



Convention on the Rights of the Child

Distr.

GENERAL

CRC/C/OPSC/YEM/1

19 February 2009

ENGLISHOriginal: ARABIC

committee on the rights of the child

consideration of reports submitted by states parties under article 12 (1) of the optional protocol to the convention on the rights of the child on the sale of children, child prostitution and child pornography

Initial reports of States parties due in 2007

yemen*

[15 February 2008]

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Introduction

1. The Republic of Yemen acceded to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography by Act No. 20 of 24 August 2004. The present report, which we have submitted under article 12, paragraph 11, of the Optional Protocol, outlines the measures taken to implement the Protocol.

2. Overview of the Republic of Yemen: the Republic of Yemen is in the south of the Arabian Peninsula and is bordered in the north by the Kingdom of Saudi Arabia, in the south by the Arabian Sea and the Gulf of Aden, in the east by the Sultanate of Oman and in the west by the Red Sea. In terms of its topographical features, Yemen comprises five distinct zones (mountains, hills, the coastal plain, the Empty Quarter and the Yemeni islands). According to the results of the 2004 census of the population and dwellings, Yemen has a population of 19,685,161, with 10,369,386 persons under the age of 18, of whom 5,352,029 are males and 5,017,357 females. An estimated 52.68 per cent of the population is under 18.

I. Legal status of the Optional Protocol in Yemen

3. The international treaties and optional protocols which the Republic of Yemen has ratified have the force of law in Yemen.
4. Most of the offences listed in the Optional Protocol are covered by the applicable laws and legislation in Yemen.

1. Sale of children

5. The sale of children is a very rare offence. No such offence has ever been referred to, or tried in, a Yemeni court. However, Yemeni law does make provision for the punishment and prevention of this offence and the prosecution of those who commit it. The Code of Offences and Penalties No. 12 of 1994, as amended, contains the following provisions:

(a) Under article 248 of the Code, a term of up to 10 years' imprisonment will be imposed on anyone who buys, sells, makes a gift or otherwise disposes of a person, and on anyone who brings a person into or out of the country with a view to disposing of that person;

(b) Under articles 249 and 250 of the Code, the offence of child abduction carries a penalty of up to seven years' imprisonment. If the abduction is accompanied or followed by physical assault, bodily harm or torture, the penalty will be up to 10 years' imprisonment. This is without prejudice to the right under the sharia to claim retribution (*qisas*), blood money (*diyyah*) and an indemnity for certain wounds (*arsh*), as appropriate. If the abduction is accompanied or followed by murder, prohibited sexual assault or sodomy, the penalty will be death, and any accessory to the crime is liable to the same penalty, as appropriate;

(c) According to article 252 of the Code: "Anyone who abducts, conceals, or swaps a newborn child for another or who makes a fraudulent claim concerning the parentage of a child is liable to a term of up to five years' imprisonment." Article 4 of the Children's Rights Act No. 45 of 2002 states that the child's right to life is an inalienable and non-derogable right. Under article 3, paragraph 4, of the Act, one of the purposes of the Children's Rights Act is to protect children from exploitation in all its forms and to classify exploitation as an offence which is punished under the Act. According to article 147 of the Act, the State has a duty to protect children from all forms of sexual and economic exploitation and to introduce strict procedures and measures to prevent their engagement in any immoral activity and their employment or exploitation in prostitution or other unlawful practices.

7. Article 155 of the Act provides: "Without prejudice to any higher penalty prescribed in any other law:

"(a) A term of from one to three years' imprisonment shall be imposed on any parent who abandons or who gives a newborn child to a third party. Half that same penalty shall be imposed on anyone who incites both or one of the parents to carry out such an act;

"(b) A term of up to three months' imprisonment shall be imposed on anyone who finds a newborn or a child and fails to report the discovery or to present the child to the competent authority;

"(c) A term of up to two years' imprisonment shall be imposed on anyone who deliberately conceals or swaps a child for another or who gives a child to persons other than the parents;

"(d) A term of up to three months' imprisonment or a fine of up to 20,000 Yemeni rials (YRIs) shall be imposed on anyone who fails to comply with a court order to surrender a child to the person legally entrusted with care and custody (*hadamah*) or the voluntary protection and guardianship (*kafalah*) of the child;

"(e) A term of up to six months' imprisonment or a fine of up to YRIs 20,000 shall be imposed on anyone who neglects a child placed in his care by a social welfare home or institution;

"(f) A term of from one to six months' imprisonment or a fine of YRIs 20,000 shall be imposed on anyone who deliberately ill-treats and neglects a child entrusted to his care. The penalty shall be doubled, if the child suffers bodily or psychological harm as a result of such treatment;

"(g) A term of from one to six months' imprisonment shall be imposed on anyone who fails to comply with an order to pay child maintenance, where that person can afford to pay."

8. Article 164 of the Act stipulates: "Without prejudice to any higher penalty prescribed in any other law, a term of from 10 to 15 years' imprisonment shall be imposed on anyone who buys, sells, or otherwise disposes of a male or female child."

9. The draft amendments to the laws on children that were revised following the ratification of the two Optional Protocols - laws which include the Code of Offences and Penalties, which was approved by the Cabinet and referred to the House of Deputies for consideration and adoption - contain several provisions on the sale of children, including the following:

Article 248

Offence of slavery

(a) A term of up to 10 years' imprisonment shall be imposed on anyone who:

Buys, sells, makes a gift or otherwise disposes of, a person

Brings a person into or out of the country for the purpose of disposing of that person

(b) The term of imprisonment shall be increased to up to 15 years, if the person subjected to any of the acts enumerated in paragraph (a) of the present article was under 18.

Article 249

Abduction and associated offences

A term of up to five years' imprisonment shall be imposed on anyone who abducts another person. If the person who is abducted is a female or suffers from insanity or a disability, or if the abduction is carried out using force, threats or deception, the penalty shall be a

term of up to seven years' imprisonment. If the person who is abducted is under 18 or if the abduction is accompanied or followed by bodily harm, physical assault or torture, the penalty shall be a term of up to 10 years' imprisonment. This shall all be without prejudice to the victim's right to claim retribution (*qisas*), blood money (*diyah*) and an indemnity for certain wounds (*arsh*), as applicable, depending on the nature of the injury. If the abduction is accompanied or followed by murder, prohibited sexual assault or sodomy, the penalty shall be death.

Article 252

Having due regard to article 251 of the present Code, a term of up to 10 years' imprisonment shall be imposed on anyone who abducts a newborn child and a term of up to 7 years' imprisonment shall be imposed on anyone who conceals or swaps a child for another or who makes a fraudulent claim regarding the parentage of a child.

10. With regard to foundlings, under article 27 of the Civil Status and Civil Register Act, police stations and departments, together with institutions and shelters which take in newborn children (foundlings), are required to notify the administrative department of the relevant authority of any newborn that has been found or delivered to the care of an institution or shelter. The notification must include: the date and time when the child was found or delivered; the first and family names and age of the person who made the discovery or delivery and the time and place of the discovery or the delivery, unless the person refuses to give these details; and the child's sex and estimated age as determined by a qualified physician. The director of the civil registry must give newborns a full name and record it in the register of births. No reference may be made in the register to the fact that the child is a foundling, and the space for the parents' names must be left blank, unless one of the parents comes forward to acknowledge parentage, in which case the space will be filled in.

2. Sexual exploitation of children

11. Yemeni legislation prescribes harsh penalties for subjecting children to any form of sexual exploitation. The Code of Offences and Penalties No. 12 of 1994 contains the following provisions:

(a) Article 269 of the Code: "If, for any of the approved reasons, the sharia penalty is not applicable, a term of up to 7 years' imprisonment shall be imposed on anyone who rapes a male or a female. If the offence was committed by two or more persons, or if the offender was responsible for the supervision, protection, upbringing, custody or treatment of the victim, or if the offence caused the victim to suffer severe physical or health-related damage, the penalty shall be a term of from 2 to 10 years' imprisonment. If the victim was under 14 or committed suicide because of the offence, the penalty shall be a term of from 3 to 5 years' imprisonment. Rape is any act of forcible penetration of a male or female victim";

(b) Article 270: "Any indecent physical act other than prohibited sexual assault, sodomy or sexual relations between two women, which is committed against another person shall be classified as an act of indecency";

(c) Article 271: "A term of up to one year's imprisonment or a fine of up to YRIs 3,000 shall be imposed on anyone who commits an act of indecency without resorting to coercion or deception. The same penalty shall be imposed on anyone who willingly submits to such an act";

(d) Article 272: "A term of up to five years' imprisonment shall be imposed on anyone who commits an act of indecency by means of coercion or deception, or with a female under the age of 15, or with a male under the age of 12 or with a person who lacks discretionary capacity for any reason, or where the perpetrator is an ascendant or a person responsible for the upbringing of the victim";

(e) Article 278 states that a penalty of "up to three years' imprisonment or a fine shall be imposed on anyone who engages in debauchery or prostitution".

12. Articles 268, 264, 277, 270 and 273 of the Code define different forms of sexual exploitation, including:

(a) Lesbianism involves sexual relations between two women. Anyone who engages in such relations is liable to a term of up to three years' imprisonment. If the offence is committed through the use of force, the term of imprisonment may be extended to up to seven years;

(b) Sodomy is the penetration of a person from behind. Any person, male or female, who commits an act of sodomy or submits thereto shall be liable to a penalty of 100 lashes, if the person is not a virgin. The penalty may be increased to a term of up to one year's imprisonment and death by stoning if the person was a virgin;

(c) Debauchery and prostitution consist in the commission of unlawful acts of indecency for the purpose of corrupting the morals of others or deriving gain;

(d) Acts of indecency are indecent acts committed using the body of a person, excluding prohibited sexual assault, sodomy and lesbian sex;

(e) Obscene acts: obscene acts are acts which offend against public morals or decency, including nudity, deliberate exposure of the genitals and the use of obscene language and gestures.

13. An entire section, entitled "Sexual exploitation of children", has been added to the draft amendments to the Code of Offences and Penalties which was revised in conjunction with the draft amendments to laws on children and which is currently before the House of Representatives pending discussion and adoption at the forthcoming session. The section contains the following provisions.

Section 2 - Sexual exploitation of children

Article (262 bis 1) 4

(a) A term of up to seven years' imprisonment shall be imposed on anyone who, through enticement, encouragement or any form of assistance, compels a male or female under the age of 18 to engage in acts of indecency, debauchery or prostitution.

(b) The penalty shall be up to 10 years' imprisonment if the author of the offence is an ascendant or brother of the victim or a person responsible for the victim's upbringing or supervision.

(c) The penalty shall be a term of up to 12 years' imprisonment if the author of the offence used any form of coercion, intimidation or deception.

Article (262 bis) 5

A term of up to seven years' imprisonment shall be imposed on anyone who takes a child under the age of 18 across the national borders for the purpose of the sexual exploitation or the facilitation or the instigation of the sexual exploitation of the child. The penalty shall be a term of up to 10 years' imprisonment if the perpetrator is an ascendant or a brother of the child or a person responsible for his or her upbringing or supervision.

Article (262 bis) 6

A term of up to five years' imprisonment shall be imposed on anyone who entices, encourages or helps a male or female under the age of 18 to leave the family home in order to engage in acts of indecency, debauchery or prostitution.

