note at this point that the punishment of stoning has not been applied in Yemen for hundreds of years. Under the Penal Code currently in force (law No. 12 of 1994), it would be virtually impossible to apply that penalty in view of the various grounds for non-applicability set forth in article 266 of the Code.

Article 109 of the Penal Code, which is concerned with the discretionary power of judges in applying penalties, states, “In considering which of two doctrinal punishments, one greater and one lesser, should apply in the case of a particular crime, the judge shall take into account all mitigating or aggravating factors, including in particular the degree of responsibility, the motives for the offence, the seriousness of the act, the circumstances under which it was committed, the convicted person’s past criminal record, his personal situation, his behaviour in connection with the offence, his connection with the victim, and whether he has compensated the victim or his heirs. In setting a fine, the judge shall take the offender’s economic situation into account. Where the prescribed penalty for the offence is death but there are mitigating circumstances, the judge shall sentence the offender to a term of imprisonment of not more than 15 years and not

less than five years.” It is clear from this article that the judge has the discretionary power to pass a lighter sentence and that the circumstances in which the offence was committed may tell in favour of the accused person, even though they may not have been mentioned as a factor in his defence, owing to his neglect or absence.

The law requires the judge to explain the grounds for non-applicability of doctrinal punishments to the accused person in cases of crimes for which such a punishment is prescribed, and failure to do so invalidates a conviction. Article 46 of the Penal Code states expressly, “When considering cases involving doctrinal punishments, the judge shall explain all grounds for non-applicability of such punishments to the accused person, and a conviction shall become null and void where it is proved that the judge has failed to do so.”

### **Cases of torture**

With reference to paragraph 17 of the concluding observations of the Human Rights Committee,<sup>7</sup> such inhuman practices may indeed occur in Yemen, no less than in other countries, and the Government is intensifying its action against them. Such practices are to be regarded as aberrations, the doing of sick minds that have led some individuals to misuse the authority vested in them by the law. The State assiduously combats all forms of torture, taking legislative, administrative and awareness-enhancing measures to that end.

In 2003, for example, a number of members of the police and security forces were called to account under law, in accordance with the principle that inhuman treatment is prohibited, after it had been proved that they had exceeded the law in a number of cases by applying correctional measures that the competent authorities in past years had sometimes taken. Forty-five individuals in all were held accountable. Some of them were charged and put on trial, and upon being found guilty were subjected to penalties ranging from suspension from their duties to imprisonment or dismissal, others were compelled to pay compensation to their victims, some cases are still *sub judice*, while still others are still under investigation.

**Table showing members of police forces who were found to have exceeded the limits of the law**

No.	Nature of criminal offence	Number of officers charged
1	Assault against individuals during interrogation	8
2	Assault against citizens and use of weapons against them	19
3	Killing of wanted individuals while arresting them or exchanging gunfire with them	15
4	Using authority to cheat citizens and extort money from them	9
5	Assault against and wounding of a colleague	2
6	Instigation to kill	1
Total		54

Under legislation in force in Yemen, severe measures are taken against persons who commit crimes of torture. On the one hand, members of the police and security forces who commit the crime of torture are accountable under the law and liable to various disciplinary measures; their cases are heard by a Board of Discipline as prescribed by article 99 of the Police Forces Act. In addition, under article 101 of the Act, the Minister may issue a decree referring the case for a disciplinary hearing and noting that the person concerned is charged with the crime of torture, without prejudice to his right to a competent defence.

On the other hand, these measures do not affect the torture victim's right to lodge a complaint before the competent State institutions and seek legal redress. Yemeni law guarantees a detainee the right to lodge a complaint with State agencies and institutions. Article 51 of the Constitution, for example, states, "Every citizen shall have the right of recourse to the courts in order to protect his lawful rights and interests. He shall 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), for its part, states, "The law shall determine the punishment for whosoever violates any of the stipulations of this article, and it shall also determine the appropriate compensation for any harm the person suffers as a result of such a violation. Physical or psychological torture at the time of arrest or during detention or imprisonment is a crime that is not subject to a statute of limitations. Every person who practises, orders or participates in it shall be liable to prosecution."

Article 5 of the Penal Code states, "A person who is sentenced to a penalty under the provisions of this Code is not thereby relieved of his duty to make restitution and pay compensation."

Article 43 of the Code of Criminal Procedure states, "Every person who has suffered loss as a result of a criminal offence may bring a civil suit for compensation for the loss incurred as a result of such offence, regardless of the value involved, before the criminal courts for consideration together with the criminal prosecution."

The following article, article 44, states, "Furthermore, a civil suit may be brought independently of the criminal prosecution, before or after charges have been laid in the latter or while it is in progress. The court may take such immediate precautionary measures as it sees fit to protect the injured party, in the event that judgement in the criminal prosecution should be stayed because of a mental disability affecting the accused person, to ensure that the civil suit may proceed none the less." Article 47 states, "Where a person has been incapacitated as a result of a criminal offence and there is no one legally empowered to take his place, the Department of Public Prosecutions or the court hearing the criminal case may appoint an agent to represent him and claim his civil rights on his behalf. In such a case, the person concerned shall not be required to pay the legal costs of such representation."

Article 48 reads as follows: "Where a lawsuit seeking compensation for loss sustained has been brought against the person charged with the criminal offence, if the plaintiff is incapacitated and has no one to represent him, the court may appoint someone to do so, or he may be adequately represented by the Department of Public Prosecutions. A civil suit may also be brought against the persons responsible for civil rights in connection with the act of the

person charged with the criminal offence. The Department of Public Prosecutions may bring in the persons responsible for civil rights even if they are not named in the plaintiff's lawsuit, with a view to securing a ruling requiring them to pay the costs incurred by the Government."

Under article 55, "A civil suit arising out of a violation of the provisions of Part II of this Code relating to the protection of citizens' freedoms shall proceed under all circumstances, and where for any reason the criminal prosecution does not proceed after charges have been filed, the civil suit brought along with it shall proceed none the less."

In addition, the Code contains a number of provisions for the investigation of every complaint against law enforcement officers entrusted with responsibility for upholding the law. The Department of Public Prosecutions, in its capacity as an independent judicial authority, is empowered to investigate such complaints. This is affirmed in the Constitution, which states in Part III, under article 149, "The judiciary is legally, financially and administratively independent, and the Department of Public Prosecutions is a component of it. The courts shall rule on all disputes and criminal matters. Judges are independent, and in giving judgement are subject to no authority other than the law. No person or entity may interfere in any way with the workings of the judiciary, and any such interference shall be deemed to constitute an offence liable to criminal prosecution and shall not be subject to any statute of limitations."

Consistent with this, article 91 of the Code of Criminal Procedure states, "Law enforcement personnel are responsible for solving crimes, punishing their perpetrators, investigating reports and complaints and gathering evidence and information relating to them, stating their findings in reports and submitting them to the Department of Public Prosecutions." Article 193, for its part, states, "Every detainee has the right at any time to submit a written or oral complaint to the director of the correctional institution in which he is detained and ask him to forward it to the Department of Public Prosecutions. Every director of a correctional institution to whom such a complaint is submitted shall receive it and forward it forthwith to the Department of Public Prosecutions after recording it in a register kept for that purpose."

Article 562 of the Code stipulates that "Police officers shall accept all communications presented to them and forward them unaltered to the Department of Public Prosecutions for examination and action."

Article 2 of the General Instructions for the use of the Department of Public Prosecutions in applying criminal procedures reads as follows: "Law enforcement personnel shall receive communications and complaints sent to them concerning crimes, and they and their subordinates shall gather all relevant supporting evidence and conduct any observations that may be necessary to facilitate the task of investigating the facts reported to them, and shall work with them as appropriate taking all necessary precautionary measures to ensure that evidence of crimes is preserved. All measures taken by law enforcement personnel shall be entered in reports giving particulars of the time and place, which they shall sign." Article 3 of the Instructions states, "Every member of the Department of Public Prosecutions shall, upon being informed of a criminal offence, regardless of its degree of gravity, shall proceed forthwith to the place of the occurrence in question." Article 8 of the Instructions reads, "Where a complaint is made against a law enforcement officer alleging a breach of the duties of his post or failure to perform his work, the member of the Department of Public Prosecutions to whom the complaint is made, if he deems the complaint to be well founded, shall consult his director in the matter. Where the

complaint is of particular gravity, directors in the Department of Public Prosecutions shall consult prosecutors, and they in turn shall consult the Public Prosecutor where warranted.” Article 9 states, “Members of the Department of Public Prosecutions shall personally investigate complaints against law enforcement officers; they shall not delegate the task to any other person.” Article 30 reads as follows: “A member of the Department of Public Prosecutions shall go to investigate an occurrence as soon as it is reported to him, even if there should be doubt or dispute concerning competence, and upon completing his investigation shall forward the issue to his director with a memorandum stating his own views as to the issue of competence.” In addition, article 44 stipulates that “An investigator in the presence of witnesses shall not give the impression of being sceptical of their accounts by making remarks or comments that tend to frighten them and make them reluctant to impart the facts in their possession.” Article 62 goes on to state, “Where a report of a serious criminal offence is received, an investigation shall be conducted, and members of the Department of Public Prosecutions shall take particular care to enquire into the facts.” Article 63 states, “Members of the Department of Public Prosecutions shall personally investigate all allegations against an officer of the armed forces or the police giving rise to a suspicion that he has committed a serious crime, regardless of whether he was on duty at the time or not. Military criminal offences shall be investigated by the office of the Judge Advocate General, in accordance with the provisions of the Military Penal Code.” Under article 64, “Where a member of the Department of Public Prosecutions is informed that a criminal offence has been committed by a court officer or employee while on duty or in connection with his function, he shall take the statements of the informant and his witnesses and then shall consult his director as to whether the matter appears to be sufficiently serious to warrant questioning of the subject of the allegation and further investigation.” Lastly, article 69 of the General Instructions reads as follows: “Every suspect, every victim, every person who has incurred loss as a result of a criminal offence and every person who has committed an offence, together with their representatives, has the right to be present while the investigation is being conducted. The member of the Department of Public Prosecutions in charge of the case may conduct the investigation in their absence where time is of the essence or where he deems it essential to do so in order to bring a fact to light if the nature of the case so requires, or where he fears that the witnesses may be intimidated or swayed. The parties concerned may examine the report of the investigation in due course, or when the urgency that made it necessary to conduct the investigation in their absence has passed.”

Needless to say, where the Department of Public Prosecutions considers that there is reason to suspect that a crime involving torture has been committed, it must bring criminal charges against the suspect for trial by the appropriate court.

In addition to what has been said above, the various State agencies and civil society institutions provide members of the judiciary, the Department of Public Prosecutions and law enforcement personnel with training and awareness courses on human rights on an ongoing basis with a view to combating torture by helping not only members of the public but also members of State institutions to attain a fuller understanding of the legal position with respect to it. Yemen’s education system makes provision in curricula at all levels, but at the university level in particular, for instruction in the legal sciences. The study of Yemeni legislation constitutes a basic subject for students attending faculties of Islamic law and national law at the country’s various universities, both official and popular.

At the same time, the State is concerned with the qualifications of judges and members of the Department of Public Prosecutions, inasmuch as it is they who are primarily concerned with the country's legislation, and they who are the country's main defenders of human rights. Accordingly, the State seeks to broaden their scientific knowledge and their knowledge of the law, and to develop their capacities and practical skills.

Its action to that end consists of higher education programmes and specialized training courses which the persons concerned are urged to attend. The Higher Institute of Judicial Administration, in particular, specializes in the teaching of law in detail and in depth.

Similarly, education, training and skills development programmes are provided for police officers at specialized schools and colleges, for the simple reason that the graduates of those courses will be responsible for upholding and enforcing the laws of the land.

Instruction in law naturally goes hand in hand with instruction in subjects of relevance for security and police work at these schools and colleges, such as the Police College,<sup>8</sup> where students take intensive courses in Yemen's legislation, including its laws with a bearing on human rights. Indeed, that particular aspect, including provisions relating to the prohibition of torture, is studied in considerable detail and constitutes a fundamental discipline in the programme of studies offered at the Police College. Students are required to take human rights as a subject, and a textbook entitled *Human Rights* has been prepared expressly for that course.

This concern for awareness of human rights in the training of police officers arises from the fact that the work of gathering evidence and interrogating suspects involves a balance between human rights and security. Ideally, a police officer - conducting an interrogation, let us say - should be able to obtain knowledge of the facts without resorting to force, compulsion or torture. A police officer who makes use of these methods for purposes of interrogation is a failure as a police officer.

As regards guidance and awareness, there are a number of media programmes and print publications that are aimed at the creation of greater understanding of the legal situation by presenting useful information about human rights and the prohibition of torture. These programmes and publications are designed for the benefit of both persons whose task it is to uphold and enforce the law and the public at large; they seek to open people's eyes to these issues and help them realize what their rights are and how important it is to safeguard them and defend them. The Ministry of Human Rights is contributing to the preparation of awareness programmes aimed specifically at judicial enforcement officers and police officers, in addition to a number of training programmes and a book that is taught in colleges of law.

Other media products include television and radio programming and newspaper articles produced by the public-relations services of the Ministry of the Interior.<sup>9</sup> In addition, the Ministry of Justice publishes a specialized newsletter on matters relating to the judiciary.

### **VIII. Article 8 of the Covenant**

The legal position with respect to this article was discussed in the previous report.

## **IX. Article 9 of the Covenant**

### **Paragraph 1**

As noted in the previous report, article 48 of the Constitution safeguards this right. In addition, article 5 of the Code of Criminal Procedure (law No. 13 of 1994) states that no citizen, and, indeed, no human being, may be penalized or harmed because of his nationality, race, ethnic origin, language, creed, occupation, degree of education or social position; all are equal before the law.

The Code goes on to state in article 7, paragraph 1, "Arrest is permissible only in connection with an act that is punishable under the law, and must be based on the law." Article 14 states, "A citizen's freedom may be infringed upon only in the cases set forth in this Code." Article 172, for its part, states, "Without prejudice to the provisions contained in Chapter II of Section III of this Code, no person may be arrested or detained except pursuant to an warrant issued on valid legal grounds by the Department of Public Prosecutions or a court."

A criminal charge brought for an offence against the freedom or dignity of a citizen is not subject to any statute of limitations (art. 37, Code of Criminal Procedure).

We may note at this point that the Penal Code contains many forms of safeguards for citizens' rights. The Code includes clear, unambiguous provisions prohibiting assaults on persons and laying down penalties for any public official who takes advantage of his authority to violate anyone's rights and freedoms (arts. 166, 167, 168, 169 and 246).

### **Paragraph 2**

In addition to what was stated in the previous report, article 73 of the Code of Criminal Procedure reads as follows: "Every person who is arrested shall be informed forthwith of the reason for his arrest. He has the right to examine the warrant for his arrest, to communicate with whomever he sees fit in order to inform that person of what has happened, and to ask for the assistance of a lawyer."

### **Paragraph 3**

#### **Remand in custody, safeguards and guarantees**

In addition to what was stated in the previous report, article 76 of the Code of Criminal Procedure states that every person who is arrested on suspicion of having committed a criminal offence must be brought before a magistrate within a maximum of 24 hours from the time of his arrest to present his defence and objections, while article 77 reads as follows: "Where a person is arrested for any reason, an individual selected by the arrested person must be informed immediately of the fact of his arrest, and the same applies to the issue of a warrant for his continued detention. Where it is not feasible for the arrested person to select an individual who is to be informed, his next of kin or a person concerned with the matter shall be informed.



Article 105 states, “In the above situations, the law enforcement officer shall immediately take the arrested person’s statement and shall forward it, together with his own report of events, to the Department of Public Prosecutions within 24 hours. The Department of Public Prosecutions shall act on the matter within 24 hours after receiving the statement and report, failing which the person in question shall be released forthwith.”

Article 129 runs as follows:

“Investigation measures shall be completed within not more than two months from the date at which the case is opened, and action shall be taken to expedite investigation measures where a warrant has been issued for the remand of the suspect in custody.

“The Public Prosecutor shall set time limits for conducting investigations in different kinds of criminal offences. Where the difficulty of the investigation or the scope of events necessitates a longer period of time, the consent of the competent director in the Department of Public Prosecutions shall be obtained. Where the situation requires a period of time longer than the maximum allowed, namely two months, the consent of the Director of Public Prosecutions in the governorate shall be obtained for an extension to three months.

“The period of an investigation may exceed six months only with the consent of the Public Prosecutor, and no extension beyond six months shall be granted under any circumstances.

Article 176 reads as follows: The Department of Public Prosecutions may not detain any person longer than seven days for questioning, and a warrant for detention may be extended only upon the order of the magistrate of the competent court.”

Article 189 reads as follows:

“A warrant for detention issued by the Department of Public Prosecutions shall be valid only for a period of seven days following the arrest of the suspect or his transfer to the Department if he was arrested earlier. A warrant for arrest, appearance or detention issued by the Department of Public Prosecution shall not be executed after the elapse of six months following the date of issue, unless it is endorsed for a longer period.”

Article 190 reads as follows: “Where the Department of Public Prosecutions deems it expedient to detain a person for a longer period, it shall, before the first seven days have elapsed, present a written application for such longer term or successive terms of detention to the magistrate hearing the case, subject to the condition that the suspect shall not be detained for more than 45 days in all.”

Article 191 reads as follows: “Where the interrogation has not been completed by the time the period of detention referred to in the previous article has elapsed, the Department of Public Prosecutions shall apply to the Court of Appeal in the governorate with jurisdiction in the

case for the issue of an order, after hearing the statements of the Department and the suspect, authorizing a further term or further terms of detention, where such term or terms are necessary for the proper conduct of the interrogation, subject to the condition that the suspect shall not be detained for more than 45 days in all, failing which the suspect shall be released, on bail or without bail. Furthermore, the Department shall take such measures as it may deem expedient to complete its interrogation without delay, and to that end may authorize the Director of the Appeals Division to apply for further extensions of the term of detention, such further extensions not to exceed three months in all. The maximum period of remand in custody shall not exceed six months before the suspect is informed that his case is being transferred to the appropriate court for trial, failing which he shall be released forthwith.”

Article 196 reads as follows: “Warrants for detention and orders for release during interrogation and trial shall be executed by the Department of Public Prosecutions.”

Article 221 reads as follows: “Where it appears to the Department of Public Prosecutions, after investigation, that a criminal offence has been committed and that there is strong evidence against the suspect, a criminal prosecution shall be brought before the competent court.”

Lastly, article 296 states, “Measures to ensure a speedy trial shall be taken in a number of situations, including criminal offences in which the suspect is being in detention pending trial and an order for his release has not been issued.”

#### **Paragraph 4**

Both the Constitution of Yemen and the country’s legislation currently in force provide that every person who is deprived of his freedom as a result of arrest or detention to initiate proceedings before the Department of Public Prosecutions and the various State agencies to obtain, without delay, a ruling on the lawfulness of his detention and an order for his release if his detention is deemed unlawful. Article 49 of the Constitution reads, “The right of defence, in person or by counsel, is guaranteed at every stage of the judicial process and before all courts, in accordance with the provisions of the law. The State shall provide legal assistance for persons who do not have the means to provide for their own defence, in accordance with the law.” Every person in detention has the right to lay complaints before State agencies and institutions whenever he wishes: article 51 of the Constitution states, “Every citizen shall have the right of recourse to the courts in order to protect his lawful rights and interests. He shall also have the right to submit complaints, criticisms and proposals, directly or indirectly, to the organs and institutions of the State.” Article 193 of the Code of Criminal Procedure, for its part, states, “Every detainee has the right at any time to submit a written or oral complaint to the director of the correctional institution in which he is detained and ask him to forward it to the Department of Public Prosecutions. Every director of a correctional institution to whom such a complaint is submitted shall receive it and forward it forthwith to the Department of Public Prosecutions after recording it in a register kept for that purpose.” Article 562 of the Code stipulates that “Police officers shall accept all communications presented to them and forward them unaltered to the Department of Public Prosecutions for examination and action.”

Article 8 of the same code provides that “Every suspect has the right to participate in the work of verifying the facts, and may make applications to that effect in order to confirm his innocence at every stage of the investigation into his case and every stage in his trial. All such applications shall be duly examined and verified.”

The right to a defence is guaranteed. An accused person may conduct his defence in person or may have recourse to a representative to defend him at all stages in a criminal prosecution, including the investigation stage. The State shall provide a poor or needy person with a defender selected from a list of approved lawyers (Code of Criminal Procedure, Article 9).

### **Paragraph 5**

As noted in our previous report, article 48, paragraph (e) of the Constitution stipulates that the accused person has the right to receive compensation for unlawful detention, and that the law determines the punishment for any person who contravenes the provisions of any of the paragraphs of that article, together with appropriate compensation for damage which the person may suffer as a result of such contravention. In addition, the right of an accused person to receive compensation for any damage that he may suffer as a result of arbitrary procedures is also guaranteed under the Constitution.

Every person who is the victim of unlawful arrest or detention has the right to bring a civil lawsuit for compensation, regardless of the value involved, inasmuch as extrajudicial arrest is a criminal offence in the eyes of the law (Penal Code, articles 50 and 167).

Article 43 of the Code of Criminal Procedure states, “Every person who has suffered loss as a result of a criminal offence may bring a civil suit for compensation for the loss incurred as a result of such offence, regardless of the value involved, before the criminal courts for consideration together with the criminal prosecution.”

### **War on terror**

With reference to paragraph 18 of the concluding observations of the Human Rights Committee,<sup>10</sup> what happened following the events of 11 September 2001 was indicative of a relapse in the area of human rights. Owing to the fact that Yemen was the scene of terrorist operations and a number of criminal acts, including attacks on an American destroyer and a French tanker and several explosions in Sana’a and Aden, its stability, security and public order were frequently disrupted. This in turn reflected adversely on the country’s reputation and on development and investment in general. The resultant damage is summed up in the paragraphs below.

#### **I. Material damage**

The Government has taken many measures to confront these terrorist crimes, with the result that the public treasury has had to assume many additional burdens in the form of costs for military and security campaigns, including:

- Strengthening the deployment of security forces in several of the country's governorates and providing them with the matériel, equipment, accommodations and field operational capabilities required to protect the regions in question;
- Increased outlays for military and security campaigns aimed at tracking, pursuing and arresting persons who abduct foreign nationals;
- The State has had to incur fresh costs for the drafting of thousands of soldiers for additional military and security duties as a result of terrorist threats: foreign embassies and consulates, private firms, offices housing foreign representatives of various kinds and important facilities must now be more closely guarded;
- Additional financial burdens have been incurred for the development of coast guard forces and the restructuring of border guard forces, the purchase of additional boats, radar and surveillance equipment to protect the country's coasts and territorial waters from the danger of unlawful infiltration and the smuggling of arms and explosives;
- The State has also had to undertake additional outlays for additional security personnel and equipment in the country's main ports in order to ensure that vessels entering those ports are not at risk of terrorist operations;
- The State has had to assume additional commitments to protect airports and international airlines serving Yemen;
- Security forces have had to be assigned to protect and accompany groups of tourists visiting archaeological sites and tourist attractions in various parts of the country;
- Military forces are now assigned to protect oilfields and companies operating there, and land, sea and air forces have been assigned to protect oil exporting ports at Al Dabbah, An Nushaymah and Radum, the oil ship *Safir*, the port of Ras Isa, and the oil refinery in Aden Governorate;
- The State now has additional financial burdens to bear as a result of having to provide security forces to accompany the movements of some foreign diplomats and gas tankers on the Sana'a-Ma'rib road to guard them and protect them from hold-ups and highway robbery attempts or the danger of being fired upon from ambush;
- The Government is committed to putting the oil pipeline leading from the Safir fields to the export terminal at Ras Isa underground, in view of the possibility of sabotage, and it has to provide forces to guard excavation and blasting operations in the regions through which the pipeline passes in Ma'rib Governorate and the Khawlan region in Sana'a Governorate;
- Additional financial burdens are occasioned by the need for more frequent police patrols to catch and deal with acts against security and public order;

- The Government is paying out substantial sums in compensation and the cost associated with guarding ports and tankers and the annual cost of keeping export operations proceeding smoothly, those sums being deducted from its royalties, inasmuch as under the applicable agreements, the State is responsible for providing adequate security for export operations.

## **II. Political damage and negative media coverage**

Our country has been subjected to denigration campaigns that are unprecedented in its history. Terrorist attacks, and in particular the abduction of tourists in 1997 and the attacks on the destroyer *Cole* and the tanker *Limbourg* have caused incalculable material and moral damage.

### **Efforts to deal with terrorism**

The Republic of Yemen's continuing clear-cut policy of combating terrorism and cooperating with the international community to eradicate it has been a noteworthy success. The nation has understood the imperious necessity of aligning itself in support of the Government's determination to confront this dangerous phenomenon, and as a result all citizens are committed to putting the higher national interest ahead of any other consideration and are backing the effort to address the issue of terrorism. In that connection, the Government, in its capacity as a partner in the war on terror, has taken various measures aimed at eliminating the phenomenon.

#### **(a) Security aspects**

Yemeni security agencies have taken a number of security-related precautionary measures, including:

1. Arresting the leader of what was called the Aden/Abyan Army and a number of persons who had abducted tourists. These people have been tried and sentenced;
2. Arresting some persons on suspicion of being connected to the attack on the American destroyer *USS Cole*, and interrogation of these persons in preparation for putting them on trial;
3. Arresting, trying and sentencing those who carried out the attack on the British Embassy;
4. Denying foreign nationals entry to the country if they do not have definite addresses or an organization responsible for receiving them in Yemen, in accordance with current regulations governing these matters;
5. Taking measures to ensure that the country's oil terminals and commercial ports are protected by the security agencies in partnership with the armed forces;
6. Requiring foreigners of various nationalities to produce evidence of their names, places of work, places of work and residence in their home countries, models and registration numbers of cars belonging to them, and personal identity documents (passports);

7. Registering and enumerating boats and regulating the importing of boats in Yemen's coastal governorates.

Thanks to these preventive, precautionary security measures, a number of terrorist operations have been foiled, because information at the Government's disposal made it possible to determine that terrorist elements were plotting attacks on foreign and national interests.

Furthermore, thanks to this policy of keeping close watch on terrorist elements after their return from Afghanistan, it has been possible to determine from investigation that plans were afoot to conduct operations against foreign interests, institutions, embassies and corporations. The leading activist elements among them, who were directly linked to terrorist operations in Yemen, have been arrested, as noted above, while the remainder have been kept under surveillance.

**(b) Adoption of the principle of rational dialogue with deluded persons and releasing those who announce that they have repented**

Of the persons arrested, some have been found to be involved in terrorist activities, and these persons are liable to criminal prosecution under the law. Others, however, had been deluded into thinking that in undertaking terrorist operations they would be engaging in a sort of *jihad*, or holy war, and in some cases, plans and detailed information confirming their involvement in prospective terrorist operations that were foiled before they could be carried out have been found in their possession. Three sessions dedicated to dialogue with these persons were held beginning early in 2002. The first was attended by 104 persons, the second by 120, and the third by 22. Some of them announced afterward that they had repented, and if they had not committed any criminal offence punishable under the law, they were released. Thirty-two persons were released after the first dialogue session, and 92 more after the second.

This initiative was adopted pursuant to directives issued by the President of the Republic and the conclusions reached by a committee of scholars on rational dialogue with detainees who had been deluded into harbouring extremist ideas. The Committee on Rational Dialogue is preparing to offer, within the next few weeks, a fourth dialogue session for young men returning from Afghanistan.

**Conclusions reached by the Committee on Rational Dialogue**

1. Rejection of violence, extremism and terrorism in all their forms, obedience to the duly constituted authorities, and respect for the Constitution and legislation in force, including the Political Parties and Organizations Act;
2. Maintenance of security and stability, avoidance of any act prejudicial to the security and stability of Yemen; respect for the rights of non-Muslims, including the inviolability of their lives, property and honour; protection of the interests of States with which the Republic of Yemen is bound by treaty as long as the treaty is in force; permission to enter Yemen granted by the Yemeni authorities to any individual to be deemed safe-conduct for that person, valid until terminated according to law by the appropriate authority, and no person enjoying such safe-conduct from the State to be harmed in any way;

3. These young men and others should be offered hope of being able to live in safety and enjoy all their rights and freedoms; action to correct the misguided concepts of Islam harboured by some of them, which actually constitute a danger to Islam and Muslims that is fully as great as the plots and machinations of their enemies;
4. Action to defuse bloody confrontation between these young men and the security organizations, consolidate security and stability, and release as many as possible of those who engage in dialogue.

**(c) Action to bring all those involved in terrorist activities to justice**

On 29 May 2004, the specialized criminal court held its first sessions to try persons accused of terrorist activities and criminal bombings that had occurred in several regions of Yemen.

It was clear from the list of charges against the accused persons that had been prepared by the Department of Public Prosecutions that a number of criminal acts prejudicial to the security and stability of the country and its vital interests had been committed.

The persons whose trials began on that day had all been implicated in, and had participated in, various criminal terrorist acts, including, according to the list of charges presented by the Department of Public Prosecutions, the bombing of the French oil tanker *Limbourg* off the Hadhramaut coast, firing on a helicopter belonging to the Hunt Oil Company, a number of bombings in the National Capital Region, including one in the Al Qadisiyah quarter, one at the offices of the Civil Aviation and Meteorological Authority and others near the building housing the Political Security Office and the home of the President of the PSO, planting explosive devices beside the residence of the former Minister of the Interior, and various other operations involving planned attacks against a number of embassies.

Three days earlier, on 26 May 2004, the Department of Public Prosecutions had begun to interrogate the persons who had been arrested in the case of the bombing of the United States destroyer *Cole* and to review their files in preparation for the laying of charges and bringing the persons in question to trial shortly. There were twelve of these persons in all. Two of them will be tried as ringleaders, while the others will be charged with having been indirectly involved in the attack, by having provided those who carried it out with facilities, for example, and having been associated with the operation in other ways.

**(d) Enactment of legislation and ratification of anti-terrorism agreements**

In addition to action to eliminate the phenomenon of terrorism and confront the direct and indirect challenges that it presents, the Government has taken measures and intends to take further measures in the context of its anti-terrorism plan. Those measures include:

- Enactment of law No 35 of 2003 on action to combat money-laundering, comprising 24 articles divided among eight chapters;
- Submission of a draft law governing the acquisition of weapons to the House of Representatives for adoption;

- Moreover, our country, like other Arab States, is also concerned to implement decisions and agreements adopted by Arab Governments in the context of the anti-terrorism effort. These include:
  - (i) Resolution No 275 on a code of conduct for States members of the Council of Arab Ministers of the Interior, adopted at Tunis, 1996;
  - (ii) Arab Strategy for the Suppression of Terrorism, adopted at Tunis, 1997;
  - (iii) Arab Convention for the Suppression of Terrorism, adopted by the Council of Arab Ministers of the Interior and the Council of Arab Ministers of Justice at Cairo, April 1998.

**Ratification of a number of international pacts and conventions relating to the effort to eliminate terrorism throughout the world, as shown in the table below**

No.	Instrument	Date of accession by Yemen	Remarks
1	International Convention for the Suppression of Terrorist Bombings	23 April 2001	
2	Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation	30 June 2002	
3	Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf	30 June 2002	
4	Convention Against the Taking of Hostages	14 July 2000	
5	Convention on the Prevention and Punishment of Crimes Against Persons Enjoying International Immunity, Including Diplomatic Agents	9 February 1987	
6	Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal Convention)	29 September 1986	
7	Hague Convention for the Suppression of the Unlawful Seizure of Aircraft	29 September 1986	
8	Tokyo Convention on Offences and Certain other Acts Committed on Board Aircraft	26 September 1986	

**(e) Safeguards for rights of persons arrested for terrorist activities**

We may note at this point that the arrested persons were tried in accordance with the above-mentioned safeguards provided under the Constitution and Yemeni law, including in particular:

1. Detainees were allowed to receive visits from members of their families, and representatives of the International Committee of the Red Cross were allowed to visit them and sit down with them;



2. Lawyers were always present during trials, and detainees enjoyed all the safeguards to which they were entitled during investigation and trial;
3. Those who were released were entitled to submit complaints about any treatment that they had received during their detention.

**(f) Propagation of a culture of tolerance and drying up the wellsprings of extremism**

The Government is reviewing informational, cultural and religious discourse, including the press, media forums, and orientation and outreach programmes.

At the beginning of the 2002-2002 school year, the Ministry of Education unified primary and secondary education by integrating what is termed religious education, which had formerly been a parallel form of education taught in special institutes enjoying administrative and financial independence vis-à-vis the Ministry of Education, into the public system. This initiative will help unite efforts and energies and afford a means of investing the available resources to best advantage.

The Association of Religious Scholars of Yemen has issued a statement, the salient features of which are summed up below:

1. The phenomenon of extremism is to be condemned as an innovation devised by a group of deluded persons with defective understanding, and the lamentable events that it has produced have destroyed the lives of believers and their guests;
2. The State is adjured to make every effort to combat this crime, and citizens are called upon to conform to the commandments of God in all that they say and do and to abstain from grave sins, beginning with killing, which is the greatest crime of all in this life;
3. Extremists are called upon to repent and to return to God, abandoning their present excesses, turning to a knowledge and understanding of the ends of the merciful Islamic law and adopting moderation and balance as a guide in all their doings;
4. Religious scholars, preachers, college and university professors and the leaders of study groups at mosques are urged, each in his own field of expertise or the segment of the community with which he is in touch, to fulfil their duty of expounding the rules of the blessed Islamic law and to explain its merciful purposes for God's servants;
5. Religious scholars are reminded of the importance of unifying programmes of study of the theory and practice of law in colleges, universities and study groups, so that teachers and students may speak with one voice, their love and esteem for one another may be strengthened, and their brotherhood in faith strengthened, rather than giving way to rivalry and mutual disparagement and hurling accusations at one another. Those who are the community's guides must not fail in their duty of supporting the Government;

6. The community, with all its constituent individuals, parties, groups and organizations, is urged to hold fast to the Book of God and the practice of His apostle Muhammad, may God bless him and grant him peace, to obey duly constituted authority, and to strive always for the benefit, development, love and stability of the country.

### **Human rights and action against terrorism**

Needless to say, there are a number of problems and difficulties associated with the Government's efforts to combat terrorism, and those problems affect human rights both directly and indirectly. We do not lay claim to perfection in applying human rights invariably and constantly, nor do we claim that the human-rights situation has remained unaltered since the events of 11 September 2001, not only here in Yemen but throughout the world, including regimes that had made great progress in the area of human rights. On the contrary, Yemen's present institutional, economic and social situation is leading, in one form or another, to a number of problems affecting sound practice in the area of human rights and freedoms. We realize this all too well, and we are striving, through the institutions of the State and its three powers, civil society institutions and the international community as well, to develop radical solutions to some aspects of the country's social and institutional deficiencies with a view to propagating a culture of human rights and strengthening the role played by surveillance and judicial bodies in enforcing the law and regulations, thereby ensuring that they can function as they were intended to function in preserving and maintaining human rights.

A parliamentary committee has been established to monitor the situation of persons being detained on terrorism charges and to submit a neutral, independent report thereon. This is the best possible indication that the issue of ensuring that human rights are respected is being taken seriously by surveillance agencies in Yemen.

Furthermore, as part of the State's adoption of a policy of transparency in connection with the cases of persons being detained on charges of terrorism, it has welcomed domestic and international organizations that are concerned with the cases in question, including the Red Cross, Amnesty International and others. The Government has allowed these organizations' representatives to meet with senior officials of security agencies and other State bodies, and has facilitated their access to the institutions where the men in question are being held and allowed them to meet with the detainees themselves. These and other measures confirm that the Government is serious about wanting to work effectively with the international community to implant and propagate the values and principles of human rights as a comprehensive system, and to cooperate to that end with all domestic and international organizations operating in the field of human rights, in order to benefit from their experience and expertise in progressing toward the goal of enhancing the status of human rights in Yemen.

In sum, we may say that the security measures taken by the State in the context of the war on terror have not affected the human-rights situation in Yemen directly or seriously in the sense of having resulted in systematic, continuing violations of people's political, civil, economic, social and cultural rights.

## **Deportation of foreign nationals**

The State, as represented by the Ministry of the Interior, is seeking to deal with the problem of violations of Yemen's Emigration and Passports Act by taking various lawful measures against violators, including deportation. After the events that had occurred in Yemen, including in particular the attack on the oil tanker *Limbourg*, the Ministry took preventive measures with a view to maintaining the internal security of the State, and all foreign nationals were given an opportunity of regularizing their status, in accordance with the laws and regulations governing entry to and residence in the country. Persons who were subsequently found to be residing unlawfully in Yemen were deported. This is a measure used by various States pursuant to their legislation in these matters.

## **X. Article 10 of the Covenant**

### **Humane treatment of prisoners**

#### **Paragraph 1**

As noted in the previous report, both the Constitution and the law contain a number of principles and provisions designed to ensure that prisoners are treated humanely and with dignity. Consistent with the terms of this paragraph of the Covenant, article 3 of the Organization of Prisons Act (law No. 98 of 1991) sets forth a general list of duties that are incumbent upon prison staff members. Those duties include:

- Treatment of imprisoned persons in accordance with the law;
- Respect for humanitarian aspects in dealing with imprisoned persons;
- Employment of imprisoned persons only for approved non-private purposes.

Under article 4, the prison director, in the performance of his duties as set forth in the Organization of Prisons Act, the Code of Criminal Procedure and laws and regulations relating to work in prisons, is required to keep detainees under suitable conditions, explain to them what their duties and rights are and under what conditions they may lawfully be fined upon, supervise prison staff members to make sure that they are performing their duties and treating detainees humanely and with respect for their dignity, ensure that the prison is kept clean and that the food served to inmates is wholesome and properly distributed, and hear and take appropriate measures to address any complaints from inmates. The competent surveillance agencies are required to perform their assigned function by carrying out periodic and unscheduled inspections at the premises of judicial enforcement personnel, places of detention and courts, and taking all appropriate measures to ensure that anyone who contravenes the law is investigated and held accountable in accordance with the law.

#### **Paragraph 2 (a)**

The matter of the categorization of prisoners was adequately dealt with in paragraph 58 of the previous report, and no further remarks are called for here.

**Paragraph 2 (b)**

In addition to what was said in the previous report, we may note here that a juvenile who is alleged to have committed a criminal offence or has been charged with or convicted of such an offence has the right to be treated sensitively and with regard for his dignity. The Ministry of the Interior has taken a number of measures aimed at ensuring that juveniles are not mistreated when being detained at police stations. Special rooms for the reception of juvenile offenders are now being made available at police stations and are to be supervised by the General Directorate for Maternal and Child Welfare (youth police). Juveniles may not be remanded in custody for more than 24 hours, after which time they are transferred to social welfare centres. Under the law, juveniles are classified by age group and type of offence, and their responsibility is determined in accordance with the definitions of the concepts of deviance and vulnerability set forth in the Young Offenders Act. The Government is taking measures to ensure that juvenile offenders receive social, educational and psychological services at social guidance centres and that institutional care is available for them: a juvenile offender in a custodial facility engages in various activities aimed at correcting his behaviour and altering his outlook. Juvenile offenders also receive health care, good nutrition and other services.

Eight centres for juvenile offenders (seven for men and one for women) have been established in Sana'a, Ta'izz, Aden, Al-Hudaydah and Hadhramaut. Educational, training, health and social services are to be made available for young offenders and those at risk of delinquency.

Moreover, in coordination with the Ministry of the Interior, a special police unit has been established expressly to deal with juveniles, and courses on juvenile crime are now taught at the Police College. Rehabilitation facilities for female juvenile offenders have been established in Sana'a and Aden.

Services for orphans are provided in the form of skills development programmes designed to turn them into constructive members of society. Some sister Arab States have sponsored a number of orphans as a matter of Islamic ethical principle, and six orphanages have been established in Sana'a, Aden, 'Amran and Al-Mahwit, besides temporary shelters, of which the Government maintains five, while there are ten that are run by community organizations.

In addition, two centres providing comprehensive care services have been established, and 500 families in Sana'a and 500 more in Aden are making use of them. These two centres provide health, education and social services to families and children in need of comprehensive care.

Besides these, two centres have been established for children with no families to protect them and street children. They provide the protection that a family would ordinarily provide, and they also help the children develop skills and reintegrate into society.

The table below presents an overview of activities relating to social rehabilitation facilities for young offenders.

**Social rehabilitation facilities providing services for young offenders in  
the Republic of Yemen**

No.	Name of facility	Governorate	Accommodation capacity	Groups targeted	Supervising agency
1	Social rehabilitation centre for boys	National Capital Region	150	Young male offenders	Ministry of Social Affairs and Labour
2	Social rehabilitation centre for girls	National Capital Region	30	Young female offenders	Min. Soc. Aff. and Labour
3	Social rehabilitation centre for boys	Aden	30	Young male offenders	Min. Soc. Aff. and Labour
4	Social rehabilitation centre for boys (juvenile delinquents division)	Ta'izz	40	Young male offenders, including a division that cares for 100 orphans	Min. Soc. Aff. and Labour
5	Social rehabilitation centre for boys (boys at risk of delinquency division)	Al-Hudaydah	90	Young male offenders	Min. Soc. Aff. and Labour
6	Social rehabilitation centre for boys (convicted offenders division)	Al-Hudaydah	30	Young male offenders	Min. Soc. Aff. and Labour
7	Social rehabilitation centre for boys	Ibb	80	Young male offenders	Min. Soc. Aff. and Labour
8	Social rehabilitation centre for boys	Hadhramaut	35	Young male offenders	Min. Soc. Aff. and Labour
Total: 8 facilities			485		

*Note:* The numbers shown for “accommodation capacity” represent the number of spaces available at the centres at the present time, not the number of inmates in the course of a year, inasmuch as there is a constant flow of young offenders being taken in while others are being released.

**Table showing social service centres maintained by the Government and by community organizations providing care and skills development programmes for street children (homeless + working) + effort to eliminate begging in Yemen**

No.	Name of facility	Governorate	Accommodation capacity	Groups targeted	Supervising agency
1	Safe Childhood Centre	National Capital Region	20	Street children (homeless + children from unstable homes)	Ministry of Social Affairs and Labour
2	Skills development centre for working street children	National Capital Region	-	Open centre for skills development and reintegration of children working in the streets	National Capital Region
3	Safe Childhood Centre	Aden	30	Street children (homeless + children from unstable homes)	Min. Soc. Aff. and Labour/ supporting the Anti-Poverty Association
4	Anti-begging campaign centre	National Capital Region	100	Street beggars (children and adults of both sexes)	Min. Soc. Aff. and Labour

**Table showing comprehensive social service centres in Yemen**

No.	Name of facility	Governorate	Accommodation capacity	Groups targeted	Supervising agency
1	Comprehensive Social Services Centre	National Capital Region	500 families	Children (disabled - orphans - school dropouts) Women (working women - widows - divorced women)	Ministry of Social Affairs and Labour
2	Comprehensive Social Services Centre	Aden	500 families	Same groups as the Sana'a centre	Min. of Soc. Aff. and Labour

*Note:* These centres serve two densely populated low-income quarters with multiple social problems, namely the An-Nasr quarter in the Safiah district of the National Capital Region and the Abd al-Qawi quarter in the Sheikh Uthman district in Aden. Both centres provide a broad spectrum of social services in the areas of social action, health and education.