Article (262 bis) 7

A term of up to five years' imprisonment shall be imposed on anyone who reproduces a photograph or a drawing or the name of a child under the age of 18 in any publication or information or advertising medium for the purpose of pandering to sexual desires or of inviting, inciting or encouraging others to engage in immoral and indecent acts. The penalty shall be a term of up to seven years' imprisonment if the photograph or drawing shows the child's genitalia.

3. Child prostitution

14. Article 279 of the Code of Offences and Penalties states: "A term of up to three years' imprisonment shall be imposed on anyone who incites another to engage in debauchery or prostitution. If, as a result of the incitement, the offence is actually committed, the penalty shall be a term of up to seven years' imprisonment. If the person incited to commit the offence was a minor under the age of 15 or if the instigator of the offence lives off the proceeds from the debauchery or prostitution of the other person, the penalty shall be a term of up to 15 years' imprisonment. If both of the aforementioned circumstances obtain, the instigator shall be liable to a term of up to 15 years' imprisonment."

15. Article 81 of the Code provides: "A term of up to 10 years' imprisonment shall be imposed on anyone who manages a house or premises of any kind used for engagement in debauchery or prostitution. In all circumstances, the house or premises shall be closed down for a period of up to two years and the furnishings, fittings and other articles that were there when the debauchery or prostitution took place shall be confiscated."

16. Article 163 of the Children's Rights Act states that, without prejudice to any higher penalty laid down in any other law, a term of up to 10 years' imprisonment shall be imposed on anyone who incites a male or female child to engage in debauchery or prostitution.

17. The draft amendments to the laws on children, including the Code of Offences and Penalties, which were revised following the ratification of the two Optional Protocols [to the Convention on the Rights of the Child], contain many provisions on child prostitution. The text is now before the House of Representatives, which will discuss it at the forthcoming session in preparation for adoption. The provisions include the following:

Article 279: "A term of up to three years' imprisonment shall be imposed on anyone who incites another to engage in debauchery or prostitution. If, as a result of the incitement, the offence is actually committed, the penalty shall be a term of up to seven years' imprisonment. If the person who was incited to commit the offence was a minor under the age of 18 or if the instigator of the offence lives off the proceeds from the debauchery or prostitution of the other person, the penalty shall be a term of up to 15 years' imprisonment. If both of the aforementioned circumstances obtain, the instigator shall be liable to a term of up to 15 years' imprisonment."

4. Child pornography

18. Yemeni laws contain various provisions on child pornography, including the following:

Under articles 274 and 275 of the Code of Offences and Penalties, a term of up to six months' imprisonment or a fine will be imposed on anyone who commits obscene acts (acts which offend against public morals or decency, including nudity, deliberately showing the genitalia, using obscene language or making obscene gestures) which can be seen or heard by others. A term of up to one year's imprisonment or a fine will furthermore be imposed on anyone who commits a lewd act with a female against her will. If the act was committed with the female's consent, both persons are liable to a penalty of up to six months' imprisonment or a fine of up to YRIs 1,000.

19. Under article 147 of the Children's Rights Act, the State has a duty to protect children from all forms of sexual and economic

exploitation and must introduce strict procedures and measures to protect children from:

- (a) Involvement in any immoral activity;
- (b) Employment and exploitation in prostitution or other unlawful practices.

20. Under article 116 of the Republican Decree on the Press and Printing Regulation, it is unlawful to publish advertisements containing language or images that offend against Islamic values or public morals. As article 104 of the Decree provides: "Without prejudice to any higher penalty prescribed in any other law, a fine of up to YRIs 10,000 or a term of up to one year's imprisonment shall be imposed on anyone who breaches the present law."

5. Transfer of organs of the child for profit

21. There are no laws on this matter. The draft amendments to the Code of Offences and Penalties which were approved by the Cabinet and transmitted to the House of Representatives for consideration and adoption contain provisions prescribing penalties for the transfer of a child's organs for profit, stating:

Article 233 bis: "A term of up to five years' imprisonment shall be imposed on anyone who trafficks human organs in the Republic or across the national borders. The penalty shall be a term of up to seven years' imprisonment if the victim of the offence was a child under the age of 18 or if the perpetrator was an ascendant or a person responsible for the victim's upbringing or supervision."

6. Exploitation of the child in forced labour

22. In recognition of the dangers and the adverse impact of child labour, the Republic of Yemen has taken various measures, including by enacting laws and legislation, to eliminate this phenomenon and to regulate child labour. Thus, the Labour Code No. 5 of 1995 contains an entire section, entitled "Regulation of the work of young persons", in which a "minor" is defined as a male or female under the age of 15. Articles 29, 48, 51, 52 and 53 of the Code regulate the work and working conditions of minors, stipulating that children must not work more than 7 hours per day and 42 hours per week. Minors must be given a one hour rest break during the working day, and the Code requires employers to maintain a register of the minors in their employ and to ensure that such minors are given regular medical check-ups.

23. The Children's Rights Act contains an entire chapter on the welfare of children (arts. 133 to 140). These articles reproduce the provisions of the Labour Code. A child worker is defined as a worker aged 14 or over. No person below this age may be given employment, and children under the age of 15 are not permitted to work in the industrial sectors.

24. Under article 6 of the Children's Rights Act, a fine of YRIs 5,000 will be imposed on anyone who breaches article 134 of the Act, which reads as follows: "Employers who take on children shall conclude contracts with them using the standard labour contracts drawn up by the Ministry."

25. On 28 December 2007, the Ministry of Social Affairs and Labour issued a regulation, pursuant to ministerial decision No. 56 of 2004, specifying the occupations in which children under the age of 18 may not be employed. The regulation was drawn up in conformity with the ILO Worst Forms of Child Labour Convention, 1999 (No. 182) and the ILO Minimum Age Convention, 1973 (No. 138).

26. The jobs in which children may not be employed are broken down into three different categories in the regulation: children under the age of 18 in industrial work; the carrying, pulling or pushing of heavy loads; industries and jobs in which children between the ages of 14 and 18 may not be employed unless they have a certificate showing that they are medically and physically fit to perform the work involved.

(a) Reservations entered by Yemen to the Optional Protocol

27. After the House of Representatives had given its approval, the legal procedures for ratification of the Optional Protocol were completed pursuant to Republican Decree No. 20 of 24 August 2004.

(b) Authorities competent for the implementation of the Optional Protocol

28. A number of governmental and non-governmental bodies work together to implement the Optional Protocol in the most effective manner possible, subject to the direction and oversight of the House of Representatives and the Advisory Council. The bodies in question are:

- (a) The Higher Council for Motherhood and Childhood;
- (b) The Ministry of Justice;
- (c) The Ministry of the Interior;
- (d) The Ministry of Social Affairs and Labour;
- (e) The Ministry of Human Rights;
- (f) The Ministry of Defence;
- (g) The Ministry of Legal Affairs;

- (h)The Ministry of Information;
- (i)The Ministry of Foreign Affairs;
- (j)The Ministry of Health;
- (k)The Ministry of Endowments and Guidance;
- (l)The Ministry of Education;
- (m)Civil society organizations.

(c)Dissemination of information about the Optional Protocol to the public at large

29. See paragraphs 143 to 154 below.

(d)Dissemination of the Optional Protocol and training courses

30. After ratifying the Optional Protocol, the Republic of Yemen published the instrument of ratification in the Official Gazette, which is issued by the Ministry of Legal Affairs.

31. The Higher Council for Motherhood and Childhood, the Ministry of Justice, the Ministry of Social Affairs and Labour and the Ministry of Human Rights, in conjunction with the United Nations Children's Fund (UNICEF) and Save the Children Sweden, printed copies of the text of the Optional Protocol, which were circulated among governmental and non-governmental organizations and participants in conferences, seminars, training courses and workshops on children.

32. The Ministry of Human Rights and the United Nations Development Programme (UNDP) cooperated on a project to create a human rights database containing most of the international and regional treaties and instruments which Yemen has signed and ratified, including the Convention on the Rights of the Child and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, together with the Anbatawi training manuals (the elimination of slavery, contemporary forms of slavery) which are produced by the Arab Institute for Human Rights in Tunisia. Information is also provided on juvenile offenders, penal policies and social reintegration, and there is a guide on preparing reports under article 44 of the Convention on the Rights of the Child and on the child's right to survival, development, participation and protection from exploitation. Also included are working papers, reports (the report of the United States Department of State on human smuggling in Yemen) and studies, research papers, decisions, declarations, statements and recommendations, for use by researchers and members of the public.

Training courses

33. In keeping with the commitment of the Republic of Yemen to ensuring full and effective compliance with the Optional Protocol on the part of institutions, several training courses for staff of relevant institutions have been held on the Optional Protocol.

34. The Higher Council for Motherhood and Childhood and the Ministry of the Interior, with support from UNICEF and Save the Children Sweden, organized four training courses and information workshops on the two Optional Protocols to the Convention on the Rights of the Child for police officials from different governorates.

35. The Ministry of the Interior, supported by UNICEF, organized an awareness-raising week for policemen and the Ministry's guidance counsellors on child-related issues and the problem of child smuggling.

36. The Higher Council for Motherhood and Childhood and the Ministry of the Interior, with support from UNICEF and Save the Children Sweden, organized four training courses and information workshops on the Convention and the two Optional Protocols for juvenile court judges, social workers, deputy public prosecutors and public prosecutors who work in the juvenile courts.

37. A training course to raise awareness of the problem of child smuggling was held for journalists and media personnel, together with civil society organizations which work on children's issues.

38. The Ministry of Justice and the Ifa' organization (a non-governmental organization), with support from UNICEF, ran a training course for personnel of juvenile justice institutions on alternatives to custodial penalties for young persons. In addition, a programme was carried out on the use of corrective justice and non-custodial measures, which included a thematic workshop on possible alternatives to custodial measures in juvenile justice. Four training and awareness-raising workshops were also run. A programme was designed for presidents of appeal courts, chief prosecutors and senior and middle-ranking security officials in a number of governorates. Another programme on improving communication and altering behaviour was delivered to staff of juvenile reform institutions in six governorates. A workshop on the codification of medical practices in paediatric medicine was also held.

39. Six awareness-raising workshops were held in the framework of the Second Regional Conference for the Protection of Children against Violence, Abuse and Neglect on the following subjects: evaluating the state of legal medicine; conducting a 10-year review of the Machel report on protecting children in armed conflict; World Health Organization advice and manuals on child protection; medical assessments in physical abuse cases; creating a framework for multisectoral action and guidance on the prevention of child abuse; and information on patterns of violence against children and different forms of physical violence.

40. The Children's Parliament has permission from the Ministry of the Interior to enter custody centres (police stations, remand prisons and central prisons) and juvenile reform homes throughout the Republic at any time in order to check up on children being

held at these places.

41. In 2006, the Democracy School (a non-governmental organization), in conjunction with Save the Children Sweden, took part in a project designed to create a protection mechanism in institutions that work directly with children. A series of seminars was held on violations of children's psychological, health, social and economic rights in children's institutions and on the creation of a child protection mechanism. At the fifteenth seminar a working paper was presented on conditions in these institutions and the protection mechanisms which they have in place. Two workshops were held on child protection mechanisms in children's institutions in the Sana'a City and Aden governorates.

42. The Democracy School held two workshops in the Sana'a and Aden governorates for lawyers, school directors, members of the juvenile police, journalists and staff of civil society organizations that deal with children in order to explain the concept of abuse and the risks of abuse which children may face in institutions. The workshops focused on identifying the sources of abuse, the need to take account of the best interests of the child when publishing information and the importance of well-defined child protection policies.