**Table showing social service centres and shelters maintained by the Government and by community organizations serving children, orphans, street children (homeless + working). There are 77 of these facilities in all.**

No.	Type of centre or shelter	No. of centres and shelters			
		Govt.	Govt./community	Community	
1	Social rehabilitation centres for juveniles (male and female)	6	2	-	8
2	Shelters for orphans (boys and girls)	3	2	10	15
3	Centres providing protection and skills development for street children (homeless + working) + anti-begging campaign centre	3	1	-	4
4	Comprehensive social services centre	2	-	-	2
5	Social services centre for elderly persons	-	4	-	4
	Total	14	9	10	33

**Table showing centres and shelters maintained by the Government and by community organizations serving juveniles, orphans, street children (homeless + working) and elderly persons**

Governorate	Name of shelter or centre	No. of residents/accommodation capacity	Details
Sana'a	Social rehabilitation centre for boys (juveniles)	150	Govt/Ministry of Social Affairs
	Social rehabilitation centre for girls (juveniles)	30	Govt/Ministry of Social Affairs
	Home for orphans	1 500	Govt/Ministry of Education
	Dar ash-Shawkani home for orphans	300	Community/Ash-Shawkani Foundation
	Dar al-Hijrah home for orphans	72	Community/Ash-Shawkani Foundation
	Dar ar-Rahmah home for orphan girls	37	Community/Reform Association
	First Centre for orphan girls	18	Community/group of individuals
	Dar as-Sadiq for orphans	55	Community/group of individuals
	Safe Childhood Centre (street children)	30	Govt/Ministry of Social Affairs
	Skills development centre for working street children		Govt/National Capital Region
Comprehensive social services centre	500 families	Govt/Ministry of Social Affairs	

Governorate	Name of shelter or centre		No. of residents/ accommodation capacity	Details
	Home for the elderly		50	Govt/supporting charitable foundation
	Anti-begging campaign centre		100	Govt/Ministry of Social Affairs
	An-Nadwah skills development centre for orphan boys		167	Community/World Youth Forum
Aden	Social rehabilitation centre for boys (juveniles)		30	Govt/Ministry of Social Affairs
	Dar ash-Shawkani home for orphans		50	Community/Ash-Shawkani Foundation
	Safe Childhood Centre (street children)		30	Govt/supporting Anti-Poverty Association
	Comprehensive social services centre		500 families	Govt/Ministry of Social Affairs
	Home for the elderly		50	Govt/supporting charitable foundation
Ta'izz	Social rehabilitation centre for boys	Young Offenders Division	40	Govt/Ministry of Social Affairs supporting the Child-to-Child Association
		Orphans and Boys at Risk Division	100	
	Home for the elderly		50	Govt/supporting charitable foundation
	Dar ar-Rahmah home for orphans		160	Community/charitable foundation
	An-Nadwah skills development centre for orphans		127	Community/World Youth Forum
Al-Hudaydah	Social rehabilitation centre for juveniles (Boys at Risk Division)		90	Govt/Ministry of Social Affairs
	Social rehabilitation centre for juveniles (Young Offenders Division)		30	Govt/Ministry of Social Affairs
	Home for the elderly		50	Govt/supporting charitable foundation
Ibb	Social rehabilitation centre for juveniles		80	Govt/Ministry of Social Affairs
	Home for orphans		100	Ministry of Social Affairs + community board of directors
Hajjah	Home for orphans		60	Govt/Ministry of Social Affairs
Al-Mahwit	Home for orphans in At-Tawilah		400	Govt/Ministry of Education



Governorate	Name of shelter or centre	No. of residents/ accommodation capacity	Details
Hadhramaut	Social rehabilitation centre for juveniles	35	Govt/Ministry of Social Affairs
	An-Nadwah skills development centre for orphans	118	Community/World Youth Forum

**Table showing numbers of recipients of services provided by social rehabilitation centres for juveniles in the base year (2001) in the National Capital Region and the various governorates, by type of offence (convicted offenders)**

No.	Centre and governorate	Type of offence					Total
		Homicide	Theft	Sexual offence	Bodily harm	Other	
1	Soc. Rehab. centre for boys - NCR	4	21	12	26	84	147
2	Soc. Rehab. centre for boys - Ta'izz	13	6	3	-	2	24
3	Soc. Rehab. centre for boys - Al-Hudaydah	-	4	-	-	17	21
4	Soc. Rehab. centre for boys - Ibb	-	3	-	-	-	3
5	Soc. Rehab. centre for boys - Aden	-	16	8	13	1	38
6	Soc. Rehab. centre for girls - NCR	-	3	17	-	3	23
7	Soc. Rehab. centre for boys - Hajjah	-	-	-	-	-	-
Total		17	53	40	39	107	259

**Table showing numbers of recipients of services provided by social rehabilitation centres for juveniles in the base year (2001) in the National Capital Region and the various governorates, by type of offence (children at risk of delinquency)**

No.	Centre and governorate	Delinquency risk factor					Total	
		Orphan	Divorce	Father absent	Runaway	Unstable family		
1	Soc. Rehab. centre for boys - NCR	41	16	12	-	33	51	153
2	Soc. Rehab. centre for boys - Ta'izz	33	4	-	-	23	-	60
3	Soc. Rehab. centre for boys - Al-Hudaydah	73	13	-	-	26	6	118
4	Soc. Rehab. centre for boys - Ibb	117	-	-	-	-	-	117

No.	Centre and governorate	Delinquency risk factor						Total
		Orphan	Divorce	Father absent	Runaway	Unstable family	Other	
5	Soc. Rehab. centre for boys - Aden	4	3	2	-	2	5	16
6	Soc. Rehab. centre for girls - NCR	-	-	-	-	-	-	-
7	Soc. Rehab. centre for boys - Hajjah	43	-	-	-	-	-	43
Total		311	63	14	-	84	62	507

**Table showing numbers of recipients of services provided by social rehabilitation centres for juveniles in 2002 in the National Capital Region and the various governorates, by type of offence (convicted offenders)**

No.	Centre and governorate	Type of offence					Total
		Homicide	Theft	Sexual offence	Bodily harm	Other	
1	Soc. Rehab. centre for boys - NCR	3	83	43	17	15	161
2	Soc. Rehab. centre for girls - NCR	-	1	37	-	5	43
3	Soc. Rehab. centre for boys - Aden	1	29	25	18	9	82
4	Soc. Rehab. centre for boys - Ta'izz	22	15	23	12	18	90
5	Soc. Rehab. centre for boys - Al-Hudaydah	-	4	4	-	20	28
6	Soc. Rehab. centre for boys - Ibb	-	2	3	-	2	7
Total		26	134	135	47	69	411

**Summary table showing numbers of recipients (including both boys and girls) of services provided by facilities for juveniles, 2001-2002, and projected figures for 2003-2005**

Sex of juvenile offenders	Service recipients, 2001	Service recipients, 2002	Projected service recipients, 2003-2005				Total, 2001-2005
			2003	2004	2005	Total	
Males	740	804	914	950	950	2 814	4 385
Females	23	52	60	130	150	340	415
Total	763	856	974	1 080	1 100	3 154	4 773

### **Beneficiaries of the comprehensive care and child protection project**

Under this project, a number of programmes and activities have been adopted with a view to upgrading social services and care for children who are in need of protection, especially juveniles, street children, and children from poor and needy families.

#### **Protection and skills development for street children**

In accordance with the State's role in social service delivery, and also as a preventive measure, a programme to provide protection and skills development for street children was launched in September 2001. The programme was expanded with the establishment of a centre known as the Safe Childhood Centre in the National Capital Region in 2003, and subsequently a second Safe Childhood Centre was opened in Aden. The table below shows the numbers of street children who found protection and received training at the two Safe Childhood Centres in 2001, 2002 and 2003, with projected figures for the period 2004-2005.

**Table showing numbers of street children who found protection and received training at Safe Childhood Centres, 2001-2003, and projected figures for the period 2003-2005**

No.	Name of centre/ governorate	Number of children, 2001	Number of children, 2002	Number of children, 2003	Projected numbers of children		Total
					2004	2005	
1	Safe Childhood Centre, NCR	15	61	65	65	80	286
2	Safe Childhood Centre, Aden	-	-	65	65	80	210
Total		15	61	130	130	160	496

Under the programme, training, skills development and support and guidance services are provided only at centres for boys. Centres for delinquent girls are supported directly under an earlier project.

The programme has since been further expanded with the opening of two new centres for convicted juvenile offenders in Al-Hudaydah and Hadhramaut Governorates. The numbers of juveniles who received training at these centres, and projected figures for the period up to 2005, have been presented above.

#### **Comprehensive social service centres (Sana'a and Aden)**

These two centres have been supported directly under the project ever since they were founded. The table below shows the numbers of women and children who have received services at these centres between 2001 and 2003.

**Table showing numbers of women and children who received health services at comprehensive social service centres**

No.	Name of centre and governorate	Numbers of service recipients		Total
		Children	Women	
1	Comprehensive social service centre, NCR	312	198	510
2	Comprehensive social service centre, Aden	850	589	139
Total		1 152	787	1 949

**Table showing numbers of recipients of benefits provided by the social services division at the two centres**

No.	Name of centre and governorate	Social groups receiving services from the Social Services Division								Total
		Orphans	Disabled	Street children	Working children	Widows	Deserted women	Divorced women	Poor families	
1	Comprehensive social service centre, NCR	27	9	-	-	10	-	-	71	117
2	Comprehensive social service centre, Aden	38	43	4	1	65	14	42	134	341
Total		65	52	4	1	75	14	42	205	458

**Table showing numbers of recipients of benefits provided by the educational services division at the two centres**

No.	Name of centre and governorate	Courses for student dropouts	Reinforcement learning	Teaching aids and supplies for poor families	Literacy classes for women	Education and skills development	Total
1	Comprehensive social service centre, NCR	7	72	-	42	9	130
2	Comprehensive social service centre, Aden	30	64	40	45	10	189
Total		37	136	40	87	19	319

These services in the area of the rehabilitation of juvenile delinquents show how the content of social services has grown and evolved to target more groups in society. While not all geographic regions of the country are covered as yet, the present situation represents an important step ahead in the development of a social safety net comprising skills acquisition, treatment and care in those regions that are covered. It also represents a base for future reference as regards service growth indicators and the evaluation of their impact on the goal of reaching delinquent children with a view to further development.

### **Paragraph 3: treatment of prisoners**

As regards the treatment of prisoners, the legal position with respect to this paragraph was adequately set forth in the previous report. As regards the treatment of young offenders in particular, we may note that persons in this category are treated in accordance with the provisions of the Juvenile Welfare Act, article 14 of which states that it is forbidden to mistreat juveniles, to use iron manacles or to employ physical coercion when enforcing court rulings

against persons subject to the provisions of the Act. In order to ensure that young offenders are given fresh opportunities for rehabilitation and abandonment of their socially deviant behaviour, rehabilitation services are provided, including:

**(a) Technical and vocational training workshops, of which the most important are the following:**

- (i) Sewing workshops for women;
- (ii) Sewing workshops for men;
- (iii) Carpentry, welding and metalworking workshops;
- (iv) Farm work training.

**(b) Educational workshops**

Various educational opportunities are offered to juveniles in detention, including:

- (i) Classes in memorization of the Koran;
- (ii) Literacy courses;
- (iii) General education courses, beginning with the primary level and continuing on up to the end of the secondary level. This is a service that is offered to juvenile offenders who are interested in pursuing their education, and it represents a fundamental aspect in their rehabilitation.

**(c) Social and psychological services**

These services are provided when a young offender is placed in one of these institutions. The social guidance and support officer examines the social situation of the young offender, conducting a preliminary psychosocial study in order to determine the causes and extent of his delinquent behaviour. An appropriate treatment regime can then be developed, one that is tailored to the offender's particular situation and circumstances.

**(d) Cultural activities**

In the institution or centre, these young people engage in cultural activities such as attending lectures, reading magazines and browsing in the institution's library. Cultural competitions and simple lectures on religion are to be organized in future.

**(e) Sports activities**

The young inmates are provided with opportunities to engage in sports activities organized by the institution itself. Games are played, various teams are organized, and sports competitions are held within the institution or with other institutions and schools. Activities of

this kind represent an important way of channelling these young men's physical and mental energies and structuring their leisure time in beneficial ways, and they are also a useful means of social rehabilitation.

**(f) Social activities**

These centres seek to organize social activities such as visits to archaeological sites and various social institutions, as well as recreational outings. Social activities of this kind teach the young people about the society in which they live and serve to broaden their horizons and extend their understanding. They are also a form of social and personal rehabilitation.

**(g) Health care services**

Juveniles in these institutions are provided with health care. Every centre has a health services unit to deal with emergencies requiring first aid and care for its residents.

**(h) Physical and psychological rehabilitation and social reintegration**

Article 127 of the Rights of Children Act states, "The social rehabilitation institution shall supervise and monitor the young offender's education at the various stages in the skills acquisition process. After the completion of that process, the institution shall seek to find him employment in the occupation for which he has been trained, so that after graduating he will not be at risk of reoffending and returning to delinquency as a result of being confronted with difficult life circumstances. The certificate awarded to him upon completion of his training shall not refer to the fact that it was awarded to him while in a social rehabilitation institution." The Juvenile Welfare Act, for its part, makes provision for a number of preventive rehabilitation measures aimed at the rehabilitation and social reintegration of young offenders. Those measures include:

**(i) Occupational training**

The court sends the juvenile offender to a centre specializing in some type of occupational training or to a factory, commercial firm or farm that is willing to accept him for training. The court does not specify the length of the term of training; however, a juvenile offender cannot be sent to a social rehabilitation institution for more than three years.

**(ii) Committal to a skills development and rehabilitation centre for young offenders**

The youth is sent to one of the social rehabilitation centres for juvenile offenders run by the Ministry or to one recognized by it. If the young person is disabled, he is sent to a centre where he can receive rehabilitation services. The court does not specify in its ruling how long the young offender is to remain in the centre, but his term there cannot be more than ten years for a serious crime, three years for a minor offence, or one year if he is merely at risk of delinquency. The centre to which the young person is sent is required to report to the court on his condition and behaviour every six months at most, so that the court can decide what course of action is best in his particular case.

**(iii) Committal to a specialized hospital**

Where the court sends the juvenile offender to a specialized hospital, it must regularly monitor his stay there for treatment at intervals of not more than one year. The doctors caring for him must submit periodic reports on him, and if it appears that his condition so permits, he must be released.

**XI. Article 11 of the Covenant**

The legal position with respect to this article was discussed in our previous report, and we see no need to repeat that discussion here.

**XII. Article 12 of the Covenant**

The legal position with respect to this article was discussed in our previous report. With reference to paragraph 8 of the concluding observations of the Human Rights Committee<sup>11</sup>, the practical situation in our country confirms that women do participate with men in many functions, occupations and activities in various areas of life. The relationship between husband and wife in Yemeni society is based on mutual understanding and respect. A careful reading of paragraph 4 of article 40 of the Personal Status Act reveals that the Committee's concern is unwarranted. While that article does establish the husband's authority over his wife in the matter of permission to leave the house, that does not mean that the wife remains a prisoner in her home. The legislators who adopted the Act had no intention of making the article in question absolute; they hedged it about with conditions and restrictions. The paragraph states that it is the wife's duty to obey her husband in matters conducive to the interests of the family, and that includes not leaving the conjugal home without his permission, except in circumstances deemed permissible under Islamic law or for a socially acceptable purpose that is not dishonourable and is not inconsistent with her duty toward her husband, such as seeing to his interests, working at a job which she has taken with his consent and which is consistent with Islamic law, or performing services for one or both of her aged parents where there is no one else who can do so. The precepts of Islamic law require the husband to allow his wife to leave the house, and she may leave it without his permission in circumstances deemed permissible under Islamic law or for a socially acceptable purpose that makes it necessary for her to go out. In rural areas of Yemen, the convention that a woman may go out of her house only with her husband's permission is falling into disuse.

**XIII. Article 13 of the Covenant**

The legal position with respect to this article was discussed in our previous report, and we see no need to repeat that discussion here.

**XIV. Article 14 of the Covenant**

**Paragraph 1**

In addition to what was stated in the previous report, some information relating to Yemeni legislation may enable the Committee to realize more clearly the extent of the Republic of Yemen's commitment to the principle of equality before the law and to the provisions of the paragraph here under consideration. The Code of Civil Procedure (law No. 40 of 2002) contains

a number of principles governing judgement and action at law, notably in articles 16-26. Article 16 states that “Parties to a lawsuit are equal with respect to the right to litigate, and every magistrate shall apply the principle of equality between litigants, subject to the provisions of Islamic law and applicable Yemeni legislation.” Both the right to sue and the right of defence are guaranteed at law, in accordance with the provisions of the Code (article 17). Under the Code, every magistrate is required to uphold the principle of confrontation during legal proceedings and to ensure that it is respected between the litigants (article 19). The principle of confrontation is a judicial principle in Islamic law, and it means that a litigant has the right to confront the charge brought against him by his adversary, or the action taken in the matter by the magistrate (article 2). The Code requires every magistrate to strive to ensure that the purposes of justice are served, and to that end may regulate the procedures adopted by the litigants in accordance with the law (article 20). Article 21 states, “Every magistrate, in giving judgement, shall be bound by the principle of neutrality.”

Under Part 5 of the Code of Civil Procedure, every magistrate must treat litigants equally in court, and is forbidden to make signs to a litigant, to prompt him in argument, or to prompt witnesses. Magistrates are also forbidden to offer hospitality to or accept hospitality from a litigant, accept gifts, or breach the rules or ethics of their profession in accordance with the law (articles 26, 27, 28, 29, 30 and 31). The Code also states that courts must allow litigants to speak and to present their arguments, and must hear their statements without interruption (article 164). By way of safeguarding equality between litigants, article 223 of the Code states that during proceedings, courts may not hear one litigant or accept documents dealing with his case without notifying the other litigant, failing which the suit becomes null and void.

Moreover, the Code states that every magistrate who breaches the rules or ethics of his profession or acts in such a way as to bring it into disrepute shall be liable to criminal prosecution or disciplinary action in accordance with the Judicial Authority Act and other applicable legislation (article 32). Chapter 4 of the Code deals with circumstances in which a magistrate or member of the Department of Public Prosecutions cannot examine a case because to do so would compromise his neutrality and adversely affect the principle of equality between litigants (articles 128-156).

On the other hand, the Code provides that a civil suit may be brought against a magistrate or member of the Department of Public Prosecutions in the form of a claim for compensation (article 144). Article 145 lists the grounds on which such a claim may be based. These include:

- Dishonesty on the part of the magistrate or member of the Department of Public Prosecutions in the performance of his duty;
- A serious professional error on his part;
- Open or tacit refusal to examine a claim or rule on a case without a valid reason;
- Admission by the magistrate that he deliberately made an unjust ruling or one that was not in accordance with the law, or that his ruling was determined by his acceptance of a bribe.



If examination shows the claim to be well founded, the offending magistrate or member of the Department of Public Prosecutions is ordered to pay appropriate compensation and the costs of the trial, and the judgement that gave rise to the claim and any judicial act connected with it are declared null and void. The magistrate or member of the Department of Public Prosecutions is suspended from his duties, and the case is referred to the High Council of the Judiciary, which imposes whatever penalty it deems fit. The amount of the security bond must be returned (article 153).

As regards the public nature of trials, article 161 of the Code of Civil Procedure (law No. 40 of 2002) states, "Sessions and pleadings shall be public, except where the court decides on its own initiative or at the petition of the litigants, or one of them, to conduct its proceedings in camera for the sake of preserving public order. Sessions shall be held in camera to preserve the sanctity of the family or public morals."

### **Paragraph 2**

The legal position with respect to this paragraph was adequately discussed in the previous report, and nothing need be added here.

### **Paragraphs 3 (a) and 3 (b)**

The legal position was discussed in the previous report.

### **Paragraph 3 (c)**

The matter of trial without undue delay is addressed in the Constitution, which stipulates that the accused person must be brought before a magistrate within a maximum of 24 hours from the time of his arrest. The Constitution also safeguards the right of defence in article 49, which reads as follows: "The right of defence, in person or by counsel, is guaranteed at every stage of the judicial process and before all courts, in accordance with the provisions of the law. The State shall provide legal assistance for persons who do not have the means to provide for their own defence, in accordance with the law."

### **Paragraphs 3 (e) and 3 (f)**

The legal position with respect to this article was discussed in our previous report, and we see no need to repeat that discussion here.

### **Paragraph 3 (g)**

In addition to what was said in the previous report, we may note that under article 6 of the Code of Criminal Procedure, torture, inhumane treatment and physical or psychological harm inflicted on an accused person in order to extract a confession from him by force are prohibited. Any statement which an accused person or witness is proved to have made under pressure created by any of the practices mentioned is deemed to be null and void.

#### **Paragraph 4**

Measures taken to ensure that in the case of juvenile persons, the procedure is such as will take account of their age and the desirability of promoting their rehabilitation are outlined below.

Article 15 of the Juvenile Welfare Act (law No. 24 of 1992) provides that special youth courts shall be established in the various governorates of Yemen at the decision of the High Council of the Judiciary, acting on a recommendation by the Minister of Justice. The High Council of the Judiciary has, in fact, established such juvenile courts in nine governorates. Women magistrates have been appointed to preside over hearings in them, and there are nine special youth prosecutors. These courts are made up of a judge and two specialized social workers. Judges, prosecutors and social workers have all taken special training courses to prepare them for their duties.

But Yemeni courts generally are concerned with juvenile cases. Every trial court will hear and rule on cases involving the support and custody of children.

That same article permits the High Council of the Judiciary to designate one trial court in individual governorates to have exclusive jurisdiction in juvenile cases where it is not feasible to establish a juvenile court because there are not enough cases.

Article 29 of the same Act makes it unlawful for juveniles to be kept in the same correctional and rehabilitation institutions as adult offenders, men or women, or in the same facilities during investigation and interrogation by the Department of Public Prosecutions or the court, or while serving their sentences.

Under article 36 of the Juvenile Welfare Act, a juvenile aged 10 or under who has committed an offence punishable under the Penal Code may not be sentenced to the penalty there prescribed, but only to one of the measures contemplated in the article in question. The State has enacted national legislation aimed at addressing the problem of juvenile offenders both through prevention and through treatment, taking the offender's circumstances and socio-cultural situation into account. Paragraph 3 of article 3 of the Children's Rights Act (law No. 45 of 2002) reads as follows: "[The State shall] provide the necessary legal protection to ensure that children's rights are not infringed, in accordance with the provisions of Islamic law and applicable national legislation."

Article 131 of the Children's Rights Act provides that juveniles shall be tried in camera, and that only a juvenile's relatives, witnesses, lawyers, and social workers may attend his trial. Furthermore, his name and photograph may not be made public, and no account of the trial, *in extenso* or abridged, may be published in any form.

Under article 132, juveniles are exempted from payment of all legal fees and costs arising from prosecutions under the Children's Rights Act or any other law.

Paragraph (a) of article 11 of the Juvenile Welfare Act reads as follows: "A juvenile aged 12 or under may not be detained at any police station or other security facility; his guardian or trustee or another trustworthy person must be requested to assume responsibility for him,

failing which he shall be placed in the nearest juvenile rehabilitation centre for a period of not more than 24 hours. A juvenile over the age of 12 may be detained at a police station on condition that the period of such detention does not exceed 24 hours. After that time, he shall be detained at a special facility where he will not associate with detainees who are older than himself.”

Article 19 of the same Act reads as follows: “A juvenile who is charged with a felony or misdemeanour shall be entitled to counsel to defend him. Where he does not himself select a lawyer, the Department of Public Prosecutions or the court shall appoint one on his behalf, in accordance with the provisions of the Code of Criminal Procedure.”

Article 8 of the Juvenile Welfare Act states, “The Department of Public Prosecutions shall question juvenile suspects and investigate cases involving juveniles itself. During the questioning and investigation process, the interrogator shall bear in mind the age of the juvenile concerned, the gravity of the act of which he is suspected, his physical and mental state, the circumstances in which he has grown up and lived, and other relevant factors that have shaped his character.”

Article 16 of that Act reads as follows: “The juvenile court shall have exclusive jurisdiction to hear matters involving juveniles at risk of delinquency or charged with felonies or other offences listed in this Act. Where a non-juvenile has been his accomplice in the offence, the juvenile alone shall be referred to the juvenile court.”

Article 25 of the Act states, “Every legal measure taken in respect of the juvenile and every judgement issued in respect of him shall be communicated to one of his parents or to his guardian or the person responsible for him, and such parent, guardian or person responsible may, in the juvenile’s interest, take all action available at law to appeal from such measure or judgement.”

Part II of the Juvenile Welfare Act contains a number of measures in this connection. Article 36, for example, states, “A juvenile aged 10 or under who has committed an offence punishable under the Penal Code may not be sentenced to the penalty there prescribed, except confiscation and house arrest,” but only to one of the measures set forth in the article in question, which include:

- Reprimand: the court reproaches the juvenile for what he has done and warns him not to do anything of the kind again;
- Release of the juvenile into the custody of one of his parents or to his guardian or other person responsible for him. Where none of the above is fit to see to his upbringing, he is released into the custody of a family member who is capable of that duty, and failing such a person, he is released into the custody of a person appointed to see to his upbringing or to a reliable family that agrees to undertake the task;
- Order to take vocational training: the court sends the juvenile to a centre specializing in providing vocational training for young offenders;

- Order to perform specified duties: the juvenile is ordered not to frequent certain places, or to report at specified times to particular individuals or organizations, or to attend guidance sessions, or to perform such other duties as the Minister may decide;
- Probation: the juvenile is released into his natural environment under guidance and supervision and order to perform such duties as the court may direct. A period of probation may not be longer than three years. Where the juvenile fails his probation, the matter is referred back to the court, which takes such further measures as it may deem appropriate;
- Committal to a skills development and rehabilitation centre for young offenders: the youth is sent to one of the social rehabilitation centres for juvenile offenders run by the Ministry or to one recognized by it. The centre to which the juvenile is committed is required to report to the court on his condition and behaviour every six months at most, so that the court can decide what course of action is best in his particular case.
- Committal to a specialized hospital: the juvenile is sent to a specialized hospital so that he can receive the care that his condition requires. The court must regularly monitor his stay for treatment there at intervals of not more than one year.

In a coordinated effort involving the Ministry of Social Affairs and Labour, the Ministry of Justice, the Ministry of the Interior and UNICEF, a number of new initiatives aimed at the welfare and protection of juveniles were launched in 2003. Those initiatives include:

- Establishment of nine juvenile courts and five new public prosecution bureaux to handle cases involving juveniles in Al-Hudaydah, Ta'izz, Ibb, Hadhramaut and Dhamar Governorates;
- Assignment of social workers to work with these courts (two social workers per court);
- Training of 25 police officers in the field of juvenile police work;
- Preparation of a training manual on juvenile welfare, and training for judges, prosecutors, social workers and police officers working with juveniles;
- Establishment of six fully furnished and equipped police stations dedicated to juvenile police work in the context of six security regions in Sana'a as a first step;
- Coordination with the Lawyers' Guild and some volunteer lawyers in establishing voluntary committees to defend juveniles who have committed offences and help guide them through legal proceedings;
- Enlistment of civil society and community associations as participants in the task of supporting and developing juvenile welfare programmes by working with rehabilitation centres and establishing boards of directors made up of individuals from the associations concerned to manage them. Two workshops held to discuss appropriate support mechanisms were attended by representatives from a number of community associations, businessmen and prominent local persons.

### **Paragraphs 5, 6 and 7**

The legal position was discussed in our previous report, and we see no need to repeat that discussion here.

### **Independence of the judiciary**

With reference to paragraph 19 of the concluding observations of the Human Rights Committee<sup>12</sup>, we may note that a judiciary reform plan was adopted in 1997, the Government has developed a detailed programme and timelines for its implementation, and that plan was approved by the Council of Ministers in its decision No. 262 of 2001. The Ministry of Justice has devoted its energies to the task of implementing the plan in question, despite numerous difficulties, including inadequate resources: the Ministry has approved only 19 per cent of the proposed implementation budget owing to global developments since the events of 11 September 2001.

However, there have been some noteworthy accomplishments that may be said to have exceeded expectations. In particular, the Constitutional and legislative provisions relating to the independence of the judicial power and the work of the judiciary have been activated. Any interference with the work of judges or the courts by any agency, individual or corporate entity is prohibited. By way of giving effect to the effort to ensure the independence of the judiciary, the Council of Ministers, in its decision No. 161 of 2001, specified the penalties by which any such interference would be punishable.

The detailed programme for implementation of the judiciary reform plan during the period 2001-2002 includes practical judicial and administrative steps to that end relating to the human factor, based on the fact that it is human beings who are the key to reform and the axis on which it turns. As regards reform of the judiciary in particular, the human beings in question are magistrates and their assistants; the success of the reform process must depend on them. The above-mentioned steps include:

- Action to provide skilled, competent personnel and supporting staff, having due regard for the preference and preparation of the persons concerned and the need to staff judicial bodies and agencies during that period;
- Renewal of the judiciary by overhauling the makeup of the courts, having due regard to the need to establish the number of courts required by the new administrative structure;
- Addition of a number of new divisions in some courts of appeal, as dictated by the need to make justice more readily accessible in the framework of the principles and provisions of the Judicial Authority Act;
- Continuing in-service practical training and skills development by means of specialized training courses and seminars on the science of law. These are designed to keep pace with new scientific and technical data, experience and innovations and thereby introduce qualitative change and development in judicial practice with a view to enabling the judiciary to fulfil its mission and attain its lofty goal;

- Settlement of the situation of those working in the courts by granting them the promotions and pay increases to which they are entitled by law;
- Action to streamline the work of all departments and divisions within the Ministry, each in its own area of legal competence, and a continuing effort to correct outmoded concepts and duplication of work, develop the work of departments and directorates, and staff them with adequate numbers of specialized technical personnel.

Based on these measures, in the context of the available resources and having regard to the needs and requirements of the work of the judiciary, a number of actions have been undertaken, as outlined below.

- Preparation and implementation of a comprehensive judicial renewal process involving the Supreme Court, courts of appeal, trial courts, Public Prosecution bureaux and the Judicial Inspection Board, supplementing Constitutional and legislative measures in that connection;
- Enforcement of the Judicial Authority Act in the matter of the retirement of a number of members of the judicial authority;
- Enforcement of the Judicial Authority Act in the matter of merited promotions for magistrates and members of Public Prosecution bureaux;
- Enforcement of the Judicial Authority Act in the matter of disciplinary accountability for a number of magistrates and members of Public Prosecution bureaux, and dismissal of those who it appears are unfit to perform their duties, pursuant to decisions issued by the Accountability Council;
- Enforcement of legislative requirements concerning membership in political parties in respect of members of the judicial authority, and requiring them to submit written statements in the matter;
- Continued administrative reforms within the Ministry of Justice, and extension of the working methods reform process to the courts, each in its own particular area of competence;
- Settlement of the lawful claims of administrative workers;
- Enforcement of the Civil Service Act and its implementing regulations in the matter of the compulsory retirement of those who have reached one of the two age-limits.

### **1. Judicial renewal**

The paragraphs below present a brief summary of practical steps that have been taken to overhaul the judiciary.

**(a) Renewal measures in the area of court appointments and transfers**

Renewal in the matter of appointments is a reality, and the makeup of a number of trial courts with general jurisdiction or specializing in particular fields (e.g. commercial cases or specialized criminal cases) has been recast. The same has been done with courts of appeal and appeal divisions specializing in particular fields. Various divisions of the Supreme Court have been overhauled as well, as have tribunals in a number of districts, to say nothing of the Judicial Inspection Board. The courts have been strengthened with intakes of new magistrates.

A total of 381 judges have been appointed or transferred in the context of the judicial renewal initiative, as follows:

- 19 have been appointed to the Supreme Court;
- 19 have been appointed to courts of appeal as presiding magistrates;
- 69 have been appointed to courts of appeal in the various governorates;
- 256 have been appointed to trial courts;
- 5 have been appointed to the commercial divisions of various courts;
- 8 have been appointed to general financial courts;
- 5 have been appointed to arbitration tribunals within commercial trial courts.

**(b) Renewal measures in the area of appointments and transfers to the Department of Public Prosecutions**

The Department of Public Prosecutions has been overhauled as well, including the technical office of the Public Prosecutor and the Department's Judicial Inspection Board. The Cassation Division of the Department has been overhauled, and so have appeals divisions, trial divisions and specialized divisions. There have been a total of 321 appointments and transfers at the Department of Public Prosecutions, broken down as follows:

- 5 persons have been appointed at the Office of the Public Prosecutor;
- 29 persons have been appointed heads of appeals divisions;
- 91 persons have been appointed as members of appeals divisions;
- 23 persons have been appointed as members of the Commercial Appeals Division;
- 10 persons have been appointed as heads and deputy heads of military prosecution services;
- 163 persons have been appointed as deputy heads of trial divisions.

**(c) Promotion of judges working in the courts**

A total of 562 working judges have been promoted, as follows:

- 64 have been promoted to a post as deputy presiding magistrate of a court of appeal;
- 22 have been promoted to a post as judge of a court of appeal;
- 55 have been promoted to a post as presiding magistrate of a trial court;
- 202 have been promoted to a post as judge of a trial court;
- 219 have been promoted to a post as judge of a district court.

**(d) Retirement of judges**

A total of 108 judges have been required to take retirement.

**(e) Dismissal of a number of judges**

A total of twenty judges have been dismissed under the rules of the Judicial Accountability Council.

**2. Judicial training, professional development and awareness enhancement**

Training and professional development for persons working in the judiciary are one of the main safeguards for enhanced and improved performance and advancement of the process of evolution of the judiciary. The Government's programme for 2001-2003 includes the following statement: "... continued training and professional development with a view to higher performance levels in all departments and agencies of the judiciary." In the context of the implementation of that programme, many training courses of various kinds have been organized for judges, members of the Department of Public Prosecutions, and court secretaries and reporters. Some of these courses have been given by the Higher Institute of Judicial Administration, while others have been given outside the HIJA by other institutions and specialized centres, and still others have been given outside Yemen, as will be seen from the discussion below.

The Higher Institute of Judicial Administration has organized a number of training courses for members of the judiciary, including judicial assistants and administrative employees. These courses have included:

**(i) Courses for members of the judiciary**

- First joint specialized course for criminal court personnel, 18-25 April 2001. Attended by 59 participants, including criminal court judges and prosecutors from courts in various parts of Yemen;



- Second professional development course for members of the Department of Public Prosecutions (series I), 2-20 June 2001. Attended by 54 members of the DPP over a three-week period;
- First joint skills development course in the field of Islamic law for judges and members of the Department of Public Prosecutions, 20 October 2001 - 30 June 2002. Attended by 48 judges and members of the DPP;
- Third joint professional development course in the field of criminal procedure, for judges, prosecutors and members of the Department of Public Prosecutions, 29 December 2001 - 29 January 2002. Attended by 26 judges and 26 prosecutors and members of the DPP;
- Professional development course for members of the Judicial Inspection Board, 10-18 March 2002. Attended by 12 judges from the JIB;
- First seminar for juvenile court judges, 12-13 May 2002. Attended by 24 participants, including juvenile court judges and members of the Department of Public Prosecutions.

**(ii) Training courses for judicial assistants and administrative employees of the judiciary**

- First training course in the field of finance and administration, for directors of courts of appeal in all parts of Yemen, 24 May – 6 June 2002. Attended by 19 participants;
- Twenty-first training course for judicial assistants with concentration on court reporters, 1 July 2002 – 22 February 2002. Attended by 30 participants from courts in all parts of Yemen;
- Twenty-second skills development course for judicial assistants with concentration on court secretaries, 29 December 2002 – 30 April 2002. Attended by 40 participants, including secretaries working at courts of appeal and trial courts.

A number of training courses have been organized outside the framework of the Higher Institute of Judicial Administration. These have included:

- English language course at the British Council, 1-30 September 2001. Attended by 10 participants holding senior positions in the Ministry;
- Course on commercial relations and agencies and dispute settlement, given at the Yemen Centre for Mediation and Arbitration, in cooperation with the World Intellectual Property Organization (WIPO), 20-23 October 2001. Attended by 12 participants, all of them judges;
- Training course on theoretical and scientific methods of social intervention in working with children who contravene the law, organized by the Ministry of Social Affairs in cooperation with UNICEF for workers in social rehabilitation centres in the

National Capital Region, 10-18 November 2001. Attended by 2 participants from the juvenile court and prosecutor's office dealing with cases involving juveniles in the NCR;

- Training course on street children, held at the Office of Social Affairs and Labour in Aden, in cooperation with UNICEF, in February 2002. Attended by 2 participants from the juvenile court in Aden;
- Training course on social rehabilitation centres and the design and administration of educational courses for street children, given at the British cultural centre in Sana'a, 2-20 February 2002. Attended by two participants from the juvenile court in Aden Governorate;
- Training course for women members of the Department of Public Prosecutions and women judges, organized in Aden Governorate, 1-4 September 2001. Attended by eight women judges and eight women members of the Department of Public Prosecutions;
- Participation by the Ministry in a programme on service quality in the public sector, held at the National Institute for the Administrative Sciences, 4-8 August 2001. Attended by the Ministry's Director-General for Administrative Affairs;
- Computer training courses organized by the Ministry's computer centre. Courses in Windows, Word and Printing were taken by 50 employees from the NCR and 114 appeal court, trial court and prosecution bureau personnel from Aden, Ta'izz, Hadhramaut and Al-Hudaydah Governorates;
- Training course for commercial court judges, given at the National Centre in the Arab Republic of Egypt during 10 days in May 2001. Attended by 10 judges.

While the Council of Ministers has approved the detailed programme and timelines for implementation of the judiciary reform plan, there has been no accompanying approval for funding. The Ministry of Justice has succeeded in implementing 50 per cent of the plan none the less, and this is a substantial accomplishment.

### **Judicial awareness**

Awareness training plays an important role in the dissemination of judicial awareness throughout society, teaching citizens about their rights and duties, and instilling the concept of the independence of the judiciary and respect for its rules. Accordingly, the Ministry of Justice has taken measures in this connection, including in particular:

- Publication of a Judicial Newsletter on a regular monthly basis as a means of publishing research in the fields of secular and Islamic law and drawing attention to State activities and the Government's concern with justice and the judiciary. The Newsletter also deals with significant procedural matters by reporting on the work of the courts, and it publishes Supreme Court rulings that illustrate legal principles. The Newsletter devotes a page exclusively to cases that are being referred to the Supreme Court that month and cases on which it has ruled;
- The Ministry of Justice has begun work on the creation of its own Internet site, which will enable citizens or accused persons to obtain information with no need to take the trouble of going to the Ministry or the Supreme Court. Further pages will be added to the site every month as the first phase in a campaign of judicial awareness which will explain to citizens how the judiciary and other justice-related bodies function;
- A number of discussions, on television, via radio and in the press, featuring senior Ministry officers, Department of Public Prosecutions personnel and officials from the Higher Institute of Judicial Administration and aimed at explaining the duties of the Ministry and other agencies of the judiciary. A number of justice-related matters of interest to the public were discussed;
- Publication of a weekly report on what local newspapers have been saying about judicial issues and informing the relevant agencies;
- Preparation of a judicial awareness plan featuring a weekly television programme carried on the satellite channel and a weekly radio programme on the public broadcasting service;
- Providing the central library of the Ministry of Justice with copies of new laws, statutory instruments and regulations: an amount of 12 million rials has been allocated to provide the library with books on secular and Islamic law and all new statutory instruments administered by the judiciary. Approximately 600 titles in all fields of specialization have already been acquired, including general encyclopaedias, legal encyclopaedias, dictionaries, works of Islamic legal science, works of jurisprudence and works on the fundamentals of Islamic law;
- Establishment of branch libraries in ten courts of appeal between May 2001 and April 2002, and providing them with books and dictionaries dealing with secular and Islamic law in the same way as the central library; approximately 437 titles have been acquired to date;
- Providing all courts with copies of laws published in the Official Gazette, which is issued by the Ministry of Legal Affairs.

**(iii) Judicial inspection and administrative oversight**

Judicial inspection is one of the main, and most essential, pillars of the judiciary, a vital means of ensuring its continued development, and an important approach to monitoring and addressing any deficiencies that may appear in the way it functions. Accordingly, the

Government takes its responsibilities in the matter seriously, aware as it is of the crucial nature of the task. The paragraphs below present an overview of the main accomplishments in that area during the period May 2001-April 2002.

- Judicial Inspection Regulations were issued under a decree by the Ministry of Justice (No. 248 of 2001), and the Regulations have had an effective and positive impact on the functioning and organization of the judiciary;
- The Judicial Inspection Board has investigated a number of complaints, both *in situ* and at its head office, and as a result has been able to identify some judges who been guilty of professional misconduct or have neglected some aspect of their duty. A total of 21 warnings were issued to such judges in 2001;
- In 2001, a number of judges were summoned to the Board to answer complaints that had been lodged against them by citizens. A total of 41 such summonses were issued in the course of the year;
- A comprehensive judicial inspection plan, featuring both periodic and unscheduled inspections, was prepared for 2002. The first stage in the plan was implemented in February 2002, with inspections of courts in the National Capital Region, Sana'a, Al-Jawf, 'Amran, Hajjah and Sa'dah. Field inspection committees began the task of implementing the second stage in May 2002, with inspections of courts in Ibb, Ad-Dali', Ta'izz, Al-Hudaydah, Al-Mahwit, Shabwah and Ma'rib Governorates;
- The Judicial Inspection Board referred a number of disciplinary cases to the High Council of the Judiciary. In 2001, there were ten such referrals in all;
- On 14 July 2001, the Board announced a plan for periodic inspections of the work of judges and lower-ranking assistants, and 58 such inspections were subsequently conducted;
- The Board received complaints of various kinds from citizens, and it examined 2339 such complaints jointly with the Minister of Justice. In 2025 of these cases, memorandums were sent to the courts concerned. In addition, 5225 complaints were received by the Complaints Directorate. Some of these were forwarded to the competent authorities to be dealt with according to law, while in the case of the others, the complainants were advised what further action they should take;
- Field visits to courts in various parts of the country were undertaken, in some cases in response to complaints, in others as regular or unscheduled inspections. Out of 97 such visits in all, 75 were undertaken in response to complaints, 13 were unscheduled inspections, and 10 were regular inspections;
- In another initiative, all employees of the courts, the Ministry of Justice and their various subsidiary bodies are now subject to administrative oversight. The roles of the competent supervisory agencies (General Directorate for Inspection and Internal Oversight, Court Inspection and Assessment Directorate, General Directorate for Financial Affairs and General Directorate for Administrative Affairs) have been

renewed and activated, and this aspect has been given high priority among tasks of the Ministry of Justice aimed at identifying weaknesses and deficiencies in the work of the courts with a view to taking corrective measures and upgrading employee performance. A number of infractions have been investigated: fourteen employees in all have been questioned, and where it appeared that they had been party to an infraction, the case was referred to a disciplinary board in accordance with the law.