43. The Human Rights Information and Training Centre ran four human rights training courses as part of a programme of instruction on the Convention on the Rights of the Child and the two Optional Protocols.

44. The coordinating authority for Yemeni children's rights non-governmental organizations held a training course on the methodology for preparing reports on the two Optional Protocols.

(e) Mechanisms and procedures used for the evaluation of the implementation of the Optional Protocol and the main challenges encountered

45. In keeping with the commitment of the Republic of Yemen to following up on, and assessing the implementation of, the Optional Protocol, the following initiatives were taken:

(a) The Higher Council for Motherhood and Childhood followed up on and carried out all the procedures for the ratification and signature of the two Optional Protocols to the Convention on the Rights of the Child, in particular their endorsement by the Cabinet, their ratification by the House of Representatives and their signature;

(b) The Higher Council for Motherhood and Childhood asks each of the relevant agencies to submit annual and periodic progress reports on the children's issues under their purview;

(c) In the closing months of 2006, a report on the situation of children in Yemen was prepared using the mechanism for the preparation of periodic reports due to be submitted to the Committee on the Rights of the Child. This report will be published on an annual basis;

(d) The National Conference on Children and Youth was held and undertook a detailed analysis of the situation of children and young persons before formulating a national strategy for this group. Recently, a national plan of action for children and young persons was drawn up, and a joint workshop was held with donors to mobilize the necessary support for implementation of the plan;

(e) The Second Regional Conference for the Protection of Children against Violence, Abuse and Neglect was held in Sana'a in June 2007 for the purpose of supporting and promoting child protection initiatives and programmes; coordinating efforts; benefiting from national, regional and international best practices; providing participants with practical skills and information to help them in dealing with cases of violence and abuse; disseminating information about research and studies and their use in policy design, planning and decision-making; and producing decisions and recommendations on improving the quality and standard of interventions in order to create an environment conducive to child protection;

(f) A number of consultative meetings were held to discuss issues relating to children and to produce recommendations that would be reflected in the national plans of the relevant institutions;

(g) In 2005 and 2006, the Yemeni Observatory for Human Rights issued annual reports on human rights and democracy in Yemen which contained a section on children's rights, including the Convention on the Rights of the Child and its two Optional Protocols.

46. The main challenges encountered in following up on and assessing the implementation of the Optional Protocol are:

(a) The absence of integrated national systems for collecting and analysing data and information;

(b) The ineffectiveness or absence of mechanisms to monitor child abuse and exploitation;

(c) A lack of national expertise, of practical and theoretical knowledge and of resources to curb the offences listed in the Optional Protocol;

(d) A lack of funding for follow-up on the implementation of the Optional Protocol.

II. Extent to which the implementation of the Optional Protocol contributes to the implementation of the provisions of the Convention on the Rights of the Child, in particular articles 1, 11, 21, 32, 33, 34, 35 and 36

47. Yemen endeavours to implement the Optional Protocol in a general framework that includes the implementation of the principles set forth in the Convention on the Rights of the Child, particularly in regard to the above-mentioned articles of the Convention.

48. In article 2 of the Children's Rights Act No. 45 of 2002, the definition of a child is given as "any person under the age of 18, unless he or she reaches his or her majority earlier". This definition is entirely consistent with the one given in the Convention. The definition of a juvenile given in the same article of the Act is "any child of 7 or over who has not reached his or her majority".

49. In article 2 of the Juvenile Welfare Act No. 24 of 1992, as amended by Act No. 24 of 1997, the definition of a juvenile is given as "any person who was under the age of 15 when he or she committed a legally designated criminal offence or was at risk of delinquency". Article 37 (a) of the Act stipulates that a juvenile over 14 but under 15 years of age who commits a capital offence shall be liable to a term of from three to seven years' imprisonment. Paragraph (b) of the same article stipulates that all other offences committed by a juvenile shall carry a penalty of up to one quarter of the maximum penalty prescribed by law for each offence.

50. The law of evidence states that defendants in legal proceedings must have reached their legal majority (full legal age) or the age of discretion. As stated in the Civil Code, the age of legal majority is 15 and the age of discretion is 10.

51. Article 125 of the Children's Rights Act provides that a juvenile under 10 years of age who commits an offence is liable to none of the penalties or measures stipulated in the Criminal Code but shall instead be sentenced to one of the measures prescribed in article 26 of the Juveniles Act, namely, a reprimand, close supervision by a guardian, enrolment in vocational training, placement in a specialized hospital, the obligation to perform certain duties, probation or placement in a reform institution.

52. The Civil Service Act No. 19 of 1991 and its implementing regulation lay down the conditions for employing persons under the age of 18 in full-time jobs and occupations. Persons aged 16 and over may be employed in jobs and in occupations for which special prior training at training institutions and centres and in the workplace is required.

53. According to article 133 of the Children's Rights Act, a working child must be no younger than 14 years of age. Persons under that age are prohibited from working. Yemen has ratified the ILO Minimum Age Convention, 1973 (No. 138) and the ILO Worst Forms of Child Labour Convention, 1999 (No. 182).

Article 11

54. See paragraphs 5 to 10 above.

Article 21

55. The Republic of Yemen is an Islamic State and its legislation stems from the sharia. When it ratified the Convention on the Rights of the Child, Yemen did not enter any reservations, although it did ratify the Convention without prejudice to the sharia. Yemen is in the process of creating a system of alternative care and of giving enhanced support to orphanages.

Article 32

56. See paragraphs 22 to 26 above.

Article 33

Protection of children from the illicit use of narcotic drugs and psychotropic substances

57. Under article 4 of the Drugs Act No. 2 of 1992, it is forbidden to import narcotic drugs, whatever their final destination, without a written permit from the competent authority (the Ministry of Health) which has been signed by the Minister. The permit to import substances for medical and scientific purposes, to which article 3 refers, may only be issued to the following entities:

- (a) Government health institutions;
- (b) The Yemen Drugs Manufacturing and Trading Company;
- (c) The National Drugs Corporation;
- (d) Chemical testing and scientific research laboratories and science institutes overseen by the Ministry of Health.

58. Yemeni laws, including the Drugs Act No. 2 of 1992, prescribe harsh penalties, including death and life imprisonment, for the following offences:

- (a) Importing or exporting narcotic substances without the above-mentioned permit for the purpose of dealing in or distributing those substances;
- (b) Producing, extracting, distilling or manufacturing narcotics for the purpose of dealing in them;
- (c) Owning, possessing, acquiring, buying, selling, handing over, transporting or offering a narcotic drug for consumption and with a view to dealing in the substance by any means not permitted under this Act;
- (d) Cultivating any of the plants listed in Table 1 or importing, exporting, possessing, acquiring, buying, selling, handing over or transporting such plants in any stage of growth, including in seed form, for the purpose of dealing in them in any way and by any means not permitted under this Act;
- (f) Using a narcotic substance for a purpose other than that for which a permit was issued;
- (g) Managing, establishing or fitting out premises for the purpose of drug-taking;

(h)Offering narcotic drugs for consumption free of charge or facilitating their consumption in circumstances other than those allowed for under the Drugs Act.

59.The proceeds from these offences, in whatever form they may take, will be confiscated, together with vehicles used in the commission of the offences. The seized narcotics will be destroyed.

60.Article 38 of the Act states that “a term of five years’ imprisonment shall be imposed on anyone who possesses, buys, produces, extracts, cuts or manufactures narcotic substances or who cultivates, possesses or buys the plants listed in Table 1 for the purposes of consumption or personal use, unless the person concerned can show, based on a medical prescription or the provisions of the present Act, that he is authorized to do so. As an alternative to the penalty prescribed in the present article, the courts may order the placement of a person found to be addicted to drugs in a special clinic, where he shall receive treatment until the committee responsible for case reviews of patients in such clinics decides to discharge him. The period of stay in the clinic shall be not less than six months”.

61.Article 39 of the Act states: “Without prejudice to any higher penalty that may be prescribed in this Act, the penalty stipulated in article 38 of the Drugs Act shall be imposed on anyone who illegally possesses, acquires, buys, hands over, transports, produces, extracts, cuts or manufactures a narcotic substance or who cultivates any of the plants listed in Table 1 for purposes other than dealing in them, personal consumption or personal use.”

Table 1

Plants which it is illegal to cultivate

Item Plants which it is illegal to cultivate

- 1 Indian hemp (*cannabis sativa*), both the male and female plant, however it may be called: hashish, Kam, bhang or any other names by which it may be called
- 2 The opium poppy (*papaver somniferum*) in all its forms and appellations, such as opium, papaverine or any other names by which it may be called
- 3 All forms of the papaver genus
- 4 Coca plant (*erythroxylum coca*) in all its genera and appellations

Article 34

Sexual exploitation of children

62.See paragraphs 11 to 13 and 14 to 17 above.

Article 35

Preventing the abduction, sale or trafficking of children

63.See paragraphs 5 to 10 above.

Article 36

Protection of children from all forms of exploitation prejudicial to any aspects of their welfare

64.See paragraphs 5 to 26 above.

Process for preparing the report (participating authorities)

65.The present report was prepared in conjunction with several governmental and non-governmental organizations which are involved in the subjects covered by the Optional Protocol. The Higher Council for Motherhood and Childhood, in consultation with the competent authorities, formed a preparatory committee to draft a report on the implementation of the Optional Protocol. The committee included 33 members drawn from: the technical secretariat of the Higher Council for Motherhood and Childhood; the House of Representatives; the Advisory Council; the Office of the Public Prosecutor; the Ministry of the Interior; the Ministry of Planning and International Cooperation; the Ministry of Finance; the Ministry of Social Affairs and Labour; the Ministry of Justice; the Ministry of Education; the Ministry of Public Health and Housing; the Ministry of Human Rights; the Ministry of Information; the Ministry of Endowments and Guidance; the Ministry of Legal Affairs; the Ministry of Tourism; the Ministry of Culture; the Ministry of Communications and Information Technology; the Women’s National Committee; and some non-governmental organizations such as Al-Saleh Social Foundation for Development, Al-Islah Charitable Society, the NGOs coordination

authority, the Democracy School, the Human Rights Information and Training Centre, the Yemeni Observatory for Human Rights, the Youth Advisory Council and the Children’s Parliament

66.A subcommittee of the preparatory committee was formed to draft the report, and the draft report was then presented at workshops held for various governmental and non-governmental organizations working on children’s issues in order to discuss the report and improve the content. Feedback was incorporated into the draft report, which was then submitted to a review committee, consisting of national experts on children, for revision, finalization and transmission to the Committee on the Rights of the Child in Geneva. The report was then published and sent out to a number of relevant governmental and non-governmental organizations.

III. Progress made in the enjoyment of the rights set forth in the Optional Protocol

67. After ratifying the Optional Protocol, the Republic of Yemen proceeded with implementation, as described in detail hereunder:

(a) Yemeni laws on children were revised and amended in line with the Convention and the Optional Protocols. The provisions on children set out in 14 laws were revised and amended and articles were added to, or abrogated from, a total of 11 laws. Draft amendments were approved by the Cabinet and are now before the House of Representatives for discussion and adoption. The laws that were revised are: the Juvenile Welfare Act, as amended (the draft amendment was submitted to the House of Representatives by the Government); the Code of Offences and Penalties; the Children's Rights Act; the Personal Status Code; the Civil Status and Civil Registration Act; the Prisons Regulation Act; the Code of Military Offences and Penalties; the Civil Code; the Nationality Act; the Carrying and Trafficking in Weapons and Ammunition Act; the Code of Criminal Procedures; the Persons with Disabilities Welfare and Rehabilitation Act; the Social Welfare Act; and the Labour Code, as amended. A workshop was held to inform the members of the relevant House of Representatives committee of the importance of the objectives behind the amendments. There was a lively discussion among committee members on the importance of the amendments.