**(iv) Legislative reform of the tasks of the judiciary and the justice system**

The Government's agenda for reform of the tasks of Yemen's judiciary and justice system includes new legislation aimed at:

- Restructuring of the Ministry of Justice to give it authority to institute reform in the area of the judiciary and the administration of justice;
- Creation of an independent body within the Ministry of Justice with responsibility for forensic medicine;
- A transition to a system of land registration.

Within this framework, the detailed reform programme for the period May 2001 - April 2002 included the preparation of an array of new legislation, much of which has already been enacted:

- Regulations organizing the Ministry of Justice:

The new regulations make provision for important projects designed to enable the Ministry of Justice to activate its role and strengthen its authority to institute reform in the area of the judiciary and the administration of justice through a restructuring of the Ministry. The draft regulations were laid before the Council of Ministers, which approved them at its session of 2 July 2002;

- A decree by the Minister of Justice (No. 248 of 2001) issuing the Judicial Inspection Regulations;
- A decree by the President of the Republic amending the law making provision for the establishment of Courts of Public Finances and defining their areas of competence;
- A decree by the Minister of Justice (No. 133 of 2001) making provision for the General Directorate of Courts;
- A decree by the Minister of Justice (No. 200 of 2002) concerning the work of secretaries, procedures for their engagement, and their accountability;
- A decree by the Minister of Justice concerning the by-laws governing the Judicial Newsletter.

In addition, the Ministry of Justice has completed the preparation of various draft laws, regulations and other statutory instruments, including the following:

- Draft amendments to the Judicial Authority Act;
- Draft Higher Institute of Judicial Administration Act;
- Draft Judicial Authority budget regulations;
- Draft regulations governing the High Council of the Judiciary;
- A draft decree by the President of the Republic making provision for the establishment of tax courts and defining their areas of competence.

Various laws and statutory instruments are being subjected to review, including:

- Press and Publications Act: comments are being prepared;
- Public Corporations Act: comments are being prepared;
- Act concerning insurance and pensions for members of the judicial authority and its employees.

The Ministry has also carried out many legal tasks in connection with its work, including:

- 302 studies on issues of relevance for citizens, issues of relevance for the State, matters relating to legal settlements, formal legal opinions under Islamic law, and other matters;
- 19 ordinances and edicts;
- 512 decrees were issued during the period here under consideration, covering a total of 4244 beneficiaries.

**(v) Infrastructure of the judiciary: new buildings, facilities and equipment**

New infrastructure for Yemen's judiciary is indisputably an essential aspect of the reform and development process. Indeed, it is one of the most important factors contributing to the stability of the situation of the judiciary, more adequate functioning of the courts and public prosecution bureaux, and speedy justice for citizens.

Hitherto, such infrastructure has been sadly lacking. Most courts and public prosecution bureaux currently have to make do with rented premises, or buildings that are old and in poor repair and thus not appropriate to serve the ends of justice, while at the same time the State must incur heavy costs for rental and repairs.

Wishing to make a serious effort to address this situation, the Ministry of Justice has embarked on an ambitious programme aimed at obtaining infrastructure that is commensurate with the progress and growth that the country is currently experiencing and will meet its future needs. To that end, it has mustered all the resources at its disposal, made the necessary preparations, and taken appropriate measures to conduct studies and prepare technical plans for the construction of model complexes housing commercial or general courts in the capital cities

of the main governorates, and courthouse buildings for specialized and general trial courts in the main cities and districts of all the governorates. The Ministry has held domestic and international competitions for the best designs for integrated model judicial complexes to accommodate courts of appeal and public prosecution bureaux in the main governorates. Such new court buildings are no more than fitting, in view of the importance of the judiciary, the nature of its work and its organizational structures, and they will enable it to attain its long-term goals. The competent technical directorate has been activated, provided with the necessary resources and supported with technical elements. Achievements during 2001-2002 have been substantial; they include:

- Delivery of 13 turnkey building projects for a total financial cost of 190 462 200 rials;
- Delivery of eight projects at a financial cost of 225 040 884 rials;
- 54 projects that are still under way, at a cost of 1 986 773 251 rials;
- Rehabilitation and maintenance of 13 government buildings at a cost of 38 550 000 rials;

New model buildings are urgently needed, calling for adequate allocations in the coming public budget if the programme is to continue and the necessary courthouse complexes are to be built, especially in the NCR and the main governorates. Projects for complexes accommodating commercial and general trial courts in the NCR and in Aden, Ta‘izz, Al-Hudaydah, Ibb and Hadhramaut Governorates will cost an estimated 2 400 000 000 rials.

The Government has made adequate land available, in the form of State-owned lands in some cases, in other cases in the form of lands rented from religious endowments, and in still others by purchase from private owners. In all, 33 sites have been acquired, distributed throughout the country’s various governorates.

#### **XV. Article 15 of the Covenant**

The legal position with respect to this article was discussed in the previous report.

#### **XVI. Article 16 of the Covenant**

The Civil Code (law No. 14 of 2002) sets specific ages which an individual must have attained in order for the law to be applicable to him. This is what is meant by the technical legal term “capacity”. The Civil Code distinguishes two kinds of capacity:

1. Capacity of obligation, by virtue of which an individual acquires rights and duties. This capacity is held from birth, and includes the right to inherit, to donate, to dedicate and the like;

2. Capacity of execution, by virtue of which an individual exercises his civil rights. This capacity requires the individual concerned to have attained a particular legal age. For full legal capacity, he must have reached the age of majority. A minor who is intelligent and discriminating has restricted legal capacity.

Under the Children's Rights Act (law No. 45 of 2002), an individual's personality begins when he is born alive and ends with his death. Furthermore, an unborn child is deemed to possess rights under the law. Births and deaths are inscribed in official registers established for that purpose. The State guarantees every child's right to maintain his identity, including his citizenship and family relationships in accordance with the applicable legislation. Every child has the right to have his name and citizenship recorded at the time of his birth (articles 45, 46, 49 and 50).

Article 10 of the Act provides that every child has the right to have a name that distinguishes him, and that that name shall be inscribed at the time of his birth in a register of births, in accordance with the terms of the Civil Status and Civil Registration Act.

Yemeni legislation safeguards every child's right to be registered at the time of his birth, his right to his name and citizenship, and his right to preserve his identity and citizenship. The Civil Code (articles 37, 38, 39 and 45) states that an individual's personality begins when he is born alive and ends with his death. It also stipulates that birth and death shall be inscribed in official legal registers, and that in personal dealings, and individual shall be known by his given name and the name of his father, or by a family name that distinguishes him.

Under articles 20, 21, 23, 25, 26, 27, 29 and 30 of the Civil Status and Civil Registration Act, every child must be registered at birth. The birth must be reported to the Civil Registration Directorate within 60 days, or, in the case of a foundling, within 60 days of the date at which the child is discovered or turned over to an orphanage or other specialized institution. In the case of a child born outside Yemen, a birth certificate is issued when the child reaches a Yemeni port or a Yemeni consulate. Procedures for registering births are as follows:

(a) In the case of a child whose parents are known, all particulars relating to the child and the parents are inscribed;

(b) In the case of a foundling, where the parents are unknown, particulars relating to the child are inscribed. The Director, Civil Status is responsible for giving the child a full name, and the entry is then made in the register of births, with no mention of the fact that the child is a foundling, but with the box labelled "parents' names" left blank, unless one of the parents acknowledges that the child is his or hers;

(c) In the case of a child born of an incestuous union, the name of the father, mother or both shall be omitted. In the case of a child born to a married woman and a man other than her husband, the mother's name shall be omitted. In the case of a child born to a married man and a woman who is not his lawful wife, his name shall be omitted, except where the birth occurred before their marriage or after its dissolution, in cases involving persons whose religion does not permit polygamy.



Article 49 of the Civil Status and Civil Registration Act provides that every citizen of the Republic of Yemen, upon reaching the age of 16 years, shall be issued a personal identity card, or a family identity card if he is the head of a family. Article 11 of the Children's Rights Act provides that every child is entitled to citizenship in accordance with the terms of the Act and other applicable legislation.

#### **XVII. Article 17 of the Covenant**

The legal position with respect to this article was discussed in the previous report.

#### **XVIII. Article 18 of the Covenant**

##### **Freedom of religion**

With reference to paragraph 20 of the concluding observations of the Human Rights Committee<sup>13</sup>, the legal position with respect to this article was discussed in the previous report. The Yemeni people are adherents of the religion of Islam. It is the official religion of the State, and the Constitution is derived from the spirit of that true religion. Yemen's position is thus the same as that of other Islamic States: while it believes in freedom of creed and conscience, it holds that to change one's religion and to proclaim such change would be to create discord that would be highly detrimental to social stability and security. Given the belief of the Government of Yemen in the importance of devotion to the Islamic religion, freedom of religion and conscience resides within the individual himself, who is aware that the religion of God is Islam. Islam specifies conditions for entering and leaving the faith. Individuals have free will, which is created and bestowed by God. Non-Muslims in Yemen have full freedom to practise their religious ceremonies and rites of worship without coercion or pressure.

The individual's freedom to manifest his religion or belief is safeguarded by a provision of the Constitution which derives from Islamic law and is based on the principle of respect for the beliefs of others and for their freedom of choice. It is not permissible, however, to endanger public order in society by unsettling its spiritual stability and disturbing its comfort in its faith, or by doing anything which is likely to threaten public safety, order and the fundamental rights and freedoms of others. Parents must ensure that the religious and moral upbringing of their children is in keeping with their convictions without being incompatible with lofty human values based on tolerance, brotherhood, good will and peace.

#### **XIX. Article 19 of the Covenant**

##### **Freedom of the press**

With reference to paragraph 21 of the concluding observations of the Human Rights Committee<sup>14</sup>, our third periodic report included a detailed discussion of the legal measures contained in the Constitution and the laws that are consistent with article 19 of the Covenant. By way of further implanting and strengthening freedom of opinion and expression, the Press and Publications Act is currently being reviewed, on the instructions of the President of the Republic, in an effort to identify any provisions of the Act that may be impeding the freedom available to journalists under the Constitution, with a view to ensuring that they will be able to practise their profession satisfactorily and to afford greater freedom of opinion and expression. Under

prospective amendments that are being drafted, journalists will no longer be liable to imprisonment because of their opinions. This shows the seriousness of the State's commitment to the fundamental standards and principles of freedom of expression.

Analysis of the content of the popular and party press in our country before and after unification demonstrates the openness of the media and confirms that the indicator of freedom of the press stands higher than before. To confirm that that really is the case, there could be no clearer evidence than the Presidential amnesty granted to journalists who had contributed directly to the igniting of the fires of discord and division in the ranks of a single people and had assisted those who were calling for secession, tearing the community asunder, advocating treason, inflicting harm on the country and damaging its reputation abroad. We may note at this point that the second general conference of the Yemeni Journalists' Guild was held in Sana'a from 21-23 February 2004. The conference proceeded uneventfully, and the Association's officers were elected in complete freedom and independence, with no oversight or pressure on the part of the State at all, as the participants themselves subsequently attested.

The State's policy in the matter of its official media is set forth in a Council of Ministers decision (No. 277 of 1995). The main lines of that policy are as follows:

- Commitment to freedom of expression and freedom of the press;
- Information as a human right and a right of society;
- Interest in the press, action to safeguard its freedom, preservation of the dignity of journalists and action to encourage them to exercise their investigative function constructively and responsibly;
- A concern for the flow of information and its presentation as available in all media;
- A focus on combating corruption, injustice and extralegal actions;
- The information media as a platform for a call to the establishment of an administrative revolution;
- Enforcement of the Press and Publications Act and its implementing regulations as a means of maintaining freedom of the press and strengthening our experiment in democracy;
- A focus on citizens' rights under the law and participation in all areas of public life.

The Yemeni press operates against a background of democracy, plurality of parties and freedom of opinion and expression. Every party publishes one or more newspapers, and no party newspaper has ever been suspended for criticizing a governmental policy. A review of the Yemeni press during the years since unification (1990-2002) reveals that it has dealt with issues and topics that papers in the most advanced democratic countries would not venture to approach; this is one of the characteristics that the Yemeni press has acquired from practice and its accumulated experience. Under article 18 of the Press and Publications Act, it is a criminal offence to dismiss a journalist, transfer him to non-journalistic duties or suspend him from work.

We may note that a successful journalist is one who can convey the message to the reader while remaining mindful of his duty as a citizen and keeping within the law. The number of party newspapers in Yemen has increased until now there are more than 15 weeklies, while there are more than ten independent newspapers, including two English-language ones. There are three great State-owned daily papers and one State-owned weekly, as well as news agencies. In addition, many weekly publications are issued by official institutions of various kinds.

With the exception of two independent journals that are published daily, and a third that appears twice a week, all Yemen's independent and party newspapers are weeklies.

In all, then, the country has nearly 50 regular periodicals, characterized by a broad range of widely divergent concerns and orientations, the diversity of which constitutes an arena and a laboratory for the exercise of freedom of the press.

In the area of radio and television broadcasting, Yemen has one satellite television station and one ground station, besides a main radio transmitter in the capital, Sana'a, and five local transmitters in the governorates.

At the present time there are approximately 1000 Yemeni journalists, according to recent statistics published by the Journalists' Guild, and the number is constantly increasing, thanks to a College of Media Studies at the University of Sana'a and a Department of Media Studies at the University of Aden. In addition, a Department of Media Studies is expected to open shortly at another State university, and the media are a subject of study at a number of private universities in Yemen. Furthermore, there are many Yemeni students specializing in media studies and journalism at universities abroad.

Another form of journalism that has recently made its appearance alongside print journalism, and that is electronic journalism. Yemen has six Web sites presenting journalistic material on approximately a daily basis. One of these is independent, while the others are operated by political parties or print newspapers and reflect previously existing orientations.

Since the year 2000, a total of 180 journalists have been sued as a result of articles that they had published, the content of which was held to have infringed the rights of others. No more than five per cent of these lawsuits have been brought by the Ministry of Information; the vast majority of them (95 per cent) have been brought by individuals, institutions and corporate entities. Forty-two journalists have been prosecuted on charges laid the Department of Public Prosecutions. Of these, only four were prosecuted at the instance of the Ministry of Institution; the remainder were prosecuted at the instance of individuals or corporate entities.

Some court rulings in prosecutions against journalists have been based on the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. By way of example, we may note a case involving the editor-in-chief and the assistant editor of the newspaper *Al-Thawri* and two journalists in its employ. The trial ended with the acquittal of the accused persons, and in its Reasons for Judgement the judge cited article 19 of the Universal Declaration of Human Rights and article 19, paragraphs (a) and (b), of the International Covenant on Civil and Political Rights.

**Table showing rulings in court cases involving journalists since the year 2000**

No.	Outcome	No. of cases
1	Acquittal	10
2	Charges dropped by complainant	11
3	Fine	15
4	Imprisonment for terms of not more than six months	6
5	Newspaper suspended from publication for one month	1
6	Notoriety and public indignation incurred by the accused deemed sufficient penalty	1
7	Ordered to publish an apology	2
8	Reprimanded and ordered to be mindful of truth in reporting	1
9	Ordered not to practise the profession of journalist for a period not exceeding six months	1
10	Editor-in-chief of paper suspended for six months	1
11	Case dismissed	1
12	Fines and imprisonment for terms of not more than six months or suspension of the paper concerned for one month	4
13	Case still pending	22
14	Case dismissed because of death of accused	1
15	Fine and apology	8
	Total	185

It is important to note at this point that article 7 of the Children's Rights Act (law No. 45 of 2002) provides that every child has the right to express his opinions with complete freedom, and that those views shall be given all the consideration they deserve. The Act regulates the role of the media aimed at children (articles 100-102).

## **XX. Article 20 of the Covenant**

### **Paragraphs 1 and 2**

#### **Propaganda for war and advocacy of hatred**

The Republic of Yemen affirms its unqualified faith in the principle of peaceful coexistence among nations and the values of global security and peace. Accordingly, over the past few years it has shown, in a manner that leaves no room for doubt, that its policy is consistent with the preservation of regional and international security and peace by resolving its border problems peacefully. The clearest possible evidence of this is to be found in the fact that Yemen has concluded treaties with the Sultanate of Oman and the Kingdom of Saudi Arabia, establishing its borders with those countries, and has sought the return of the Hanish Islands by peaceful means, through international arbitration. As noted in the previous report, Yemen's Constitution and laws contain a number of principles and provisions prohibiting propaganda for war and racial hatred, and what was there stated need not be repeated here. In accordance with this paragraph of the Covenant, the Constitution and applicable laws contain clear provisions prohibiting the advocacy of racism or hatemongering. Article 40 of the Constitution, for example, runs as follows: "Military, security, police and other forces shall not be employed to

serve the interests of a party, individual or group. They shall be safeguarded against all forms of differentiation resulting from party affiliation, racism, factionalism, regionalism or tribalism in order to guarantee their neutrality and the fulfilment of their national tasks in an appropriate manner. The members of all forces are banned from party membership and activities according to the law.”

Article 3 of the Political Parties and Organizations Act (law No. 66 of 1991) states, “In accordance with article 39 of the Constitution of the Republic of Yemen, public freedoms, including pluralism of political parties as provided under the Constitution, shall be deemed to constitute a right and a foundation-stone of the Republic’s political and social system that may not be abrogated or restricted, and citizens’ freedom to exercise that right may not be impeded by any means. No political party or organization may abuse that right by acts that are incompatible with the public interest with respect to the maintenance of national sovereignty, security, stability and unity.”

The Community Associations and Institutions Act (law No. 1 of 2001) provides that the founding of an association or institution is permissible only provided that its objectives are not inconsistent with the Constitution and applicable legislation (article 4). Every person who uses an association or institution for a purpose at variance with the purpose for which it was established is liable to prosecution (article 68). Article 79 of the Act provides that no non-Yemeni association that opens offices or branches in Yemen may include among its objectives anything that is incompatible with Islamic values or the Constitution and applicable legislation.

Article 193 of the Penal Code provides that every person who incites or encourages others to commit a crime or crimes that is or are subsequently committed as a result shall be deemed an accomplice in such crime or crimes and shall be liable to the penalty prescribed at law, except where that penalty is a doctrinal punishment or retaliation, in which case he shall be liable to a term of imprisonment of not more than five years or a fine. Article 194, for its part, provides liability to a term of imprisonment of not more than five years or a fine for every person who:

1. Openly publicizes opinions containing ridicule or disparagement of religion or religious beliefs, practices or teachings;
2. Openly belittles any group of people or claims superiority for any group in a way likely to disturb public order.

Under article 261, attacks against freedom of belief are prohibited, and every person who:

1. destroys, disfigures or desecrates a mosque or any other place licensed by the State as a place of worship or a religious symbol or other object having religious sanctity, or
2. deliberately disrupts or prevents the observance of the ceremonies of any recognised religious community by violence or threats,

is liable to a term of imprisonment of not more than one year or a fine of not more than 2000 rials.

As regards the current situation with respect to the propagation of a culture of tolerance and drying up the wellsprings of extremism, the Government is reviewing informational, cultural and religious discourse as presented via the media and the mosques, and is urging religious scholars, preachers, college and university professors and leaders of study groups at mosques, each in his own field of expertise or the segment of the community with which he is in touch, to fulfil their duty of expounding the rules of Islamic law and to explain its merciful purposes for mankind. The Government seeks by this means to encourage students and teachers to speak with one voice, strengthening good will and brotherhood in the faith and avoiding destructive rivalry and animosity among them.

Moreover, at the beginning of the 2002-2002 school year, the Ministry of Education unified primary and secondary education in all regions of Yemen by integrating what are known as “religious institutes” into the public system. Those institutes had formerly represented a parallel form of education existing alongside the public system and enjoying administrative and financial independence *vis-à-vis* the Ministry of Education. This initiative will help promote mutual understanding among the various elements in Yemeni society and discourage fanaticism and extremism.

Lastly, the President recently issued a decree granting amnesty to the persons whose names were on the “list of 16” for having been instrumental in the outbreak of the war of secession, and invited them to return and contribute to the task of building the country. This is irrefutable evidence of tolerance toward all citizens of Yemen and rejection of all warmongering, hatemongering and advocacy of violence.

#### **XXI. Article 21 of the Covenant**

The legal position with respect to this article was discussed in the previous report.

#### **XXII. Article 22 of the Covenant**

##### **Paragraphs 1, 2 and 3**

##### **Freedom to form associations**

In addition to what was said in the previous report, we may note at this point that the State has taken practical measures to ensure broadly based participation and popular action in economic, social and cultural life. Those measures include far-reaching amendments to old legislation in this area and the enactment of new legislation that is in line with constitutional provisions promoting and encouraging citizens’ freedom to form voluntary associations. The new legislation includes:

- Law No. 1 of 2001, the Community Associations and Institutions Act;
- Law No. 39 of 1998, the Community Associations and Federations Act;
- Law No. 35 of 2002, the Union Organization Act.