(b) A national network on violence against children was established with a view to curbing the phenomenon through:

Coordinated action by the competent governmental, non-governmental organizations and international organizations to combat violence against children in the framework of a joint action plan;

Support, promotion, follow-up and evaluation of activities and projects run by the relevant authorities to tackle violence against children;

Exchanges of information about related activities and events organized by members of the network;

Participation in the formulation of short-, medium- and long-term plans for curbing violence against children;

Studies of the laws in force and the production of feedback and suggestions on amendments to be made in line with the international treaties on violence against children and with domestic laws;

Creation of a database containing qualitative and quantitative information on violence against children in Yemen;

Monitoring and follow-up on cases of violence.

68. The national network on violence against children includes members from government authorities, parliamentary committees, national civil society organizations and international organizations which deal with children's issues, together with prominent members of society and jurists who also work on such issues and representatives of the Children's Parliament.

69. The national network for the welfare of children in conflict with the law was established to:

(a) Improve the situation of children who are in conflict with the law;

(b) Reduce the number of children in situations that prepare them for delinquency;

(c) Raise awareness of the factors that contribute to, and the dangers involved in, juvenile delinquency;

(d) Coordinate efforts by the competent authorities to provide care and protection for children in conflict with the law in the framework of a joint action plan;

(e) Support, assist, follow up on and evaluate relevant activities and projects;

(f) Raise public awareness of the rights of children in conflict with the law;

(g) Review proposed draft laws, strategies and project proposals.

70. The national network for the welfare of children in conflict with the law includes members from government authorities, parliamentary committees, national civil society organizations and international organizations which deal with child-related issues, together with prominent members of society and jurists who also work on such issues.

71. The two networks are now being merged into a "Child protection network", which will include members drawn from governmental and non-governmental organizations that work on children's issues.

72. The Advisory Council held a special session on the state of child protection in Yemen. It submitted a comprehensive report containing recommendations for the executive authorities to the President of the Republic for dissemination to all the authorities and implementation of the recommendations of the session on strengthening protection and safeguards of children's rights in Yemen.

73. A technical committee on child trafficking was formed with members representing various relevant governmental and non-governmental organizations. The committee's tasks include:

(a) Adopting a plan of action on child smuggling;

(b) Coordinating action in this area with the competent authorities in neighbouring States;

(c) Following up on the ratification of cooperation agreements between the Republic of Yemen and neighbouring States;

- (d) Ensuring that the Ministries concerned carry out those parts of the national plan on child smuggling that come under their purview;
- (e) Coordinating the conduct of a joint study by the Republic of Yemen and the Kingdom of Saudi Arabia on child smuggling;
- (f) Carrying out fact-finding missions on the situation of children who have been smuggled;
- (g) Agreeing a draft memorandum of understanding with the Saudi side;
- (h) Following up on the establishment of a reception centre for children who have been repatriated by another State;
- (i) Referring the outcomes of consultative meetings to decision-makers in the authorities concerned.

74. The Higher Council for Motherhood and Childhood conducted a field survey of street children in various governorates of Yemen with the aim of: assessing the scale of the phenomenon; identifying the causes and contributory factors; assessing the suffering that street children endure; determining the origins of children working on the streets; and ascertaining how far the issue of street children is taken into account in State programmes and policies. The Higher Council also completed the first stages of a field study on the characteristics, causes and prevalence of child abuse, focusing on the following aspects:

- (a) The social, cultural and economic factors which influence and contribute to child abuse;
- (b) The cultural and social environment in which child abuse occurs and the values and traditions which influence the phenomenon;
- (c) Different forms of child abuse;
- (d) The demographic profile of victims of abuse;
- (e) The institutional and legal framework for programmes to eliminate child abuse;
- (f) Action being taken by the government authorities and civil society organizations to put a stop to abuse wherever it occurs;
- (g) Proposals for future action.

75. The Higher Council for Motherhood and Childhood, together with members of the national network for the welfare of children in conflict with the law, visited juvenile justice institutions (courts, prosecutor's offices, police stations, reformatories, central prisons and remand prisons) in every governorate of the Republic of Yemen in order to gather information about, and conduct an assessment of, the treatment accorded to young persons in these institutions. They produced a number of urgent recommendations and proposals on improving conditions in these institutions for young persons.

76. Two reception centres have been opened up for children who are smuggled out of the country and repatriated by neighbouring States, and action has been taken to return such children to their families. One of these centres, which is located in the Sana'a City governorate, caters for children who have been sent back by plane.

77. The Ministry of Human Rights organized visits to various governorates to raise awareness of the dangers and consequences of smuggling children into neighbouring States.

78. The Ministry of the Interior uncovers and thwarts attempts to smuggle children by stepping up controls of child travellers at ports.

79. An initial consultative meeting was held between the government authorities concerned and non-governmental organizations on the registration of births and issuance of birth certificates. A survey is being conducted to assess the current status of the civil register in the governorates and to identify problems and weaknesses with a view to automating the process for entering and registering all key data (births, deaths, marriage and divorce).

80. A juveniles' section was set up in the security department of the Border Guard Directorate to monitor and deal with cases of children repatriated by neighbouring States or apprehended during a smuggling operation. A draft national plan on child smuggling was drawn up and subsequently discussed at a workshop attended by representatives of all the relevant governmental and non-governmental organizations. Programmes on child smuggling were incorporated into the programmes and plans for the implementation of the national strategy for children and young persons.

81. The Ministry of Human Rights, as part of its schedule of visits to prisons and reformatories in 2007, visited the Sana'a City Reformatory for Boys on 4 June 2007. It also visited the Amal Home for the Welfare of Female Juvenile Offenders and the Sana'a City Centre for the Homeless on 25 June 2002. The purpose of these visits was to verify conditions for residents of these institutions and to help to address any violations by sending memorandums to the authorities concerned, such as the Ministry of the Interior, the Ministry of Justice and the Office of the Prosecutor-General, on the following matters:

Determining the fate of children of female offenders and ensuring that these children's existence is not ignored when it comes to sentencing

Referring all offences by children in the 16 to 18 age group to the juvenile prosecution service

Arresting persons who assault children in these institutions

Ensuring that young offenders are not admitted to these institutions until they have undergone a medical examination to verify that they are of legal age

IV. Difficulties affecting the degree of fulfilment of the obligations under the Optional Protocol

82. There are a number of difficulties and problems affecting the application of the Optional Protocol, as detailed below:

- (a) A shortage of financial and human resources to ensure implementation of the Optional Protocol, since Yemen is a developing country which has to contend with economic problems;
- (b) Poor coordination between governmental and non-governmental organizations which deal with the issue of exploitation of children;
- (c) Inadequate information about offences involving exploitation of children and poorly developed information systems;
- (d) Delays in approving draft amendments to domestic laws on children;
- (e) A shortage of centres for the protection of child victims that offer treatment for the effects of abuse and assistance with social reintegration (owing to the lack of financial and technical resources);
- (f) The absence of residential centres for child victims;
- (g) A shortage of local expertise on protecting children from exploitation, treating child victims and assisting with their social reintegration;
- (h) A lack of media awareness of this issue.

Budgets allocated for the implementation of the Optional Protocol

83. We have not been able to obtain figures on the budgets allocated to the authorities involved in implementing the Optional Protocol. It has been ascertained, however, that child welfare and protection authorities were given additional resources as a result of the inclusion of several children's projects and programmes in the budget of ministries, authorities and special funds. Annual appropriations were increased for children's sections in the following ministries: social affairs and labour; justice; the interior; education; technical education and vocational training; health and population; and youth and sports. The national strategy for children and young persons, which comprises various children's programmes, was adopted. The Ministry of Social Affairs and Labour and development and welfare funds allocate a large proportion of their budgets to children's projects, including for the construction of schools and health centres, for support for primary health-care delivery and for child protection and welfare programmes. Efforts have been made to liaise with partners from donor States and international organizations in order to increase resources and support for children's programmes. The State, supported by donor countries, held conferences to mobilize support for future projects. In 2006, there was a marked increase in the level of support for children's programmes provided by international organizations, in particular UNICEF and Save the Children Sweden.

Legislative and administrative texts related to the implementation of the Optional Protocol

84. See part I above.

Criminal laws on the acts enumerated in article 3, paragraph 1, of the Optional Protocol

85. There are a number of criminal laws on the acts enumerated in article 3, paragraph 1, of the Optional Protocol, namely:

- (a) The Code of Offences and Penalties No. 12 of 1994 (arts. 9, 18, 19, 249, 248, 270, 269, 268, 264, 252, 250, 271, 272, 274, 273, 275, 281, 279, 278 and 277);
- (b) The Code of Criminal Procedures No. 13 of 1994 (arts. 37, 21, 19, 17, 16, 3, 38, 40, 39, 532, 253, 252, 251, 250, 249, 248, 247, 246, 245, 177, 42 and 536);
- (c) The Children's Rights Act No. 45 of 2002 (arts. 4, 3, 2, 131, 125, 6, 133, 134, 135, 136, 137, 138, 139, 140, 147, 161, 155, 164 and 163);
- (d) The Juvenile Welfare Act No. 24 of 1992, as amended by Act No. 26 of 1997 (arts. 26, 15, 14, 9, 2 and 37);
- (e) The Labour Code No. 5 of 1995 (arts. 53, 52, 51 and 2);
- (f) The Abduction and Highway Robbery Offences Act No. 24 of 1998 (art. 2).

V. Prohibition of the sale of children, child pornography and child prostitution

(a) The age limit used to define a child

86. Different definitions of a child can be found in Yemeni laws and legislation. Several Yemeni laws contain definitions, including the Children's Rights Act of November 2002, the Juvenile Welfare Act No. 24 of 1992, as amended by Act No. 26 of 1997, the Civil Code No. 14 of 2002, the Civil Service Act No. 19 of 1991 and the Labour Code No. 5 of 1995.

87. Article 2 of the Children's Rights Act No. 45 of 2002 defines a child as "any person under the age of 18 who has not yet reached full legal age". This definition is entirely consistent with the one set out in article 1 of the Convention on the Rights of the Child. Article 2 of the aforementioned Act defines a young person as "any child aged 7 or over who has not yet reached full legal age". The definition of a working child set out in article 133 of the Act is "a person aged 14 or over". It is prohibited to employ persons below

this age.

88.The Juvenile Welfare Act No. 24 of 1992, as amended by Act No. 26 of 1997, defines a juvenile as a person who was under the age of 15 full years when he or she committed an offence or was at risk of delinquency (art. 2).

89.The Civil Service Act No. 19 of 1991 and its implementing regulation (art. 22) lay down the criteria for employing persons under the age of 18 in full-time work and occupations. Persons aged 16 or over may be employed in work and occupations for which prior special training at training institutes or centres and in the workplace is required.

90.Under article 2 of the Labour Code No. 5 of 1995, a child (referred to as a “minor” in the Code) is a male or female under the age of 15.

(b)The penalties for each offence and aggravating or attenuating circumstances

Sale of children

91.Articles 248, 250 and 252 of the Code of Offences and Penalties No. 12 of 1994 provide as follows:

Article 248: “A term of up to 10 years’ imprisonment shall be imposed on anyone who buys, sells, makes a gift or otherwise disposes of a person, and anyone who brings a person into or out of the country with a view to disposing of that person.”

(b)Article 250: “The above-mentioned penalties shall be imposed, as appropriate, on anyone who takes part in an abduction or conceals a person who has been abducted, knowing the circumstances in which the abduction was carried out and the acts that accompanied or followed it. If the accomplice or the person concealing the abducted person was aware of the abduction but ignorant of the acts that accompanied or followed the offence, the penalty shall be limited to a term of five years’ imprisonment.”

Article 252: “Anyone who abducts, conceals, or swaps a newborn child for another or makes a fraudulent claim concerning the parentage of a child shall be liable to a term of up to five years’ imprisonment.”

92.Article 2 of the Abduction and Highway Robbery Offences Act No. 24 of 1998 provides: “Anyone who abducts a person shall be liable to a term of from 12 to 15 years’ imprisonment. If the victim of the abduction is a female or a young person, the penalty shall be a term of 20 years’ imprisonment. If the abduction is accompanied or followed by bodily harm or physical assault, the penalty shall be a term of up to 25 years’ imprisonment. This shall be without prejudice to the right under the sharia to claim retribution (*qisas*), blood money (*diyah*) and an indemnity for certain wounds (*arsh*), as appropriate. If the offence is accompanied or followed by murder, prohibited sexual assault or sodomy, the penalty shall be death.”

Child prostitution

93.Article 269 of the Code of Offences and Penalties No. 12 of 1994 states: “If for any reason the sharia penalty is not applicable, a term of up to seven years’ imprisonment shall be imposed on anyone who rapes a male or female. If the offence was committed by two or more persons, or if the offender was responsible for the supervision, protection, upbringing, custody or treatment of the victim, or if the offence caused the victim to suffer severe physical or health-related damage, or if the victim became pregnant as a result of the criminal act of rape, the penalty shall be a term of from 2 to 10 years’ imprisonment. If the victim was under the age of 14 or committed suicide because of the offence, the penalty shall be a term of from 3 to 15 years’ imprisonment. Rape is any act of forcible penetration of a male or a female.”

94.Under article 279 of the Code of Offences and Penalties No. 12 of 1994, anyone who incites another person to engage in an act of debauchery or in prostitution is liable to a penalty of up to three years’ imprisonment. If such incitement actually leads to the commission of the act, the penalty is a term of up to seven years’ imprisonment. If the person incited to engage in such an act is a young offender under 15 years of age or if the instigator of the offence lives off the proceeds from the debauchery or prostitution of the other person, the penalty may be a term of up to 10 years’ imprisonment. If both circumstances are combined, the penalty may be a term of up to 15 years’ imprisonment.

95.Article 163 of the Children’s Rights Act states that, without prejudice to any higher penalty laid down in any other law, anyone who incites a male or female child to engage in debauchery or prostitution is liable to a term of up to 10 years’ imprisonment.

Child pornography

96.Article 274 of the Code of Offences and Penalties No. 12 of 1994 stipulates that a term of up to six months’ imprisonment or a fine will be imposed on anyone who commits an obscene act in public which can be seen or heard by others. Under article 275 of the Code, anyone who commits an act of indecency with a female against her will is liable to a term of up to one year’s imprisonment or a fine. If the act was committed with the female’s consent, both persons shall be liable to a term of up to six months’ imprisonment or a fine of up to YRIs 1,000.

Children in forced labour

97.Article 161 of the Children’s Rights Act prescribes a fine of YRIs 50,000 for any breach of article 134 of the Act. The article states that employers must conclude contracts with children in their employ using the model contracts prepared by the Ministry of Labour (Ministry of Social Affairs and Labour).

98.A regulation issued by the Ministry of Social Affairs and Labour defines the jobs in which children under the age of 14 may not be employed and the penalties for breaching the terms of the regulation, without prejudice to the penalty in any other law. The penalties

are listed below.

(a) Anyone who encourages or incites a child to take, make or sell drugs or psychotropic substances is liable to a penalty of from 5 to 8 years' imprisonment. The penalty will be doubled in the event of a repeat offence;

(b) Anyone who incites a child, male or female, to engage in debauchery, prostitution or any other immoral activity is liable to a term of up to 10 years' imprisonment;

(c) Anyone who buys, sells or disposes in any way of a male or female child is liable to a term of from 10 to 15 years' imprisonment.

Trafficking in human organs

99. Although there are no laws on this subject, the draft amendments to the Code of Offences and Penalties which have been approved by the Cabinet and submitted to the House of Representatives for consideration and adoption do contain provisions designed to prevent the transfer of organs for profit (see paragraph 21 above).

(c) The statute of limitations for offences

Constitution of the Republic of Yemen

100. Article 48 (e) of the Constitution provides: "The law shall define the penalty applicable to anyone who infringes any part of this article and the compensation due for any damage that a person may sustain as a result of such infringement. Physical or mental torture during arrest, detention or imprisonment is an offence which is not time-barred from prosecution, and any person who commits, orders, or participates in such an offence will be prosecuted." It may be deduced from this paragraph that there is no statute of limitations for any of the offences listed in the article, including for physical or mental torture committed at the time of arrest or during detention or imprisonment. Information about the statute of limitations under other Yemeni laws is provided here below.

101. Article 21 of Act No. 14 of 2002 provides: (a) from the moment that it enters into force, new legislation on the statute of limitations shall apply to all time limits that have not yet expired; (b) if the new legislation introduces a longer time limit than that applied under the previous legislation, the previous time limit shall be extended pursuant to the new legislation; (c) if the new time limit is shorter than that applied under the previous legislation, the new time limit shall apply from the date of the entry into force of the new legislation, even if the previous time limit has begun to run; (d) if the remainder of the time limit applicable under the previous legislation is shorter than the time limit applied under the new legislation, the statute of limitations will take effect when the remainder of the time limit comes to an end; (e) in any case, the previous legislation shall apply to cases prior to the entry into force of the new legislation where the time limit began to run and was suspended.

102. The Code of Criminal Procedures No. 13 of 1994 contains the following provisions:

Article 37: The right to bring criminal proceedings shall be extinguished by reason of lapse of time, unless the law provides otherwise.

Article 16: Notwithstanding article 37, there shall be no statute of limitations for offences committed against the personal liberty or dignity of citizens or for infringements of privacy.

Article 19: (a) Any proceedings initiated in the framework of the law in force shall remain valid; (b) procedures for appealing a court verdict are governed by the laws that were in force when the verdict was pronounced, unless the new legislation is more favourable to the convicted person, in which case the new legislation must be applied; (c) where the rules on the statute of limitations are more favourable to the accused person, they shall be applied to every time limit which has begun to run and has not yet expired.

Article 38: Except for offences for which the punishment is retaliation (*qisas*), blood money (*diyah*) or an indemnity for certain wounds (*arsh*) the statute of limitations for a serious offence is 10 years from the date on which the offence was committed. For lesser offences, the statute of limitations is 3 years from the date on which the offence was committed, unless the time limit under article 40 applies.

Article 39: The time limit for criminal proceedings cannot be halted prematurely, but will continue to run and will be extinguished by reason of lapse of time.

Article 40: The time limit for prosecutions is suspended when substantive investigations, trial proceedings, summary orders or evidentiary proceedings are carried out in respect of the accused person. The time limit is reinstated as soon as the suspension comes to an end. If the time limit is suspended as a result of several procedures, it shall be reinstated on the date when the last such procedure is completed.

Article 42: Criminal proceedings may not be brought, and must be discontinued if they have begun, in any of the following circumstances: (a) no offence has been committed; (b) the act concerned does not amount to an offence; (c) the offender is below the age of criminal responsibility; (d) a verdict has already been handed down and cannot be appealed; (e) a ruling was issued declaring the case to be unfounded and all means of appeal have been exhausted; (f) a general or special amnesty has been issued; (g) the accused has died; (h) the offence is time-barred from prosecution.

Article 250: Criminal proceedings may not be brought against accused persons who can prove that they were sentenced pursuant to a final court judgment handed down abroad and that the sentence was served abroad or extinguished by reason of lapse of time. To the extent possible, account must be taken during the enforcement of sentences following a retrial of cases where a part of the sentence has already been served.

Article 532: Except where the right to retribution (*qisas*), blood money (*diyah*) and an indemnity for certain wounds (*arsh*) is

assured, the time limit on the death penalty shall be 25 years. The time limit on a sentence of deprivation of liberty shall expire when a period that is double the length of the sentence has elapsed, provided that the said period is not longer than 20 or shorter than 5 years. If the penalty is a fine, the time limit shall be two years, unless the time limit is interrupted or suspended pursuant to the articles set out below.

Article 536: The termination of the time limit established under this Act shall give rise to the application of a new time limit, which shall commence when the cause of the interruption is removed. Where the time limit on a sentence is suspended, the time limit that has begun to run shall be reinstated as soon as the obstacle that led to the suspension is removed. In both cases, the time limit on the sentence may not be extended for a period that is more than double the length of the sentence.

(d) Legal personality in the Republic of Yemen

103. Article 87 of the Civil Code of the Republic of Yemen provides the following definitions.

Legal persons

- (a) The State, governorates, cities and departments, subject to the conditions laid down by law; ministries, government agencies and public enterprises to which the law assigns legal personality;
- (b) Entities which the State recognizes as having legal personality;
- (c) Endowments;
- (d) Commercial and civil enterprises;
- (e) Associations and foundations established pursuant to the relevant provisions of the present Code;
- (f) Any group of individuals and assets recognized as legal persons under the Code.

104. Article 88 of the Code defines the rights of legal persons as follows. A legal person enjoys a full range of rights, except for those reserved for natural persons. Hence, a legal person is entitled to:

- (a) Financial independence;
- (b) Legal capacity, within the limits laid down in its statutes or the law;
- (c) The right to seek legal recourse;
- (d) An independent domicile, in accordance with the Code of Proceedings;
- (e) A representative who communicates its wishes and acts on its behalf *inter alia* in legal proceedings.

(e) Attempts to commit, and complicity or participation in, any of the above-mentioned offences

105. Article 18 of the Code of Offences and Penalties No. 12 of 1994 defines the offence of attempt as one where the offender commences an act with the intention of committing an offence and interrupts or aborts it for reasons beyond his control, even if it would have been impossible to commit the full offence owing to the inadequacy of the means used, the absence of the intended object of the offence or the lack of a victim.

106. Article 19 of the Code states that attempt will always be punished. The penalty is up to half the maximum penalty prescribed for the full offence, unless otherwise stipulated by law. If the penalty is death, the attempt will carry a penalty of up to 10 years' imprisonment. The provisions on supplementary penalties for the full offence also apply to the offence of attempt.

(f) Adoption (*kafalah*)

107. Yemeni laws, which are derived from the sharia, do not recognize adoption. The *kafalah* system does allow, however, for foundlings and orphans to be placed in the care of government-run and civil society institutions or of individuals who meet the specified legal criteria. Such children are provided with care and all forms of welfare, including education, health, social services and day-to-day living support.