These laws are of particular interest in that community associations and groups of various kinds contributed to the work of drafting them through a series of conferences and meetings organized by the Government. The outcome of this consultation process was that the new legislation was characterized by a number of particular features, including:

- (a) Safeguards for the freedom to form and establish community associations and institutions;
- (b) Freedom to contribute to and work to attain the objectives of such associations and institutions;
- (c) Use of the partnership method in development action undertaken with these associations, so that the activities, funding and support of all concerned contribute to integrated functioning and performance.

Another distinctive feature of these laws is the clarity of their financial aspects, with emphasis on the principle of transparency in respect of funding and resources. Yemeni law has been able to overcome the problem of outside funding by allowing community organizations to communicate with foreign agencies in order to obtain funding, provided this is done with the knowledge of the Ministry of Social Affairs. This is a clear-cut, flexible approach, and one that has seldom been adopted under the legislation of other States. The law also authorizes gifts, donations and contributions, deeming these to be a legitimate source of funding for community organizations.

Thanks to the flexibility of Yemen's domestic legislation, its recognition of the freedom to form associations and the fact that it lays down only a few simple formalities for the founding of a new association, community organizations, cooperative associations, trade unions and the like have burgeoned in Yemen: at the present time, there are some 4,300 of them.

The State has assumed, through legislation, a commitment to provide support in various forms for community and popular action, regarding them as it does as partners in the socio-economic development process. That commitment has found expression in an array of measures to support the community sector, of which the following are particularly noteworthy:

- Annual financial support for community associations and institutions in accordance with the conditions laid down by the law;
- Application of the principle of decentralization;
- Action to strengthen the work of the Social Development Fund, technical surveys of community and cooperative associations, and creation of a database on them at the Ministry of Social Affairs and Labour as a preparatory measure for the establishment of a data network covering all governorates in Yemen;
- Exemptions and facilities as provided under Law No. 1 of 2001, the Community Associations and Institutions Act;

- Establishment of social development funds and institutions to support community action;
- Action to attract external projects and programmes to fund projects developed by community institutions and associations;
- Action to encourage small loans and micro-credit facilities through community associations and institutions;
- Action to channel some social welfare benefits through community associations and institutions;
- Attaching social centres and economically productive family centres to community associations and providing them with assistance and incentives;
- Organizing training, professional development and awareness courses and programmes for managerial personnel in the field of community and cooperative action;
- Directing academic institutions to develop appropriate responses to community initiatives and provide them with technical and scientific backing;
- Establishment of a Disabled Persons Welfare Fund for the benefit of associations of disabled persons and persons with special needs;
- Sending experts and specialists to provide technical assistance for community associations and institutions.

The table below shows how the numbers of non-governmental organizations changed during the period 1990-2003.

Year	Number of organizations
1990	508
1991	571
1992	908
1993	1 087
1994	1 168
1995	1 344
1996	1 557
1997	1 754
1998	2 155
1999	2 660
2000	3 175
2001	3 628
2002	3 969
2003	4 305



## **XXI. Article 23 of the Covenant**

### **The family and conjugal life**

#### **Paragraphs 1 and 2**

The legal position with respect to this article was discussed in the previous report. That report also adequately addressed paragraph 7 of the concluding observations of the Human Rights Committee,<sup>15</sup> in which the Committee expressed its concern at the discrimination against women in matters of marriage and divorce and the rights and duties of spouses.

As previously noted, there is nothing either in Yemeni legislation or in the tenets of the Islamic religion that could be construed as contrary, explicitly or implicitly, to the principle of equality between men and women as regards the distribution of their rights and duties or incompatible with the concept of the family as being founded on a basis of mutual consent and freedom of choice.

Family relations in the Republic of Yemen are regulated by the Personal Status Act (Law No. 20 of 1992) and amendments thereto. The provisions of that Act are derived from Islamic law, which stipulates that in the union of a man and a woman, each party has rights and duties vis-à-vis the other in the interests of their mutual affection and kindness.

#### **Paragraph 3**

Under Islamic law, a woman has the right to see the man who wishes to marry her and to decide whether she is willing to accept him. The man has a similar right. That is to say, a woman has the right to choose her husband, just as a man has the right to choose his wife. A marriage contract, like any other contract, is valid only provided two necessary conditions are met, namely offer and acceptance; otherwise the contract is null and void. Consequently, if the woman does not agree to marry the man who has asked for her hand, the contract cannot be concluded, as one of the necessary conditions has not been met. The judge is required to ascertain that this condition has been met before concluding the marriage contract.

Where a woman has been coerced into consenting to marriage with the man who has asked for her hand, the contract is not valid from a legal standpoint. This is explicitly stated in article 10 of the Personal Status Act.

Conversely, a woman may not be prevented from marrying a man who has asked for her hand and whom she has accepted. If the woman's legal guardian refuses to allow her to marry him, the judge may order him to consent to the marriage, and if he still refuses, the judge may order the marriage to take place, in accordance with articles 18 and 19 of the Personal Status Act.

Under article 15 of the Personal Status Act, the husband may have marital relations with his wife, and she may be given to him in marriage, only provided she is physically and emotionally fit for sexual intercourse, even if she is over 15 years of age. The article also provides that, in general, marriage may not be contracted with a minor, except where such a marriage will entail some clear benefit. As we have seen, an individual comes of age upon completing his or her fifteenth year, provided he or she is of sound mind. The law does not discriminate between men and women with respect to this.

Article 14 of the Personal Status Act reads as follows: “The person who presides at the conclusion of a marriage contract, the groom and the legal guardian of the bride shall register the contract with the competent authority within one month following the date of the marriage. The contract may be registered by any one of the three above-mentioned persons (in which case the other two are not required to register it), provided it contains all the required information, such as the ages of the parties, their identity card numbers, and the amount of the part of the nuptial gift paid immediately and the amount of the deferred part.”

#### **Paragraph 4**

The legal principles guaranteeing equality between husband and wife in the matter of their respective rights were discussed in the previous report.

We may note at this point that paragraph 1 of Article 42 of the Personal Status Act provides that the conjugal home shall be an independent dwelling in which the wife and her assets are safe and secure. The husband’s situation, the homes of men of similar status and local custom are factors that should be taken into consideration. The husband may accommodate in the conjugal home, along with his wife, his children by her or by another wife or other wives, even after such children have reached the age of majority, his parents, and female relatives whom it is not lawful for him to marry and whom it is his duty to accommodate, provided the house has room enough for them without prejudice to the wife, and provided there is no stipulation to the contrary in the marriage contract.

It is clear from the text of the above-mentioned Article 14 that the husband is required to bestow a nuptial gift on his wife, and that the amount of the gift, including both the part paid immediately and the deferred part, must be shown in the marriage contract. Article 33 of the Law of Personal Status reads as follows:

“(a) Where a nuptial gift is bestowed on a bride under a valid marriage contract, i.e. one entered into by mutual agreement, the contract shall specify what is excluded from the gift in terms of property and lawful benefits. Where these matters are imperfectly indicated or omitted and hence cannot be determined, the standard conditions governing nuptial gifts shall apply.

(b) The nuptial gift shall be the exclusive property of the wife, who may dispose of it as she sees fit. Any provision to the contrary shall be deemed null and void.”

A nuptial gift is an indispensable necessity and a religious obligation incumbent on the husband. If the marriage contract does not specify the amount of the gift, the wife is entitled to a nuptial gift appropriate for a woman of her status marrying at the same time. In a word, there can be no marriage without a nuptial gift.

### **Rights of the husband and wife in the event of divorce**

With respect to the rights of each of the two spouses upon dissolution of the marriage-tie between them, Yemeni law gives precedence to the woman's rights to a great extent, on numerous social, moral and humanitarian grounds. For example, the wife has the right to seek the cancellation of the marriage contract (i.e., to seek a divorce) by means of a petition to a court. The court will award her a divorce where any of the following is the case:

- The husband has not supported her, regardless of whether he is comfortably well off but she has been unable to secure support from him, or whether he is poor and has refused to engage in gainful employment;
- The husband has been absent outside the country and his whereabouts unknown for a full year, where he has not been supporting her, or for two years where he has been supporting her;
- The husband has been sentenced to a term of imprisonment of three years or more and has served one year of his sentence. The wife may then petition for cancellation of the marriage contract;
- The husband is married to more than one wife and is unable to support all his wives. Each of the wives is then entitled to petition for cancellation of the marriage contract;
- The woman dislikes her husband, does not wish to live with him and desires a divorce;
- The husband is an alcoholic or a drug addict. The wife may then petition a court for a divorce, provided she can prove her allegations.

We may note here that the law makes provision for a number of rights in the event of divorce. Under article 21 of the Personal Status Act, for example, a mother may not be denied custody of her children because she has petitioned for a divorce, because minor children have a right to their mother's care, and a divorced woman has a right to fair compensation if her husband divorces her arbitrarily and without reasonable grounds. While the Act does not explicitly require it, we consider that divorces should be registered with the competent authority in the same way as marriage contracts. In practice, this is usually done in any case, by way of establishing officially that the former man and wife are divorced. Under article 348, paragraph (b) of the Law, a husband who repudiates his wife is required to inform her and the competent authority of the fact within one week.

### **XXII. Article 24 of the Covenant**

#### **Paragraph 1**

The Children's Rights Act was recently enacted, after three years of discussion between the Ministry of Social Affairs and Labour and the High Council on Maternal and Child Welfare. Under the Act, a variety of governmental and non-governmental bodies are entrusted with responsibilities and commitments relating to children's health care, their legal, social, economic,

educational and cultural rights, and their right to sports activities. International organizations had input into the drafting of the Act, which is regarded as an important achievement in the area of children's welfare. Its enactment has given rise to an active movement urging the promulgation of implementing regulations and calls for provisions relating expressly to children in development plans, the poverty alleviation programme and health campaigns. The Government is cooperating with international organizations in an effort to overcome the difficulties besetting children's health-care delivery and provide the medical supplies needed in that connection. In particular, the Government is implementing a children's development programme in partnership with the World Bank and UNICEF. Some projects have been aimed expressly at encouraging school attendance, while others have been concerned with girls' health; progress has been made in these and other areas. Under the population policy and action programme, a number of plans and projects relating to children's rights have been implemented, surveys and social studies conducted and statistical reports produced, and the result has been an accurate picture of the existing situation of Yemen's children, which, analysis reveals, is characterized by various disparities. Consequently, the recasting of policies, plans and programmes to take that important population segment into account has become a task of the first importance. In particular, a 1997 survey of household budgets, a demographic survey of maternal and child health conducted in that same year, and a 1997 survey on the phenomenon of poverty have been useful for the purpose of preparing the following national programmes and projects:

- Expansion of the social safety net and its delivery mechanisms and implementation of a national poverty alleviation programme and a job creation programme targeting poor people, in the context of a serious effort to reduce disparities in these areas, inasmuch as it is women and children who suffer the most;
- Development of a national strategy for the protection of children living under conditions of hardship, with funding from both national institutions and international organizations such as UNICEF. This project is still under study;
- The Government is considering the idea of constructing a consolidated database on children's issues, using the databases maintained by its various institutions, such as the Ministry of Education's database on educational indicators and the Ministry of Health's database on children's health. This initiative is still in its early stages. The High Council on Maternal and Child Welfare, for its part, regards the construction of an integrated database on Yemen's mothers and children as one of its main objectives. The Council has signed an agreement with the Arab Gulf Programme for United Nations Development Organizations (AGFUND) on support for this project;
- The Government has directed its own departments and agencies and relevant non-governmental organizations to implement training programmes for persons who work with children in all service delivery areas, and for persons who work with children with special needs or children living under conditions of hardship.

## **General principles relating to children's rights**

### **(a) Principle of non-discrimination**

Under the Constitution, all citizens may exercise all their legitimate political, social, economic and cultural rights (article 24), Yemeni society is based on justice, freedom and equality (article 24), and all citizens are equal in rights and duties (article 41). In addition, the Constitution enshrines the right to participate in political and economic life (article 42), and from this it follows that all citizens have the right to stand as candidates for election and to be elected to office (article 43). They also enjoy the right to education (article 54) and health care (article 55). The Constitution also guarantees freedom of thought and freedom to express opinions in speech and writing and through voting.

Article 9 of the Children's Rights Act provides that "Nothing in this Act shall be deemed to infringe children's entitlement to the enjoyment of all public rights and freedoms and the protection and welfare guaranteed under the Constitution and legislation in force for individuals in general and for children in particular, without discrimination on the basis of race, colour or creed."

Under article 5 of the Code of Criminal Procedure, all citizens are equal before the law, and no person may be penalized or harmed because of his nationality, race, ethnic origin, language, creed, occupation, degree of education or social position.

### **Protection of children from all forms of discrimination or punishment**

The Government has taken measures to protect children from all forms of discrimination or punishment, as we have seen in our discussion of the relevant provisions of the Penal Code. The Children's Rights Act, for its part, states in article 3, paragraph 4, that children are entitled to protection from all forms of exploitation, which under the Act is a criminal offence and subject to penalties. Article 124 of the Act makes provision for the welfare and training of juveniles and for their protection from all forms of violence and exploitation, while article 125 states explicitly, "A juvenile aged 10 or under who has committed a criminal offence shall not be liable to the penalty or administrative measure prescribed by the Penal Code, but only to one of the measures contemplated in the Juvenile Welfare Act," which include reprimand, release into the care of his family, or committal to a social rehabilitation institute or centre.

Chapter 11 of the Children's Rights Act, in the section headed "Penalties", provides that children are entitled to protection from all forms of exploitation and violation of their rights, and lays down deterrent penalties of varying severity, depending on the criminal offence or infraction committed against a child, by way of protecting children from all forms of discrimination.

### **(b) Best interests of children**

Article 26 of the Constitution states that "The family is the basis of society; its pillars are religion, custom, and love of the homeland. The law shall maintain the integrity of the family and strengthen its ties." Article 30 states, "The State shall protect the welfare of mothers and children and shall care for adolescents and young people." Article 54 reads as follows: "Education is a right for all citizens. The State shall guarantee that right in accordance with the

law by building schools and cultural and educational institutions. Primary education is compulsory... The State shall devote particular attention to young people: it shall protect them from delinquency and shall provide them with religious, intellectual and physical education and an environment appropriate for the development of their aptitudes in all fields.”

The Children’s Rights Act emphasizes protection of the best interests of children and states that those interests take priority over all other considerations. Article 7 of the Act states, “The protection of children and their interests shall be the leading consideration in all decisions and measures relating to the welfare of children, mothers, families or the environment, regardless of the originating or executing agency.” Paragraph 9 of part II of the Act states that one of the objectives of the Act is “to enlist children by all appropriate means as participants in all undertakings aimed at their benefit, and to respect and strengthen their rights in their best interests.”

At the same time, the courts, administrative authorities and legislative bodies are acting to ensure that children will possess these rights, which are the means whereby their best interests can be realized. Under article 124 of the Children’s Rights Act, for example, “A juvenile aged 12 or under may not be detained at any police station or other security facility; his guardian or trustee or another trustworthy person must be requested to assume responsibility for him, failing which he shall be placed in the nearest juvenile rehabilitation centre for a period of not more than 24 hours, and thereafter transferred to the Public Prosecution Bureau for juveniles for consideration of his case, in accordance with the provisions of the Juvenile Welfare Act.”

Part V of the Act deals with the administration of justice in cases involving juveniles. Article 130 states, “A juvenile who is charged with an offence shall be entitled to counsel to defend him. Where he does not himself select a lawyer, the Department of Public Prosecutions or the court shall appoint one on his behalf, in accordance with the principles set forth in the Code of Criminal Procedure.” Article 131, paragraph (a), states, “A juvenile shall be tried in camera; only his relatives, witnesses, lawyers, and social workers may attend his trial.” Paragraph (b) provides further safeguards: “The juvenile’s name and photograph may not be made public, and no account of the trial, *in extenso* or abridged, may be published in any form.” Paragraph 132 states, “Juveniles are exempted from payment of all legal fees and costs arising from prosecutions under this Act or any other law.”

Article 35 of the Children’s Rights Act reads as follows: “When a minor becomes independent, he or she may choose between his or her father and mother, if they disagree as to where the child’s interest lies. Where neither the father nor the mother has had custody of the child and the persons who have had such custody disagree as to where the child’s interest lies, the judge shall rule on the matter after consultation with the child in question.”

Articles 152-154 of the Act deal with the place of the culture of children in the framework of legislative policies. The Ministry of Culture is entrusted with responsibility for taking legal measures to organize activities and programmes with a bearing on the culture of children, and also participation in domestic, Arab and international forums and festivals of relevance for children. In addition, these articles deal at length with the development of children’s aptitudes and abilities and participation in such events as international drawing

competitions, and make provision for the establishment of free libraries as an important component of “reading for all” programmes, which have provided opportunities for the emergence of the talents of many gifted children with creative abilities in the fields of music, art and literature.

**Upgrading the skills of persons who deal with children’s rights to enable them to protect the best interests of children more effectively**

In recent years, the Government, in coordination with civil society organizations working in the field of children’s rights, has organized various activities, such as media campaigns, and has enlisted the support of educational and social institutions in an effort to make families and public opinion aware of the need to encourage children to exercise their rights to express their views. In this context, the High Council on Maternal and Child Welfare, the Ministry of Education, the Education Research and Development Centre, the Ministry of Social Affairs, the National High Council on Human Rights and the Children’s Parliament have organized a number of activities directed toward that same purpose. In particular, those activities have targeted members of the judiciary who work in the juvenile courts, the Youth Police, members of Public Prosecution bureaux that handle cases involving juveniles, lawyers, police officers, law enforcement officers, prosecutors specializing in cases involving juveniles, members of the House of Representatives, members of the Consultative Council, teachers, guidance counsellors, university professors and social workers. Persons who work in the juvenile courts have been sent to take training courses abroad.

We may note at this point that the Government has enacted legislation aimed at the protection of poor and needy children, orphans, disabled children and children who are members of other special groups identified in the Social Welfare Act (law No. 31 of 1996) as amended by law No. 17 of 1999. Based on the findings of previous studies, the new legislation makes provision for projects aimed at social protection for children, especially street children, orphans and juveniles. Funds have been allocated for the establishment of homes for the care of children in these groups.

**Measures used to establish standards for institutions responsible for the care and protection of children**

The Government has issued regulations, directives and decrees governing the work of educational institutions, with a view to enhancing the ability of those institutions to meet children’s needs in the school environment. Actions in this connection have included:

- Opening of an inclusive education unit within the Ministry of Education with the function of ensuring that disabled children are included within the school environment. A number of State-run schools have been selected for a pilot project in inclusive education. These efforts have frequently borne fruit in other fields as well, and have served to strengthen children’s best interests and broaden the scope of their social participation. In addition, various other measures have been taken, such as celebrations to mark the International Day of Families or Universal Children’s Day, or participation in national, Arab or international meetings or exhibitions held and organized for the benefit of children; these occasions are regularly attended by many national social institutions, both governmental and non-governmental;

- Many institutions with responsibility for the welfare and protection of children have taken measures and adopted regulations, bylaws and financial, administrative and technical systems to manage their operations and facilitate their work. These include such matters as conditions governing employee selection and appointment, training and capacity-building for their personnel, and technical standards and conditions and specifications for their buildings and facilities located there. Standards, conditions, etc. are widely variable, depending on the programmes, activities and services provided by the institution concerned, and are not uniformly applied: every institution observes those that are relevant for the delivery of its own particular service. Centres that provide services for children with special needs, for example, employ specialists and technicians with the necessary training. As a means of encouraging initiatives of this kind, the Council of Ministers has adopted a decision making provision for uniforms and financial incentives for specialists, supervisors and workers at juvenile rehabilitation centres.

### **Difficulties and obstacles**

- Lack of the technical and administrative expertise required for these institutions to function effectively, and this situation is reflected in inadequate service delivery;
- Poor coordination and communication among the various agencies concerned;
- Tendency for the State to focus on a few specific priorities in the area of the welfare of children in these groups because of shortages of the material, technical and human resources required for effective implementation of institutions' programmes and activities, with the result that the children benefit less than they should;
- Limited equipment and facilities, inadequate funding and technical support for building design and construction, uncertain means of support.

### **(c) Children's right to life, survival and development**

Yemeni law acknowledges that in view of children's status as minors, protective measures are indispensable. Article 30 of the Constitution, for example, provides that "The State shall protect the welfare of mothers and children and shall care for adolescents and young people," while under article 230 of the Penal Code, a child is a human being with human rights as soon as he is born alive.

Articles 128, 129, 131, 131 and 132 of the Personal Status Act are concerned with the protection of children and their right to life, survival and development.

Articles 136, 149 and 158 of the Personal Status Act provide that mothers shall suckle their children, or, in cases where that is not possible, that the child shall be suckled by another woman for a consideration. Under the law, every father is required to provide for his children where he has the means to do so and is able to earn a living; where the father does not have the



means to support his children and is not able to earn a living, responsibility for their maintenance devolves upon their mother, followed by the child's other relatives by order of inheritance, provided they possess the necessary means. The obligation to provide maintenance includes the provision of food, clothing and care.

Under articles 4 and 5 of the Children's Rights Act, children have the right to life, which is stated to be a fundamental right that cannot be infringed under any circumstances. The State is responsible for their welfare, and endeavours to provide conditions in which children can be brought up satisfactorily and their human dignity respected, in a wholesome environment.