Table 2

Number of government orphanages in the Republic of Yemen

Item	Name of institution	Governorate	Capacity	Oversight body	Supporting institution	Comments	
1	Orphanage	Sana'a	City	1 500	Ministry of Education	Ministry of Education	Institution also used by some 1,500 children on a non-residential basis
2	Orphanage	Tawilah, Muhwayt	400	Ministry of Education and board of trustees	All Sharqah Association and board of trustees	Ministry of Education and All Sharqah Association and board of trustees	Services also used by 600 children who are not orphans

3	Orphanage Hajjah	60	Ministry of Social Affairs	Ministry of Social Affairs and AllSharqah Association	
4	Orphanage Ta'izz	100	Ministry of Social Affairs	Ministry of Social Affairs and governing board	A separate wing of the juvenile home
5	Orphanage Muhwayt	60	Ministry of Social Affairs	Ministry of Social Affairs	Began work in 2005
6	Orphanage Amran	150	Ministry of Social Affairs	Still not operating	Support from the Social Fund
7	Orphanage Dhamar	150	Ministry of Social Affairs	Still not operating	Support from the Social Fund
8	Orphanage Aden	150	Ministry of Social Affairs	Still not operating	Support from the Social Fund
9	Orphanage Hadramawt	300	Ministry of Social Affairs	Still not operating	Support from a benefactor
10	Orphanage for girls Ta'izz	50	Ministry of Social Affairs	Building and renovation work underway	Support from the Social Fund

Table 3

Private homes and centres for orphans in the Republic of Yemen

Item	Name of institution/centre	Governorate	Capacity	Oversight body	Supporting institution
(a) Joint government/private					
1	Boys orphanage	Ibb	120	Ministry of Education, Ministry of Social Affairs, board of trustees	Ministry of Education, Ministry of Social Affairs, board of trustees
2	Centre of the President of the Republic for the Welfare of Orphans	Sana'a City	300	Higher Board of Trustees which reports to the Office of the Minister for Social Affairs, Al-Islah Association and the Orphan Development Institute	Al-Islah Association and the Orphan Development Institute
(b) Private					
1	Dar al-Shawkani for Orphans	Sana'a City	300	Al-Shawkani Charitable Foundation	Al-Shawkani Charitable Foundation, Al-Sharqah Association, Ministry of Social Affairs, private associations of the Gulf States
2	Dar al-Shawkani for Orphans	Aden	80	Al-Shawkani Charitable Foundation	Al-Shawkani Charitable Foundation, some private associations in the Gulf States
3	Dar al-Hijrah for Orphans	Bani Dabyan	90	Al-Shawkani Charitable Foundation	Al-Shawkani Charitable Foundation, private associations in the Gulf States
4	Dar Sadiq for Orphans	Sana'a City	55	Board of governors	Board of governors, benefactors
5	Al-Liwa Centre for Orphaned Girls	Sana'a City	30	Al-Salih Social Foundation	Al-Salih Social Foundation
6	Dar al-Abtal for Orphans	Sana'a City	120	Al-Salih Social Foundation	Al-Salih Social Foundation
7	Dar Al-Rahmah for Orphaned Girls	Sana'a City	82	Al-Rahmah Foundation for Human Development	Al-Rahmah Foundation for Human Development, the Ministry of Social Affairs (Welfare Fund)
8	Dar Al-Asrah for Children	Sana'a City	30	Human Development Foundation	Human Development Foundation
9	World Assembly Centre for Orphans	Sana'a City	167	World Assembly of Youth	World Assembly of Youth, day-care centre
10	World Assembly Centre for Orphans	Ta'izz	123	World Assembly of Youth	World Assembly of Youth, day-care centre
11	World Assembly Centre for Orphans	Hadramawt	118	World Assembly of Youth	World Assembly of Youth, day-care centre
12	Children's Social Centre	Sana'a City	30	Al-Rahmah World Charitable Foundation	Al-Rahmah World Charitable Foundation, day-care centre

13	Al-Rahmah Home for Orphaned Girls	Ta'izz	160	Al-Ihsan Association	Al-Ihsan Association
Total	1 805				

(g) Social security

108. The social services and assistance offered to children living with families are described below.

Social security assistance (Social Welfare Fund)

109. In accordance with the Social Security Act, the Social Welfare Fund offers social security assistance to various social groups and categories, including:

Orphans (children without a father or parents)

Widows with children (orphans whose fathers have died and are being supported by their mothers)

110. A total of 210,797 orphans and widows with children receive monthly benefits amounting to YRIs 1,038,543 from the Social Welfare Fund. The total annual amount which the Fund disburses to orphans and widows with children is YRIs 4,303,334,400 (\$21,624,795).

Food assistance for orphans provided by the Ministry of Education

111. Food is provided for orphans attending regular schools or living in a residential institution. A total of 5,000 orphans a year benefit from the Ministry of Education school meals programme.

Sponsorship by private associations of orphans living with families

112. A system is in place whereby private associations pay monthly benefits to cover the costs of keeping an orphan with a family. The costs include food, health and education. Although there are no precise official figures on the number of children living with families who are sponsored by private associations, the available data suggest that the approximate figure is 30,000.

(h) Jurisdiction

1. Jurisdiction under Yemeni law

113. The Code of Criminal Procedures No. 13 of 1994 includes the following articles:

Article 3: This Code applies to all offences committed in the territory of the State, regardless of the nationality of the offender. An offence shall be deemed to have been committed in the territory of the State if an act constituting an element of the offence was committed in that territory. Where the offence was committed wholly or in part in the territory of the State, the Code shall apply to the accessories to the offence, even if their participation occurred abroad. This Code applies to all offences committed outside the territory of the State for which the Yemeni courts have jurisdiction under the Code of Criminal Procedures.

Article 17 (a): The Code of Criminal Procedures applies to all criminal offences committed in the territory of the Republic; (b) the laws on criminal procedures apply to citizens, foreign nationals and stateless persons.

Article 21: The Department of Public Prosecutions has competence for initiating criminal proceedings, referring cases to the courts and prosecuting cases in court. No other authority may bring a prosecution, unless otherwise provided by law.

Article 244: The Yemeni courts also have jurisdiction over offences committed at sea on board vessels flying the Yemeni flag, regardless of the nationality of the perpetrators, and over offences committed on board foreign commercial ships present in a Yemeni sea port or in Yemeni territorial waters. Jurisdiction shall be assigned to a court at the first Yemeni port where the vessel anchors.

Article 245: The Yemeni courts have jurisdiction over offences committed on board Yemeni aircraft, regardless of the nationality of the perpetrator, and over offences committed on board foreign aircraft by or against a Yemeni national. If, following the commission of an offence, the aircraft sets down in Yemen, the court in the district of which the landing site is located shall have competence to arrest the accused upon landing or jurisdiction shall lie with the court in the district of which the accused was arrested, if the arrest took place in Yemen. If the accused was arrested outside the State territory, the Yemeni courts may hear the case.

Article 246: The Yemeni courts shall have competence to try any Yemeni who commits a legally designated offence abroad, where the offender then returns to the Republic and the offence is punishable under the law of the State in which it was committed.

Article 247: The Yemeni courts shall have competence to try anyone who commits abroad any of the offences against State security listed in Chapter 1, Title 2, of the Criminal Code, or the offence of copying or forging the seals of the State or a public institution, or counterfeiting national currency which is legal tender, or removing, selling or acquiring such items with a view to their sale or use.

Article 248: The three preceding articles shall apply even if the offender acquired Yemeni nationality after committing the offences with which he is charged.

Article 249: Criminal proceedings against the perpetrator of an offence or of an act carried out abroad may only be brought by the Department of Public Prosecutions. In cases other than those specified in article 247, proceedings must be preceded by a complaint

lodged by the injured party in accordance with article 27 or by an official notification from the authorities of the foreign State in which the offence was committed.

Article 250: Criminal proceedings cannot be brought against a person who can prove that he has already been convicted abroad, pursuant to a final court judgement, and that the sentence was served or was extinguished by reason of lapse of time. Where part of the sentence was served, that circumstance shall be taken into account, to the extent possible, during sentencing following a retrial.

Article 251: This section shall only apply in the absence of any agreements with foreign States or where the relevant agreements are silent on the matter of sentencing.

Article 252: During the hearing of a case, the Department of Public Prosecutions or the competent court may issue a letter rogatory requesting a foreign authority to take one or more measures in connection with a preliminary or final investigation. The letter rogatory shall be addressed to the Ministry of Foreign Affairs for transmission through the diplomatic channel. In urgent cases, the letter rogatory may be sent directly to the foreign judicial authority requested to take the measure. In the latter case, a copy of the letter rogatory and all the case documents must be sent to the Ministry of Foreign Affairs, through the diplomatic channel, for information.

Article 253: The Department of Public Prosecutions or the competent court may take receipt of a letter rogatory sent to it through the diplomatic channel by a foreign authority. The letter rogatory shall be executed according to the rules established by Yemeni law. If the letter rogatory was sent directly, no information on the outcome of the action taken may be communicated to the foreign authorities until an official request has been received through the diplomatic channel.

2.Code of and Civil Proceedings and Enforcement No. 40 of 2002

114.The Code of Civil Proceedings and Enforcement No. 40 of 2002 includes the following articles:

Article 78: Except for cases concerning real estate located abroad, the Yemeni courts shall have competence for proceedings brought against Yemenis, even if they are not domiciled or resident in Yemen.

Article 79: Except for cases concerning real estate located abroad, the Yemeni courts shall have competence for proceedings brought against foreigners who are domiciled or resident in Yemen.

Article 80: The Yemeni courts shall have competence to hear cases brought against foreigners not domiciled in Yemen in the following circumstances: (a) where the person has an elected domicile in Yemen; (b) where the case concerns an asset present in Yemen, or an obligation that originated or was discharged or ought to have been discharged in Yemen, or a notice of bankruptcy in Yemen; (c) where the case concerns a request for payment of maintenance to a mother, a wife or a minor residing in Yemen; (d) where the case concerns the parentage or guardianship of a child residing in Yemen; (e) where the case concerns a personal status matter which must be decided under Yemeni law; (f) where the case concerns an estate which is initially divided up in Yemen, or where the legator was Yemeni, or the assets in the estate are found wholly or in part in Yemen; (g) where one of the defendants is domiciled or resident in Yemen.

Article 81: In accordance with the preceding articles, the Yemeni courts shall be competent to hear cases, even those outside their jurisdiction, if the defendant expressly or implicitly accepts their jurisdiction.

Article 82: The Yemeni courts shall have competence to hear preliminary applications and related petitions for which they have jurisdiction.

Article 83: The Yemeni courts shall have competence to order provisional and custodial measures enforceable in Yemen, even if they do not have competence for the main case.

Article 84: Where a case is brought before a Yemeni court which does not have competence to hear it and the defendant fails to appear, the court shall declare, of its own motion, that it lacks jurisdiction.

Article 494: A foreign writ of execution shall be enforced subject to the following conditions:

- (a)The writ is not incompatible with the sharia, public morals or the public order regulations in force in Yemen;
- (b)The Yemeni courts do not have competence for the dispute which is the subject of the writ and the foreign court which issued the writ does have competence under the rules on international jurisdiction established by the law concerned of the country;
- (c)In keeping with the principle of reciprocity, the writ is to be enforced under the same conditions as apply in the requesting country to the enforcement of Yemeni writs of execution;
- (d)The writ of execution was issued by a competent court or judicial body and the ruling or order has the force of *res judicata* under the law of the foreign State concerned;
- (e)The opposing parties in the case which forms the subject of the foreign ruling were summoned to appear before the court and did in fact appear;
- (g)The foreign writ of execution is not incompatible with any ruling previously issued by the Yemeni courts.

Article 495: Official writs of execution drawn up in a foreign country are enforceable under the same conditions as apply under the law of that country to the enforcement of official writs of execution drawn up in Yemen. A request for an order to enforce a writ shall be submitted to the court of first instance in the jurisdiction of which enforcement is sought only after it has been established that the writ is an official document according to the law of the country where it was prepared and that it contains nothing which is

incompatible with public morals or public order regulations in Yemen.

Article 497: The foregoing rules shall apply without prejudice to treaties contracted or to be contracted between Yemen and other States on this subject.

(i) Extradition

115. The Republic of Yemen has concluded extradition treaties, including the following.

The Security Cooperation Treaty between the Kingdom of Saudi Arabia and the Republic of Yemen of 1996

Article 11: Extradition shall be carried out as follows: extradition shall be mandatory if the request meets the following two conditions:

(a) The offence, as described by the competent authority in the requesting State on the basis of the applicable norms in that State, constitutes a serious offence for which the penalty is fixed, is retribution or is left to the court's discretion under the sharia, or is not less than six months' imprisonment under the ordinary law;

(b) The offence was committed in the territory of the requesting State or outside the territory of both States and the law of the requesting State punishes offences committed outside its territory. Extradition of a wanted person, who is a national of the requested State is optional.

Agreement of 1996 between the interior ministries of the Republic of Yemen and the Republic of Djibouti

Article 10: The Ministries shall work with their respective authorities, in particular the criminal investigation authorities, to ensure the enforcement of sentences and to respond to requests for the extradition of accused persons and persons convicted under the laws applicable in both countries and under the Arab Convention on Judicial Cooperation.

Security Cooperation Treaty of 1998 between the Republic of Yemen and the Great Socialist People's Libyan Arab Jamahiriya

Article 4: The two parties shall cooperate and assist one another in the search for fugitives from justice who have been accused or convicted of offences.

Article 14: Extradition shall be mandatory if the request meets the following two conditions: (a) the offence, as described by the competent authority in the requesting State on the basis of the applicable norms in that State, is punishable under the regulations and laws applicable in the requesting State by a minimum term of six months' imprisonment; (b) the offence was committed in the territory of the requesting State or outside the territory of both States, and the law of the requesting State punishes offences committed abroad.

Security Cooperation Treaty of 2002 between the Republic of Yemen and the State of Qatar

Article 2: The two sides shall strengthen their cooperation and shall assist one another in tracking down fugitives from justice and persons accused or convicted of committing an offence.

Article 8: Subject to the rules and conditions set out in this section, the parties shall extradite persons present in their territory who have been charged with, or convicted of, offences by the competent authorities in the other State.

Article 9: Extradition shall be mandatory if the request meets the following conditions: (a) the acts, as characterized by the competent authority in the requesting State on the basis of the applicable law in that State, constitute an offence under the regulations and laws in force in the requesting State which is punishable by a minimum of six months' imprisonment. This provision shall apply, even if the offence was committed outside the territory of the requesting and the requested State, where the laws and regulations in the requesting State punish the offence whether it was committed in that State or abroad; (b) the judgement handed down by the judicial authorities in the requesting State imposes a custodial sentence of not less than six months' duration.

Article 10: Extradition is prohibited if the act concerned is no longer a designated offence or the penalty is inapplicable under the regulations of the requesting State.

(j) Seizure and confiscation of goods and proceeds, and closure of premises

116. As stated in article 453 of Republican Decree No. 13 of 1994, concerning general directives: "The Department of Public Prosecutions shall petition the courts to order the confiscation of seized items which may lawfully be confiscated. The bill of indictment and the committal order issued to the defendants shall cite the articles of the law on which the Department of Public Prosecutions bases its request for a confiscation order."

117. Under article 281 of the Code of Offences and Penalties of 1994 "a term of up to 10 years' imprisonment shall be imposed on anyone who manages a house or premises of any kind used for engagement in acts of debauchery or prostitution. In all circumstances, the house or premises shall be closed for a period of up to two years and orders shall be given for the confiscation of furnishings, equipment and other articles that were on the premises when the debauchery or prostitution was taking place.

118. We were unable to obtain figures on the number of cases where goods and proceeds have been seized and confiscated and premises have been closed under the conditions to which the Optional Protocol refers.

(k) Protection of the rights of child victims

Measures taken during trial proceedings

119. The best interests of the child are the primary consideration in the basic legislation and regulations. In order to safeguard the best interests of children, to protect and care for young persons and to ensure that children receive a fair and impartial hearing that protects their privacy and takes account of their psychosocial background, the Republic of Yemen has set up a special system of juvenile justice with juvenile courts, prosecution offices and police departments, together with reform institutions. Juvenile divisions have been created in nine courts and juvenile prosecution offices have been established in nine governorates (Sana'a, Aden, Ta'izz, Abyan, Hudaydah, Hadramawt, Hajjah, Ibb and Dhumar).

120. In article 2 of the Juvenile Welfare Act a "juvenile" is defined as anyone who was under the age of 15 full years when he or she committed a legally designated offence or was at risk of delinquency. The draft amendments to the laws on children include provisions raising the age of a juvenile to 18 years. The text is now before the House of Representatives for consideration and adoption.

Modalities for determining the true age of a child

121. Article 9 of the Juvenile Welfare Act provides: "The age of a child shall be determined solely on the basis of an official document. If no such document exists, the determination shall be made by an expert."

Respect for the dignity of children during questioning

122. Yemeni law prohibits the use of violence, any form of ill-treatment or physical restraints during interviews with children. Article 14 of the Juvenile Welfare Act states: "Juveniles shall not be subjected to ill-treatment or placed in iron restraints, and physical coercion shall not be used to enforce a sentence handed down pursuant to this Act."

Right of parents to be present during questioning

123. Article 131 of the Children's Rights Act stipulates: "Trials of young persons shall be conducted in camera and may be attended only by the relatives of the defendant, the witnesses, the lawyers and social workers".

Informing children of their legal rights

124. Article 48, paragraph (c), of the Constitution stipulates: "Any person who is arrested on suspicion of having committed an offence must be brought before a court within 24 hours of the date of arrest. The court or the Department of Public Prosecutions shall inform the person of the reasons for the arrest and shall question him and permit him to make statements in his defence and to lodge any objections. A substantiated order for an extension of custody or the release of the arrested person must be issued without delay. Under no circumstances may the Department of Public Prosecutions keep a person in custody for more than seven days without a court order. The maximum period of pretrial detention shall be determined by law."

Allowing children to express their views

125. Article 177 of the Code of Criminal Procedures states: "The interview shall entail not only notification of the charges but also the presentation of evidence on which the charges are based and a detailed discussion of the evidence. The interviewer shall ensure that the accused is granted the full right to a defence, in particular the right to refute and to discuss the evidence. The accused may present arguments in his defence at any time or ask for an investigative step to be taken. All the statements and requests of the accused shall be recorded in the case file."

Psychosocial support during trial proceedings

126. Juvenile courts are presided over by a single judge who is assisted by two social workers, at least one of whom must be a woman and must be present throughout the proceedings. Juvenile courts are presided over by special judges who are legally empowered to deal with juvenile cases. Judges are selected from a pool of persons who have received special training.

Protecting the privacy and identity of child victims

127. Although all the provisions of the Juvenile Welfare Act refer to juvenile offenders, the procedures for conducting juvenile trials and the guarantees afforded to young persons in court, in particular the protection of the privacy and identity of child victims. The Act stipulates that proceedings must be conducted in camera and that boys and girls must be heard separately. Juvenile trials must be conducted expeditiously. The Juvenile Welfare Act No. 24 of 1992, as amended by Act No. 26 of 1997, includes the following articles:

Article 14: "A juvenile must not be subjected to ill-treatment or placed in physical restraints. Physical coercion of convicted persons subject to this Act is prohibited as a means of enforcement."

Article 19: "A juvenile accused of a serious or a lesser offence must have a defence lawyer. If the juvenile has not engaged a lawyer, the Department of Public Prosecutions or the court shall appoint one pursuant to the rules laid down in the Code of Criminal Procedures."

Article 20:

(a) Juvenile trials shall be conducted in camera and may be attended only by the juvenile, his or her relatives, the witnesses, social workers and any other person that the court may give special permission to attend;

(b)The court may order the removal of a juvenile from a hearing after he or she has been questioned or the removal of any of the persons listed in the preceding paragraph, if it deems this to be necessary;

(d)The court may not order the removal of the juvenile's lawyer or social worker if it has already ordered the removal of the juvenile. The court may return a guilty verdict only after the juvenile has been informed about what occurred in his absence;

(e)The court may excuse the juvenile from attending the proceedings in person, if it deems this to be in the juvenile's interests. It will be sufficient for the juvenile's guardian or tutor to attend. In such cases, the verdict shall be deemed to have been pronounced in the presence of the parties.

Article 21: In cases where a juvenile is at risk of delinquency or is accused of a serious or a lesser offence, before making a decision, the court may hear the testimony of a social worker who has already submitted a background report explaining the factors that led the juvenile into delinquency or the risk of delinquency and setting out any proposals for the young person's reform. The court may also enlist the assistance of an expert in such cases.

Article 22: Where a court considers that the physical, mental or psychological state of a juvenile during the investigation or trial proceedings is such as to necessitate an examination of the juvenile before a decision can be taken on the case, it shall issue an order for placement of the juvenile under observation in an appropriate facility for whatever length of time is deemed necessary. The investigation or trial shall be suspended until the examination is completed.

Article 25: The parents, guardian or person responsible for the juvenile shall be notified of any procedure of which the juvenile must be informed by law and of any ruling delivered with respect to the juvenile. Any of the aforementioned persons, acting in the juvenile's best interests, may mount a legal appeal.

Article 28: The judge of the juvenile court in the jurisdiction of which the sentence is to be served shall have exclusive competence for ruling on all disputes and for issuing decisions and orders on the enforcement of sentences handed down to a juvenile. The judge, when deciding on the modality of enforcement, shall be bound by the rules set out in the Code of Criminal Procedures. The juvenile court judge shall have competence for overseeing and monitoring the enforcement of judgements and decisions handed down in respect of a juvenile and shall be provided with reports on enforcement measures. The juvenile judge or a court expert acting on his behalf shall visit reform and rehabilitation homes and juvenile facilities at least once every three months. It is for the juvenile court judge to decide whether the reports submitted to him by these institutions are satisfactory.

Article 29: Young men and women must not be placed in the same rehabilitation and welfare institution.

Article 52: The name or a picture of a juvenile or the details or a summary of his trial may not be published in any medium.

Providing for the safety of victims and the protection of witnesses

128. The internationally recognized principle of witness protection is a modern concept which has yet to be incorporated into Yemeni legislation. However, Yemen applies this principle by honouring its commitments under the international treaties which it ratifies. In keeping with this principle, the law enforcement authorities are required to adopt measures to protect witnesses and to prevent them from suffering harm at the hands of defendants or their relatives.

Ensuring the right of child victims to compensation

129. Children, like other members of society, are entitled to receive compensation which is awarded to them as victims of an offence. Under article 9 of the Code of Offences and Penalties No. 12 of 1994, the right to compensation for damage arising from an offence is guaranteed without prejudice to the rights of others. Consequently, the right to compensation is guaranteed to children just like all other persons.