### **Measures aimed at giving effect to children's right to life, survival and development**

The State has translated these laws into policies and action programmes which are implemented by institutions concerned with children's health before birth, at birth and during infancy, with a view to giving effect to their right to life, survival and development. Measures to this end include:

- Expansion and extension of health-care and treatment services;
- Improvement of families' living standards;
- Dissemination of health awareness and health culture among individual family members;
- Reinforcement of the expanded immunization programme to cover 90 per cent of the seven diseases by means of the following actions:
  - Organized campaigns of vaccination against these diseases, reaching all target groups;
  - Dissemination of awareness of the importance of vaccination and community participation in it;
- Improvement of children's health through family planning, with emphasis on:
  - Action to enhance awareness of the importance of birth spacing;
  - Encouragement for births at intervals that are safe from the standpoint of the mother's health;
- Improvement of maternal and child health and attention to nutrition during pregnancy;
- Action to enhance awareness of the importance of breastfeeding, improved supplementary nutrition and weaning;
- Action to combat the contagious diseases that are the leading causes of morbidity and mortality among children;

- Action to protect children from malnutrition;
- Introduction of epidemic alert systems.

**(d) Protection of children**

One of the Government's objectives in enacting the Children's Rights Act was to make the exploitation of children, in any form, a criminal offence punishable by law (article 3). Under article 146 of the Act, children who are at risk of mistreatment, deprived or socially exploited are deemed to be included in the category of children living under conditions of hardship, whom the State is required to protect. Under article 147, the State has an obligation to protect children from all forms of sexual and economic exploitation, and is required to take stringent measures to protect them from being employed or used for purposes of vice or immoral activities, or in the production and marketing of mind-altering substances (article 148).

All Yemeni law, broadly speaking, seeks to protect people in general and children in particular from all forms of violence, harm, physical or mental abuse and all forms of economic and sexual exploitation. It is noteworthy that the Penal Code prescribes particularly severe penalties for criminals where the victim is a child, especially where the criminal is the child's guardian or trustee or other person with responsibility for the child's welfare.

Under the Children's Rights Act, parents who mistreat their child or a guardian who neglects a child with whose welfare he has been entrusted are liable to prosecution. Under article 155, paragraph 1, every person who leaves his child for another person to care for is liable to a term of imprisonment of not less than one year and not more than three years. Under paragraph 2 of that article, every person who has been entrusted by a social welfare centre with the upbringing of a child and neglects his responsibilities in that connection is liable to a term of imprisonment of not more than six months or a fine of 20 000 rials. Paragraph 6 reads as follows: "Every person who deliberately mistreats or fails to care for a child who has been entrusted to him for upbringing shall be liable to a term of imprisonment of not less than one month and not more than six months or a fine of 20 000 rials, and to double the penalty where the child suffers physical or emotional harm as a result of such mistreatment or failure to provide care."

The sexual exploitation of children includes inciting or encouraging a child to engage in vice or immoral acts. Under article 279 of the Penal Code, every person who incites or encourages a minor under the age of 15 years to commit an offence and the minor does so as a result of such incitement or encouragement, and every person who lives on the avails of immoral acts committed by a person whom he has incited or encouraged to commit them, is liable to a term of imprisonment of not more than ten years. Where both are the case, i.e. where the person incited or encouraged to commit immoral acts is a minor and the inciter lives on the avails of those acts, the Code provides for a term of imprisonment of not more than 15 years.

Inciting or encouraging minors to steal is an offence punishable by a term of imprisonment of not more than one year or a fine of not more than 2,000 rials where no theft is committed (Penal Code, article 303).

## **Paragraphs 2 and 3**

### **Name and nationality**

As explained in our previous report, every child, as soon as he is born, has the right to have his birth inscribed in the register of births and to have a specific name by which he is known. That is a right that is guaranteed by law under the Civil Status and Civil Registration Act (law No. 23 of 1991).

A foundling must be turned over upon discovery to an institution or shelter, which will receive and care for him. Where a birth occurs in the course of a journey, a birth certificate is issued for the child in the first port in Yemen that he or she reaches, or at a Yemeni consulate abroad, as stated in article 3 of the Citizenship Act, paragraphs (a) to (e).

The Children's Rights Act includes a separate section entitled "Name, nationality, registration of birth", the better to re-emphasise these rights and spell them out in all their various aspects and details. Articles 48, 50 and 51 provide for every child's right to a name, a nationality and the registration of his or her birth. Article 10 provides that every child has the right to have a name that distinguishes him, and that that name shall be inscribed at the time of his birth in a register of births. Article 49 provides that the State shall safeguard every child's right to preserve his identity, including his citizenship, name and family relationships in accordance with the applicable legislation.

Under Yemen's legislation, every child is entitled to citizenship of the State. The importance attached to this vital human right emerges clearly from article 44 of the Constitution and article 3 of the Yemeni Citizenship Act (law No. 6 of 1990).

The departments and agencies that are concerned with these matters spare no effort to enhance the awareness of families and society as a whole of the dangers associated with failure to register births. Media campaigns are organized for this purpose.

### **Some problems encountered in the implementation of these provisions of the Covenant**

- The fact that material resources are in short supply has impeded the implementation of strategies aimed at eliminating gaps and disparities between rural and urban areas and between boys and girls, and the delivery of services to children in special situations;
- Lack of the resources required to complete buildings and institutional structures for institutions concerned with crime, security, justice and the courts, especially judicial enforcement agencies that deal with cases involving juveniles. This complicates the task of ensuring effective enforcement of legislation that makes provision for children's rights and the protection of children from discrimination and exploitation.

### **XXV. Article 25 of the Covenant**

The legal position with respect to this article was discussed in the previous report. See also section 3 of the present report.

## **XXVI. Article 26 of the Covenant**

The legal position with respect to this article was discussed in the previous report. With reference to paragraph 9 of the concluding observations of the Human Rights Committee,<sup>16</sup> it is noteworthy that polygamy is permitted under the laws enacted by the people's representatives (Parliament) as a principle rooted in Islamic law, the law of the religion professed by Yemeni society. As is well known, international human-rights instruments affirm respect for the creeds professed by the world's peoples; they do not call for the destruction of those creeds or for conflict with them.

Articles 3 and 26 of the Covenant, which are cited in support of the allegation that polygamy constitutes discrimination, actually deal with the principle of equal rights between men and woman in general; neither of them includes so much as a word about polygamy being a form of discrimination against women. A marriage contract is a contract concluded by mutual consent between two parties (a man and a woman); that is, the woman's consent to the marriage is essential to the validity of the contract. The principle of polygamy, both in Islamic law and in Yemeni domestic law is expressed in terms of permissibility, not in terms of obligation. Furthermore, the principle is not absolute, but is hedged about with an array of conditions and restrictions. These are set forth in article 12 of the Personal Status Act, which reads as follows: "A man may have up to four wives provided:

- He is able to treat them justly, failing which he may have only one;
- He has the means to maintain them;
- He informs the woman in each case of the fact that he has or is about to marry another wife."

The State does not have the right to impose choices on its citizens, but it has a duty to ensure that their needs are met in accordance with the applicable conditions and in conformity with the principles of national legislation and Islamic law. The issue of how the State, within the limits of the means at its disposal, can best ensure that those conditions are fulfilled is currently being debated in Yemen.

As a practical matter, marriage to more than one wife has greatly declined in Yemeni society as a result of changing habits, traditions and socio-economic conditions and the spread of culture. Generally speaking, Islamic law does not encourage polygamy, out of fear that the several wives will not be treated equally. The Koran says, "But if ye fear that ye cannot act equitably toward them, marry one only," and thus it is that monogamy is the rule and polygamy the exception.

### **Early marriage of girls**

With reference to paragraph 10 of the concluding observations of the Human Rights Committee,<sup>17</sup> early marriage is regarded as an undesirable social phenomenon which the State is endeavouring to combat on the grounds that it is an outmoded custom and tradition with adverse consequences for the family and for society. The demographic survey conducted in 1997 showed that the mean age of marriage had risen from 15 to 18 for a number of reasons:

- The substantial harm and serious risks to maternal health resulting from early pregnancy;
- Higher school attendance rates among girls;
- Low individual income levels and high unemployment and poverty rates, with the result that most young people are unable to marry.

The State, as represented by the High Council on Maternal and Child Welfare, the National Women's Committee and the SHIMA network, participated in the work of a committee established to survey nine governorates in an effort to determine the causes of early marriage and to develop means of eliminating it. In addition, a working paper on the subject was prepared and submitted to the second National Conference on Women. A number of corrective approaches and policies aimed at the elimination of early marriage are outlined in the paragraphs below.

- Action to achieve constantly increasing school attendance by girls at the primary, secondary and university levels;
- Elimination of the phenomenon of girls dropping out of school, especially at the primary level, through measures to address the causes of that phenomenon, with participation by families and society as a whole in various aspects of those measures;
- Action to increase the accommodation capacity of schools for girls;
- Action to encourage school attendance by girls and increase the numbers of girls taking technical and vocational education to the greatest possible extent;
- Expanded literacy activities for girls and the establishment of literacy courses for adult women at locations in areas near their homes;
- Reducing tuition fees for girls, and eliminating them altogether for girls from poor families, especially in rural areas;
- Reviewing and amending laws and regulations that are inconsistent with equal access by women to employment commensurate with their abilities and the enjoyment of all their rights, and eliminating discriminatory practices;
- Ongoing action to achieve justice and equality of opportunity between men and women in the preparation and implementation of developmental programmes and activities;
- Ongoing use of the media to foster awareness and spread information in an effort to change attitudes and orientations that have a harmful, negative impact on the principle of justice and equity.

It remains only to recall that under article 15 of the Personal Status Act, the husband may have marital relations with his wife, and she may be given to him in marriage, only provided she is physically and emotionally fit for sexual intercourse, even if she is over 15 years of age. The

article also provides that, in general, marriage may not be contracted with a minor, except where such a marriage will entail some clear benefit. Early marriage is a social phenomenon which the State is seeking to eliminate by fostering awareness of its potential hazards for the health of the women concerned. As we have seen, the age of majority is 15 years, provided the individual concerned is in full possession of his mental faculties. The law does not discriminate between men and women in this respect.

In line with the terms of the Children's Rights Act, consultations are currently under way on proposed amendments to certain laws relating to children. One such proposed amendment, to the Juvenile Welfare Act, would raise the age under which a person is deemed to be a juvenile to 18 years.

### **Acquisition and transmission of nationality**

With reference to paragraph 11 of the concluding observations of the Human Rights Committee,<sup>18</sup> the provisions of Yemen's legislation relating to nationality are framed so as to avoid any discrimination between men and women on the basis of gender. As regards the acquisition of Yemeni nationality, women enjoy the same rights as men under articles 2, 3 and 4 of the Citizenship Act (law No. 6 of 1990).

The Act, which was enacted on 26 August 1990, regulates the definition and acquisition of Yemeni nationality on the basis of a number of standards that take account of the specific characteristics of Yemeni society, and are thus comparable to those applied by other societies that are concerned to preserve their distinctive characteristics. At the same time, those standards are designed to eliminate the problem of "statelessness" in Yemeni society. They may be summarized as follows:

(a) In accordance with the principle of *jus sanguinis* (law of the blood in an absolute sense), Yemeni law provides that Yemeni nationality is acquired by the fact of having been born to a father who is a citizen of Yemen. Article 3, paragraph 1 of the Nationality Law states, "Every person whose father possesses Yemeni nationality is a citizen of Yemen."

(b) Yemeni nationality may also be acquired by the principle of *jus sanguinis* combined with the principle of *jus soli* (law of the soil), i.e. the law of the blood in a restricted sense.

In certain cases, Yemeni nationality may also be acquired by the principle of *jus sanguinis* through the maternal line. Paragraphs (b) and (c) of Article 3 of the Citizenship Act read as follows:

- "Every person born in Yemen to a mother possessing Yemeni nationality and a father whose nationality is unknown or who has no nationality is a citizen of Yemen;
- Every person born in Yemen to a mother possessing Yemeni nationality and whose paternity cannot be legally determined is a citizen of Yemen;

- Every person born in Yemen of unknown parents is a citizen of Yemen. An infant found in Yemen is deemed to have been born there in the absence of evidence to the contrary.”

Despite this, Yemeni law addresses the problems that might have been expected to arise from the fact that children do not have their mother’s nationality where she is married to a foreign national. The law provides that these children have the right to be treated like Yemenis in all respects, inasmuch as it is their mother who supports them. To that end, the law leaves them free to choose either their father’s or their mother’s nationality once they come of age. This is clearly stated in law No. 24 of 2003, which is concerned with the addition of an article to the provisions of law No. 6 of 1990, the Citizenship Act. The new article reads as follows:

Article 10 A: Where a Yemeni woman married to an alien is divorced and is granted custody of her children by him, or where she becomes responsible for their welfare in consequence of the death, insanity or absence of her husband, or where he has not resided with them for a period of one year or longer, such children shall be deemed to be of Yemeni nationality in all respects so long as they remain in their mother’s care and until they reach the age of majority. Every such child who reaches that age shall have the right to choose between assuming Yemeni citizenship or assuming his or her father’s citizenship.

- (c) Acquisition of Yemeni nationality by *jus sanguinis* through the maternal line:

Under article 4, paragraph (a) of the Citizenship Act, the competent authorities may grant Yemeni citizenship in a number of cases, e.g. “Every person born outside Yemen to a mother possessing Yemeni nationality and a father whose nationality is unknown or who has no nationality is a citizen of Yemen, subject to the condition that he shall lawfully have had his usual place of residence in Yemen for a period of ten years.”

- (d) Acquisition of Yemeni nationality by *jus soli*, naturalization or a mixed marriage:

These criteria are laid down in article 4, 5 and 11 of the Citizenship Act.

In addition, Yemeni legislation safeguards a Yemeni woman’s right to retain her Yemeni nationality if she marries a foreign national. This is the subject of articles 10 and 12 of the Citizenship Act, which read respectively as follows:

- Article 10: “Every Yemeni women who marries a Muslim of another nationality shall retain her Yemeni nationality, unless she wishes to renounce it and so states at the time of her marriage or in the course of her married life, provided she is entitled to citizenship of her husband’s country under its laws.”
- Article 12: “Where a Yemeni man becomes a naturalized citizen of another country, his naturalization shall not entail loss of Yemeni nationality for his wife, unless she declares that she wishes to acquire her husband’s new nationality. Minor children shall not lose their Yemeni nationality upon acquiring their father’s new nationality by filiation.”

Similarly, Yemeni legislation safeguards every Yemeni woman's right to obtain travel documents and to have her children's names inscribed in her passport. The purpose of these provisions is to ensure that women with Yemeni nationality can enjoy equal rights with their husbands and enable them to enjoy a stable married life. This is apparent from the Passport Act (law No. 7 of 1990), in particular articles 6 and 11:

- Article 6: “Regular passports and travel documents, as defined in paragraphs 1-4 of Article 3 of this Act, may be issued to any person 16 years of age or older who possesses Yemeni nationality. The names of minor children shall be inscribed in the passport of one of their parents where the children are travelling abroad with them. A separate passport may be issued to a minor if necessary, subject to the consent of the minor's parent or guardian.”
- Article 11: “Every person possessing Yemeni nationality may leave Yemen for, and return to Yemen from, the places specified in the visa placed by the competent authority in his or her passport or travel document in lieu of a passport.”

### **Detention of women who have served their prison sentences**

With reference to paragraph 12 of the concluding observations of the Human Rights Committee,<sup>19</sup> the issue of the continued detention of women who have served their prison sentences but whose families refuse to receive them back in their midst is a problem arising from limited social awareness on the part of the families concerned. In most cases, the family regards the woman with scorn, and feel strongly that it would be shameful to share the same house with her after she has come out of prison.

In view of this attitude of rejection by families and society, the Government allows these women to remain in prison on humanitarian grounds: it is the State's duty to protect them from a situation in which their lives might be in endanger or they might be impelled to reoffend as a result of their rejection. This is a deeply rooted problem that will require greater resources and a deeper understanding of the phenomenon before it will be feasible to eradicate it. The competent authorities within the Government, in cooperation with a number of international organizations and other bodies, are currently studying ways of improving prison conditions, and part of that task is finding a solution to the problem of women who have served their sentences but remain in prison. A number of measures have been taken in this connection, including the establishment of a shelter for women offenders known as the Halfway House for Women in Sana'a Governorate, with financing from the Social Development Fund. The Government has allocated 1,124,000 rials for this purpose. The task of managing the project has been entrusted to a community association, the Association for the Legal Rights of Women, which has signed an agreement with the Fund. The Halfway House for Women is expected to be fully furnished and equipped shortly. Its function will be to help women offenders with no families reintegrate into society after having served their sentences. The Halfway House was designed to accommodate 50 women in its first year, as well as 20 children belonging to women offenders, as the project made provision for a kindergarten. On 3 August 2003, the Director of the Prisons Authority



issued a directive (No. 590/6/7/2003) under which no woman offender who has served her term of imprisonment may remain in prison unless she applies in writing to the Department of Public Prosecutions for leave to remain in prison for reasons which she must specify. A woman who so applies may remain in prison temporarily, until such time as her case is definitively resolved and she has found a place to live.

### **XXVII. Article 27 of the Covenant**

The legal position with respect to this article was discussed in the previous report.

### **XXVIII. Article 28 of the Covenant**

With reference to paragraph 5 of the concluding observations of the Human Rights Committee,<sup>20</sup> the promotion of human rights continues to occupy an important place in Yemen's various national policies and strategies, and also in its international policies. In this connection, Yemeni decision-makers have scored a major achievement by making human rights an independent portfolio: the Ministry of Human Rights was established in May 2003, with a mandate to maintain and strengthen human rights. This is consistent with the concern for human-rights issues that is characteristic of Yemen's legislation, the provisions of which form an interlocking, mutually reinforcing system of rights based on the concept that human beings are the ultimate object and aim of development. In the framework of its commitment to the Paris Principles, Yemen proposes to pursue the institutional development of its governmental human rights bodies by establishing an independent commission based on those principles at some future time. However, the country already boasts an impressive array of national institutions dedicated to the protection and promotion of human rights. The main national mechanisms serving that purpose are outlined in the paragraphs below.

#### **1. House of Representatives Public Freedoms and Human Rights Committee**

This is one of the standing committees of the House of Representatives. It plays a major role in the ratification of international human-rights instruments. Its mandate includes ensuring that national legislation passed by the House is consistent with the obligations that Yemen has assumed in acceding to such international instruments. The Committee can also investigate cases involving human rights and look into any abuses that may have occurred. It has the power to hold the Government accountable and require it to answer any accusations of human rights violations.

#### **2. House of Representatives Petitions and Complaints Committee**

This is another of the House's standing committees. It works closely with the Public Freedoms and Human Rights Committee. It plays an important role in raising and discussing cases of human rights abuses. Its mandate includes hearing complaints submitted to it and investigating any allegations of human rights violations. By virtue of its status as a Parliamentary body, it has the power to hold the Government accountable and require it to answer any alleged incidents of human rights abuse.

### **3. Consultative Council Public Rights and Freedoms Committee**

This committee plays an advisory role in the protection and promotion of human rights and safeguarding the press and civil society organizations. Under the previous Consultative Council, which was given new terms of reference pursuant to a recent constitutional amendment, it investigated a number of cases and incidents involving human rights, especially in the country's prisons.

### **4. National Committee on International Humanitarian Law Affairs**

This committee was established by republican decree No. 408 of 1999. Its mandate is to review the relevant legislation currently in force to determine to what extent it conforms to the provisions of international humanitarian law, to submit proposals aimed at bringing Yemen's legislation into line with innovations and developments in international humanitarian law, to publish the contents of international humanitarian law and promote awareness of its provisions among all groups in society, and to monitor its implementation.

### **5. National institutions for the advancement of women**

These have been discussed in detail in the section of this report dealing with measures taken to give effect to article 3 of the Covenant. There are three such institutions:

1. High Council on the Status of Women;
2. National Women's Committee;
3. High Council on Maternal and Child Welfare.

As regards the establishment of an independent institution for the protection of human rights with a mandate to receive complaints and to institute proceedings where appropriate with complete independence, ever since the birth of the Republic of Yemen on 22 May 1990, the Government has shown concern with human rights and freedoms, both public and private, as illustrated by the Constitution and other legislation which it has promulgated. Moreover, the Government has signed and ratified many international and regional human-rights instruments. Responsibility for human rights matters was vested in a number of government agencies until 1997. In that year, the Prime Minister issued a decree establishing a governmental committee known as the Committee on Political and Civil Human Rights. That body has since been replaced by the Higher National Human Rights Committee, which was established under republican decree No. 20 of 1998, as amended by decree No. 92 of 1999. Pursuant to republican decree No. 89 of 2001, the level of representation on the Higher National Human Rights Committee was upgraded: it is now chaired by the Prime Minister, while the Minister of State for Human Rights Affairs is now the Committee's Secretary-General, instead of its General Coordinator.

The Government's firm belief in the importance of human rights was illustrated afresh in 2003. Under republican decree No. 105 of that year, forming the new Government and naming its members, a new Ministry of Human Rights was established as part of the executive apparatus of the State, and a woman was named as Minister. The Ministry's mandate is to disseminate awareness of the values and principles underlying human rights and to promote and

protect those rights. Implementing regulations for the new Ministry were issued by republican decree No. 205 of 2003. Its organizational structure includes a General Directorate for Communications and Complaints, which represents the nucleus of what will be an independent committee for the protection of human rights at some future time.

The following pages present an overview of the activities, organizational structure and areas of competence of the Ministry of Human Rights since its establishment in May 2003.

In performing its functions, the Ministry relies on a number of general directorates, staffed by technical, administrative and legal experts, in its efforts to perform its assigned tasks effectively. These are:

- General Directorate for Communications and Complaints;
- General Directorate for Civil Society Organizations;
- General Directorate for International Organizations and Reports;
- General Directorate for Studies, Research and Translation;
- General Directorate for Public Awareness.

In addition to its organizational structure, the Ministry is supported in its work by an advisory board made up of twenty leaders of non-governmental civil society organizations and an eleven-member technical committee consisting of representatives of government agencies involved with human rights. These two bodies work in close partnership with the Ministry. The members of the technical committee represent the Ministry of the Interior, the Ministry of Justice, the Ministry of Foreign Affairs, the Department of Public Prosecutions, the Political Security Office, the Ministry of Information, the Ministry of Legal Affairs, the Ministry of Planning and International Cooperation, the Prime Minister's Office, and the Office of the President of the Republic.

### **Objectives**

The Ministry's efforts are aimed at the attainment of a number of general objectives as a means of translating its mandate into practical accomplishments the impact of which can be measured and their outcomes evaluated. The most important of these objectives are as follows:

- Formulation of proposals for policies, plans, programmes and measures designed to promote and protect human rights, to be executed in coordination with other relevant bodies;
- Reception of complaints submitted by citizens, organizations and institutions, investigation of their contents, and action to address such matters as are within the Ministry's area of competence, in coordination with other relevant bodies;

- Examination of Yemeni legislation to determine to what extent it conforms to the provisions and principles of international human-rights instruments ratified by Yemen, and formulation of proposals for any necessary amendments, in accordance with the Constitution and applicable legislation;
- Promotion of legal awareness among citizens by informing them about their rights as guaranteed by the Constitution and the law, and dissemination of a culture of human rights among all groups in society by all appropriate means;
- Reinforcement of cooperation with civil society organizations and institutions working in the field of human rights;
- Preparation of reports on Yemen's international commitments, in coordination with other relevant bodies;
- Coordination with international organizations working in the field of human rights, and developing areas of cooperation with them;
- Development of the skills of the Ministry's employees and building their technical and scientific capacities through training and professional development programmes and plans executed both internally and externally, in coordination with relevant departments and agencies;
- Data gathering, analysis and documentation in the area of human rights and governmental policy in that area, and establishing and strengthening links with ministries, agencies and organizations concerned with human-rights issues;
- Submission of regular periodic reports on the Ministry's activities and accomplishments to the Council of Ministers.

### **Implementation mechanism**

The Ministry pursues its objectives by preparing quarterly and yearly action plans and holding meetings with its various partners, organizing training courses, holding seminars and workshops, issuing publications aimed at enhancing human-rights awareness, participating in domestic and external activities of various kinds, and responding to domestic and international communications and complaints.

### **General aspects of the Ministry's achievements**

During the final six months of 2003 and the first three months of the current year, the Ministry has succeeded in performing a number of the tasks and attaining a number of the objectives set forth in its mandate, all of which have a direct bearing on human rights. Some of the Ministry's most noteworthy achievements are outlined below.

## **1. Complaints from citizens and communications from organizations operating in the field of human rights**

As we have seen, one of the functions of the Ministry of Human Rights is to receive complaints submitted by citizens, organizations and institutions, investigate their contents, and take action to address such matters as are within its area of competence, in coordination with other relevant bodies.

Another is to promote legal awareness among citizens by informing them about their rights as guaranteed by the Constitution and the law, and to disseminate a culture of human rights among all groups in society by all appropriate means.

The Ministry has a specialized work team known as the General Directorate for Communications and Complaints, which receives complaints from citizens and various institutions.

During 2003 and the first three months of the current year, the General Directorate received more than 278 complaints from the various governorates on a variety of subjects, including:

- Imprisonment with no legal justification;
- Abduction;
- Lawful orders and judgements not executed;
- Aggressive acts against land and people;
- Beatings and insults;
- Requests for compensation;
- Suspension from employment and non-payment of wages;
- Requests for enforcement of various rights (security, social security, intellectual rights and the like).

The General Directorate has a threefold procedure for dealing with these complaints of injustice and human-rights violations, depending on the situation involved:

1. Complaints submitted in person, through the post or printed in the press are received, sorted and classified. An official letter is then drafted and sent to the appropriate agency, requesting it to ensure that the complainant receives justice, and where warranted a letter of comment and criticism is dispatched as well. The case is followed up, and all remedial measures are evaluated as they are taken.

A total of 199 such letters have been dispatched in the brief course of the Ministry's history to date;

2. The originator of the complaint is contacted and advised as to the action he should take to obtain his rights in the matter;
3. Where a complaint falls within the Ministry's area of competence but the originator has not exhausted all legal remedies, he is directed to the agency or authority responsible for looking into the case.

There are various ways in which a complaint may be submitted to the Ministry.

(a) An article may be printed in the press. Complaints brought to the Ministry's attention in this way are followed up and monitored;

(b) A complaint may be submitted by the complainant in person or by someone authorized to submit it on his behalf;

(c) A complaint may be submitted in the form of an appeal or memorandum from a civil society organization concerned with human rights.

It is noteworthy in this connection that preparations are currently under way for a joint project with UNESCO to set up a mechanism for receiving and dealing with complaints and to provide training for Ministry personnel. Execution of the project is expected to begin shortly.

## **2. Field visits to prisons**

The Ministry has mobilised all its modest material and human resources in the task of implementing its vital mandate. One typical activity consists in making periodic, organized visits to prisons and other correctional institutions and rehabilitation facilities in the various governorates, by way of seeing conditions there at first hand and determining how the inmates actually live. The Ministry has drawn up a general plan for field visits aimed at verifying the conditions prevailing in prisons, social rehabilitation centres and institutions for young offenders in all the governorates in Yemen. Senior officials from the Ministry and the field inspection team are interested in inmates' health and the atmosphere in which they must live, and it is part of the Ministry's function to make sure that those persons are not being held under unlawful conditions, and to institute reforms where indicated. The Ministry team also makes sure that inmates have access to training and rehabilitation workshops so that they can learn a trade that will enable them to earn an honest living and help them to become reintegrated into society in the future.

In the course of the past year and the present year, the Ministry has carried out a number of field visits to prisons in various governorates, as follows:

- Inspection of prison conditions and the state of inmates in 'Amran, Hadhramaut, Dhamar and Al-Bayda' Governorates during the period 29 October - 6 November 2003;
- Inspection of prison conditions and the state of inmates in Sana'a, Aden, Ta'izz, Al-Hudaydah, Dhamar, Ibb, Lahaj, Abyan and Ad-Dali' Governorates;

- Inspection of the social rehabilitation centre for juvenile delinquent girls in the National Capital Region.

The outcomes of these visits were as follows:

- Preparation of a detailed report on prison conditions and the state of inmates, with identification of areas where assistance was required, and submission of the report to the Council of Ministers, which adopted a decision ordering the competent authorities to implement the Ministry team's recommendations with a view to correcting the unsatisfactory conditions that the team had discovered;
- Preparation of a report on cases identified by the High Committee on Verification of the Situation of Detainees and Prisons involving detainees who had served their sentences. In the months of Sha'ban and Ramadan of last year, these detainees were released on the instructions of the President of the Republic, and the fees due from them were paid out of the State Treasury;
- Assistance in kind was distributed to inmates in the central prison in Sana'a;
- The Prisons Authority, the Ministry of the Interior, the Department of Public Prosecutions, the Ministry of Justice, the Ministry of Technical and Vocational Education, the Ministry of Public Health and Population and the Ministry of Foreign Affairs were contacted and asked to address the situation of the country's prisons, each in its own area of competence.

### **3. Civil society organizations**

With a view to creating an effective partnership mechanism between the Ministry and civil society organizations, the General Directorate for Civil Society Organizations has held a number of consultation meetings with civil society organizations and institutions operating in Yemen. The main activities in this connection to date are outlined below.

1. First consultation meeting with civil society organizations, 20 July 2003;
2. Consultation meeting with representatives of political parties and organizations, 3 August 2003;
3. Consultation meeting with the Lawyers' Guild, 24 August 2003;
4. Ministry sponsorship for a number of activities executed by non-governmental civil society organizations;
5. Encouragement for civil society organizations by enlisting them as participants in the discussion on national reports prepared by the Ministry relating to human rights instruments;

6. Ongoing communication and coordination with civil society organizations in all activities undertaken by them with a view to promoting and reinforcing their roles in various areas with a bearing on development and human rights, in an effort to arrive at a meaningful social partnership;
7. Participation in a training course on human rights in the family and society, organized by the International Institute for the Study of Islam in the Modern World (Netherlands) in cooperation and coordination with the Civil Society Forum in Sana'a, 21-24 July 2003;
8. Participation in a national workshop on the preparation of parallel reports, organized by the Human Rights Data and Training Centre and Inter-Arab Forum on Human Rights, 11-12 October 2003;
9. Participation in a seminar on human rights in Yemen and reports of international organizations, 13 August 2003, organized by the Institution for a Civil Democratic Orientation;
10. Participation in a workshop on current challenges facing the Arab human rights movement, organized by the Human Rights Data and Training Centre and Inter-Arab Forum on Human Rights, 24 August 2003;
11. Participation in a seminar on the experience of the third parliamentary elections in promoting the evolution of democracy in Yemen, 20 August 2003, organized by the Yemeni Institute for the Development of Democracy;
12. Participation in a training course on democratic leadership management skills for NGOs, Sana'a, 30 December - 1 January), organized by the Women's Studies and Training Forum;
13. Participation in a national training workshop entitled "For a Yemen without torture and the realization of economic, social and cultural rights in Yemen", organized to discuss two reports by Yemen, one on the Convention Against Torture and the other on the International Covenant on Economic, Social and Cultural Rights, and the submission of those reports, organized by the Human Rights Data and Training Centre and Inter-Arab Forum on Human Rights, 11-12 October 2003;
14. Participation in a seminar entitled "Yemen: the rule of law discarded in the name of security," organized by the National Organization for the Defence of Rights and Freedoms, 24 September 2003.

#### **4. Ministry of Human Rights publications**

The Ministry's publications constitute one of its major activities: it regards them as an important means to the ends it pursues, serving as they do to propagate awareness of issues relating to human rights and public freedoms. The Ministry's main publications are listed below.



**Periodicals:**

**(a) *People's Rights* magazine**

Monthly magazine specializing in human-rights issues, edited by a specialized team. Its readership includes the general public, teachers, researchers and human-rights institutions.

Unfortunately, the magazine has encountered difficulties owing to the fact that the support required for its publication has not always been forthcoming.

**(b) Yearbook**

Published yearly. It contains information and data covering the human-rights situation in Yemen in the course of the year: strengths and weaknesses and means of addressing the latter. It also deals with Yemen's progress in living up to its international commitments under international instruments that it has ratified.

The yearbook is edited by a distinguished group of specialists in the field of human rights, representing organizations, political parties, non-governmental associations, unions and governmental institutions - in a word, the entire spectrum of human-rights bodies operating in Yemen, in all their diversity of orientations and political policies.

**(c) Other publications**

- Guide to human rights in Yemeni law
- International instruments that Yemen has ratified
- International instruments
- Basic human-rights documents
- Awareness-enhancing posters and brochures.

**5. Other areas of activity**

Pursuing its efforts in the area of the promotion and protection of human rights, the Ministry has turned its attention to the task of developing future-oriented plans and programmes. Its recent accomplishments in that connection include:

1. Preparation of a Ministry work plan for the second half of 2003 and one for 2004, and submission of both plans to the Council of Ministers;
2. Preparation of an outline information plan based on a rights-oriented vision and submission of the plan to the Radio and Television Broadcasting Authority for inclusion in the Authority's programming schedule for 2004;
3. Preparation of a Ministry plan in the matter of the national poverty alleviation strategy and submission of the plan to the committee in charge of the strategy;

4. Preparation of a Ministry plan in the matter of the national AIDS prevention and control strategy;
5. Assessment of progress in policy implementation during the third year of the State's five-year plan;
6. Preparation of a human-rights matrix.

#### XXIX.

With reference to paragraph 22 of the concluding observations of the Human Rights Committee,<sup>21</sup> in the framework of the Ministry's efforts to disseminate human-rights concepts and foster awareness of them throughout society, and pursuant to the recommendations of the Human Rights Committee, the national report on human rights for 2001-2002, containing the reports submitted by Yemen to international committees concerned with human-rights instruments, has been distributed to the country's various governmental institutions, civil society organizations, political parties and organizations, newspapers, prisons and social rehabilitation centres.

In addition, all the reports on progress to date in the implementation of human-rights instruments that Yemen has submitted to international bodies are available at the Ministry's Internet site, [www.mhryemen.org](http://www.mhryemen.org), together with those bodies' observations on the reports in question. The full texts of all international instruments ratified by Yemen are also available at that site, as are reports on Yemen by international human-rights organizations (the United States Department of State, Amnesty International, Human Rights Watch, and the United Nations Independent Expert on Human Rights and Extreme Poverty, Ms. Anne-Marie Lizin, who visited Yemen for purposes of preparing the report that she subsequently submitted at the sixtieth session of the Human Rights Committee).

The Web site also covers the Ministry's various activities and its various informational materials relating to human rights.

#### Notes

<sup>1</sup> Paragraph 4 of the concluding observations of the Human Rights Committee reads as follows: "The Committee regrets the lack of clarity about the question of the juridical value of the Covenant in domestic law and the consequences thereof. The State Party should ensure that its legislation gives full effect to the rights acknowledged in the Covenant and that remedies are available for the exercise of those rights."

<sup>2</sup> Paragraph 13 of the concluding observations of the Human Rights Committee reads as follows: "While it welcomes the measures taken by the authorities in recent years to promote the participation of women in public life, the Committee notes the underrepresentation of women in the public and private sectors (arts. 3 and 26). The State party is encouraged to pursue its efforts to secure better participation of women at all levels of society and of the State."

<sup>3</sup> Paragraph 14 of the concluding observations of the Human Rights Committee reads as follows: “The Committee notes the lack of clarity in the legal provisions permitting the declaration of a state of emergency and derogation from the obligations established in the Covenant (art. 4 of the Covenant). The State party should see to it that its legislation conforms to the provisions of the Covenant so as to ensure in particular that there are no breaches of non-derogable rights.”

<sup>4</sup> Paragraph 15 of the concluding observations of the Human Rights Committee reads as follows: “The Committee notes with concern that the offences punishable by the death penalty under Yemeni law are not consistent with the requirements of the Covenant and that the right to seek a pardon is not guaranteed for all on an equal footing. The preponderant role of the victim’s family in determining on the basis of financial compensation whether or not the penalty is carried out is also contrary to articles 6, 14 and 26 of the Covenant. The State party should review the question of the death penalty. The Committee points out that article 6 of the Covenant limits the circumstances that may justify the death penalty and guarantees the right of every convicted person to seek a pardon. Consequently, it calls upon the State party to bring its legislation and practice into line with the provisions of the Covenant. The State party is also called upon to provide the Committee with detailed information on the number of persons sentenced to death and the number of convicted persons executed since the year 2000.”

<sup>5</sup> Paragraph 6 of the concluding observations of the Human Rights Committee reads as follows: “The Committee notes with concern the continued practice of female genital mutilation (arts. 3, 6 and 7 of the Covenant). It is also concerned at the persistence of domestic violence despite the legislation passed by the State party (arts. 3 and 7 of the Covenant). The State party must pursue its efforts to eradicate such practices. It should in particular ensure that proceedings are instituted against the perpetrators and promote a human rights culture within society along with greater awareness of the rights of women, especially the right to physical integrity. It must also take more effective action to prevent and punish domestic violence and aid the victims.”

<sup>6</sup> Paragraph 16 of the concluding observations of the Human Rights Committee reads as follows: “The Committee is extremely troubled to find that amputation and flagellation, and corporal punishment generally, are still accepted and practised, for this is contrary to article 7 of the Covenant. The State party must take appropriate action to end these practices and ensure that the Covenant is respected.”

<sup>7</sup> Paragraph 17 of the concluding observations of the Human Rights Committee reads as follows: “The Committee is disturbed to note cases of torture and cruel, inhuman or degrading treatment for which law enforcement officers are responsible. It is equally concerned at the absence, in general, of investigations into such reprehensible practices and of punishment for the perpetrators. It is also concerned at the lack of an independent body to investigate such reports (arts. 6 and 7 of the Covenant). The State party should ensure that all human rights abuses are investigated and should, depending on the findings of the investigations, institute proceedings against the perpetrators of such violations. It should also set up an independent body to investigate such reports.”

<sup>8</sup> Comprising the Higher Institute for Officers, the Police Officers’ Training College and the Police Officers’ Specialized Institute.

<sup>9</sup> Yemen is the only Arab country with a weekly newspaper for its police forces. Other countries have monthly magazines, but in Yemen the Ministry of the Interior publishes the weekly newspaper *Al-Hāris* [the guard] as well as the magazine *Al-Hurrās* [guards].

<sup>10</sup> Paragraph 18 of the concluding observations of the Human Rights Committee reads as follows: “While it understands the security requirements connected with the events of 11 September 2001, the Committee expresses its concern about the effects of this campaign on the human rights situation in Yemen, in relation to both nationals and foreigners. It is concerned, in this regard, at the attitude of the security forces, including Political Security, which arrests and detains anyone suspected of links with terrorism, in violation of the guarantees set out in the Covenant (art. 9). The Committee also expresses its concern about cases of expulsion of foreigners suspected of terrorism without an opportunity for them to legally challenge such measures. Such measures are, furthermore, apparently decided on without taking into account the risks to the physical integrity and lives of the persons concerned in the country of destination (arts. 6 and 7).”

<sup>11</sup> Paragraph 8 of the concluding observations of the Human Rights Committee reads as follows: “The Committee notes with concern that married women may not, at least by law, leave their homes without the authorization of their husbands (arts. 3, 12 and 26 of the Covenant). The State party should take appropriate measures to combat this practice and make sure, in fact and in law, that women’s rights under articles 3, 12 and 26 of the Covenant are observed.”

<sup>12</sup> Paragraph 19 of the concluding observations of the Human Rights Committee reads as follows: “The Committee notes that the independence of the judiciary does not seem to be guaranteed in all circumstances (art. 14). The State party must free the judiciary of any interference, in accordance with the provisions of the Covenant.”

<sup>13</sup> Paragraph 20 of the concluding observations of the Human Rights Committee reads as follows: “The Committee notes with concern the violations of freedom of religion or belief, in particular breaches of the right to change religion (art. 18 of the Covenant). The State party must ensure that its legislation and practice are in line with the provisions of the Covenant, and in particular respect people’s right to change their religion if they so choose.”

<sup>14</sup> Paragraph 21 of the concluding observations of the Human Rights Committee reads as follows: “The Committee expresses its concern about some restrictions under Yemeni legislation on freedom of the press and about the difficulties encountered in practising their profession when they criticize the authorities (art. 19 of the Covenant). The State party should ensure that the provisions of article 19 of the Covenant are respected.”

<sup>15</sup> Paragraph 7 of the concluding observations of the Human Rights Committee reads as follows: “The Committee notes with concern the situation of discrimination against women in matters of personal status, particularly in matters of marriage and divorce and the rights and duties of spouses. The State party should review its legislation to ensure that, in all fields in the life of society, women enjoy complete equality with men, both in law and in fact, so as to comply with its obligations under the Covenant (arts. 3, 7, 8, 17 and 26 of the Covenant).”

<sup>16</sup> Paragraph 9 of the concluding observations of the Human Rights Committee reads as follows: “The Committee notes the persistence of the practice of polygamy, which is detrimental to human dignity and discriminatory within the meaning of the Covenant (arts. 3 and 26 of the Covenant). The State party is strongly encouraged to abolish polygamy and combat it socially by effective means.”

<sup>17</sup> Paragraph 10 of the concluding observations of the Human Rights Committee reads as follows: “The Committee expresses its concern about the practice of early marriage of young girls and the inequality between men and women as regards marriageable age (arts. 3 and 26 of the Covenant). The State party should protect girls from early marriage and do away with discrimination against women as regards marriageable age.”

<sup>18</sup> Paragraph 11 of the concluding observations of the Human Rights Committee reads as follows: “The Committee notes the discriminatory situation affecting women as regards the acquisition and transmission of nationality (arts. 3 and 26 of the Covenant). The State party must eliminate from its legislation all discrimination between men and women as regards acquisition and transmission of nationality.”

<sup>19</sup> Paragraph 12 of the concluding observations of the Human Rights Committee reads as follows: “The Committee is concerned at the continued detention of women who have served their prison sentences and are held in detention because of social and family attitudes of rejection towards them (arts. 3, 9 and 26 of the Covenant). The State party is encouraged to find appropriate solutions to enable these women to return to society.”

<sup>20</sup> Paragraph 5 of the concluding observations of the Human Rights Committee reads as follows: “The Committee, while it takes note of the composition and functions of the Yemeni National Committee for Human Rights, which is a government commission, notes the absence of a human rights commission that is independent of the authorities and the lack of any plans in this connection. The State party should consider the establishment of an independent institution for the protection of human rights, with a mandate to receive complaints, to initiate inquiries and to institute proceedings where appropriate with complete independence.”

<sup>21</sup> Paragraph 22 of the concluding observations of the Human Rights Committee reads as follows: “The State party should disseminate widely the text of its third periodic report and the present concluding observations.”

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