VI. Prevention of the sale of children, childprostitution and child pornography

(a) Legislative, judicial and administrative measures and policies and measures adopted to implement the Optional Protocol

130. After Yemen ratified the Optional Protocol in August 2007, the national strategy for children and young persons, 2006-2015 was adopted. A plan for the implementation of the strategy was subsequently adopted in October 2007. The plan focused on Millennium Development Goal No. 3 and the Convention on the Rights of the Child and took 12 themes as priority issues to be addressed in regard to children and young persons. One of the themes includes a component on protecting deprived children which entails the following:

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

Developing a shared vision and promoting joint action (government institutions and civil society organizations) geared to helping deprived children

Introducing social welfare measures

Strengthening judicial reform and improving laws on young persons by, for example, raising the age of criminal responsibility and making provision for alternative penalties

Endeavouring to eliminate violence against children by monitoring and documenting cases and rehabilitating and reintegrating victims

Ensuring inter-agency coordination in order to prevent duplication of effort

131. In order to protect children and their rights, a number of public departments and subdepartments engaged in child protection activities were set up in ministries such as the Ministry of Social Affairs and Labour, the Ministry of the Interior, the Ministry of Human Rights, the Ministry of Technical Education and Vocational Training and the Ministry of Justice.

132. Yemeni legislation on children has been revised and amendments have been made to it in accordance with the Convention and the two Optional Protocols. The relevant parts of 14 laws were revised and amended and articles were added to, or deleted from, a total of 11 laws. The amendments were approved by the Cabinet and at the time of writing this report were before the House of Representatives for consideration and adoption.

133. The Ministry of Human Rights took part in a national human rights capacity-building project to provide support to a number of non-governmental organizations through the establishment of human rights information centres and the holding of workshops on the rights of children under international treaties and domestic laws.

134. The Higher Council for Motherhood and Childhood set up a number of national networks to unify and step up efforts to protect and safeguard children. The networks include: the National Committee against Child Smuggling, which is made up of relevant bodies; the national network for the welfare of children in conflict with the law; and the national network on violence against children. A national plan against child smuggling is being drawn up and will be circulated among the relevant institutions for action.

135. Yemen and Saudi Arabia, supported by the UNICEF bureaux in Yemen and the Gulf States, liaise and cooperate with one another in efforts to combat child smuggling. Procedures are in place to deal with children who are apprehended and repatriated, and a system for information exchange has been established. Exchanges of visits are arranged in consultation with the competent authorities in the Kingdom of Saudi Arabia. The first visit took place in June/July 2006, the second in Sana'a in July 2006, the third in Sana'a in November 2006 and the fourth in Riyadh in October 2007. A set of recommendations was produced, the most important of which are set out below:

Reinforce existing cooperation between the two countries by conducting studies and creating mechanisms to curb the problem of child smuggling and by developing national plans to that end

Conduct a joint bilateral study on the problem of tackling child smuggling, with the participation of an international academic institution

Strengthen the role of civil society in action to suppress child smuggling

Support and develop legal procedures to deal with child smugglers

Implement the recommendations of the symposium on child trafficking organized by UNICEF in conjunction with the Naif University for Security Sciences

Propose the creation of a bilateral liaison committee to follow up on the recommendations and of a liaison committee in each of the two countries

Step up awareness and information programmes in both countries

Appoint a coordinator in each State

136. Details of all children smuggled or sent back to a port of entry by the security services (Ministry of the Interior) have been recorded and fully documented. Many persons accused of child smuggling have been referred to the Department of Public Prosecutions or the courts.

137. The table below shows the number of children sent back from neighbouring States to the children's reception centre in the period from 2005 to 2007.

Table 4

Number of children repatriated by neighbouring States and sent to the children's reception centre in the period from 2005 to 2007

Item	Year	No. of children
1	2005	386 (3 girls)
2	2006	873
3	2007	603

138. Prosecutor's offices and the courts take all necessary measures to deal with child smugglers. Child smuggling cases are treated as urgent matters, and several defendants have been convicted for child smuggling.

139. The Democracy School formed a team of volunteer lawyers to defend juvenile offenders or children in conflict with the law.

140. In 2007, the Children's Parliament carried out its first and second visits in 2007 to institutions that deal with children such as hospitals, health centres, residential facilities, youth centres and orphanages. The purpose was to prepare a report on the situation of children and to learn about the child protection policies applied in these institutions. The report was submitted to the relevant institutions for decision-making purposes. The first report covered Sana'a City governorate and the second all the governorates of the

Republic.

141. The Children's Parliament held its fourth session, which was devoted to the subject of emptying prisons and detention facilities of children. The discussion revolved around the Parliament's report on its visits to places of detention (pretrial detention centres, police stations and central prisons) in Sana'a City governorate on 1 January 2007. The Parliament produced a set of recommendations on the need for a second round of countrywide visits and on the preparation of a report on conditions for children in prisons and police stations which would be discussed with a view to taking action and bringing the relevant authorities to book.

142. Regular meetings of the Children's Parliament were held to discuss issues affecting children in all areas of life in Yemen (education, health, social welfare, child-raising, etc.). The issues were discussed with a view to taking action and bringing the relevant authorities to book. Appropriate recommendations and proposals were formulated and submitted to the President of the Republic, the Prime Minister's Office and the House of Representatives for action.

(b) Awareness-raising

143. The general aims of our country's public information policy under the third five-year plan (2006-2010) include the creation of awareness programmes to promote the welfare of women and children and more extensive use of the media to inform the public about women's and children's issues. The text of the Convention on the Rights of the Child was disseminated among all the media in order to publicize and raise awareness of its contents. The Ministry of Information took part in a study entitled "Our children and public awareness of ways of caring for them and developing their capacities" and another entitled "For a balanced approach to

children, their protection and the development of their capacities". The governmental and non-governmental media deal with children's issues through various programmes, including the following.

The press

144. Press institutions raise awareness of children's rights through their publications. The three government newspapers (*Al-Thawra*, *Al-Jumhuriya* and *14 October*) devote considerable space to mothers' and children's issues. *Al-Thawra* newspaper produces a weekly family supplement which devotes space to articles about children and the social, health, cultural and legal issues that affect them. The texts of the Convention on the Rights of the Child and of the Optional Protocols were published in the newspaper. The newspaper has another supplement called "People and issues", which also deals with childhood, youth and similar subjects.

145. *Al-Jumhuriya* Institute produces a newspaper, *Al-Thaqafiyah*, which publishes a bimonthly children's magazine in the form of a supplement bearing the title "Young intellectual". The supplement helps to raise awareness of legal and social rights, and of sound child-raising techniques which eschew the use of violence. It also helps to realize the cultural and educational rights of Yemeni children. *Al-Islah Social Charity* (a non-governmental organization) produces a magazine, "Usamah", which familiarizes children with their rights through stories and articles written especially for the purpose.

146. The Shudhab Foundation (a non-governmental organization) publishes a magazine called "Shudhab children", which acquaints children with their rights and seeks to encourage their talents. The Foundation has produced a guide which uses cartoons, accompanied by written text, to show children how to protect themselves from harassment and exploitation.

147. A number of government newspapers (*Al-Thawra*, *Al-Jumhuriya* and *14 October*) and private and party publications, including *Al-Ayyam*, *Al-Nas* and *Al-Wahda*, have written reports, and carried out investigations, illustrated by photographs, dealing with children's issues, the dangers of child labour and child smuggling and the problem of children in conflict with the law.

148. There are several children's newspapers and magazines, including the magazine "Usamah", which draw attention to issues such as child labour, children dropping out of school and violence against children.

149. Special columns in newspapers are used to present photographs, caricatures, pictures and comments on children's problems and possible ways of dealing with them.

150. The Yemeni News Agency (Saba) pays particular attention to stories connected with the Convention on the Rights of the Child and the Optional Protocols, covering events and activities such as seminars, courses and workshops on children. Through its dedicated news department, the Agency focuses a great deal of attention on the Convention and the Optional Protocols as a means of increasing the public's awareness and deepening its understanding of children's rights. The Agency has a special web portal for children which transmits information about events and activities.

Radio

151. Radio plays a key role in the promotion of children's rights, since it broadcasts programmes targeting a wide cross section of listeners, especially those in rural areas. The programmes presented on radios 1 and 2, including local radio, to raise awareness of children's rights, involve a series of media activities designed to make the Convention on the Rights of the Child more widely known, with particular attention being paid to the dangers of child smuggling.

Television

152. Television has an influential and an important role to play, as it is a varied and direct medium. It is therefore used to raise awareness of children's rights in the following ways:

"The Guards", a television programme developed by the General Department of Public Relations of the Ministry of the Interior and shown on Channel 1, takes the theme of children in conflict with the law as a vehicle for drawing attention to the effects of juvenile

delinquency on children and society and the dangers of violence against children, the exploitation of children and child smuggling

Numerous public information flashes are broadcast on child-related subjects

153. In early 2006, a programme was presented in cooperation with the Higher Council for Motherhood and Childhood, on the Children's Rights Act and the contents of the Convention on the Rights of the Child. The aim was to disseminate information about the Convention and to publicize the principles and provisions embodied therein, such as those prohibiting the use of violence against children, children's engagement in hazardous work that is harmful to their health and their subjection to cruel and inhuman treatment.

154. The Ministry of Human Rights endeavours to raise awareness of children's rights principles and concepts and of the issues which touch upon these rights. The Ministry is working on several fronts to raise awareness of children's rights by disseminating these principles among all segments of society. As part of this endeavour, the Ministry recently conducted a number of public information activities on child smuggling, including, in particular, the following:

A monitoring and reporting centre on child smuggling was created.

Information campaigns targeted at parliamentarians, members of local government, security officials and mosque imams were run in the governorates of Hajjah, Muhwayt, Hadramawt, Mahra, Hudaydah and Rimah. Leaflets on the dangers of child smuggling were distributed in these governorates in order to sensitize the public to the issue.

The Ministry, in conjunction with the Save the Children Sweden organization, incorporated the subject of child smuggling into the lectures on fundamental children's rights which are delivered to students at the Sana'a University Faculty of Education.

The Ministry, in conjunction with the Ministry of Communications and Information Technology, set up a free hotline for the monitoring and reporting centre on child smuggling.

Various public information campaigns on child smuggling, its effects and dangers were conducted in areas and governorates where the problem is most prevalent.

A training course on child smuggling was held for journalists, media personnel and persons who work for civil society organizations which operate in this domain, in order to help to draw attention to the problem.

The cultural recreation centre in the Ministry of Social Affairs and Labour bureau in the Hajjah governorate organizes public information activities in the Aflah al-Sham district of the governorate on establishing children's councils and boosting the role of child protection teams.

The Shudhab Foundation (a non-governmental organization) has created a set of cartoon characters depicting the Yemeni family and has begun production of an animated film to sensitize children to the impact and the dangers of child smuggling.

The Ministry of the Interior organized the second "week" for the police and guidance counsellors on child-related issues. A number of publications were produced and programmes and discussions were broadcast on the radio and television as part of the Ministry's scheduled programmes.

Governmental and non-governmental organizations, supported by UNICEF and Save the Children Sweden, worked together to produce information leaflets and posters on the topic of protecting children from violence, exploitation in hazardous work and smuggling and on the best way of dealing with children inside a police station. A guide is now being compiled which will offer advice on the same subject.

The Democracy School (a non-governmental organization) produced an animated film entitled "Children's story" with the participation of children. The film takes up the themes of violence against children and child sexual abuse. A compact disc containing information on violence against children was also produced. As part of a child protection programme, eight posters were produced on the following themes: offensive physical touching; returning home late; playing with children of the same age; avoiding smoking and bad habits; avoiding speaking to, or going anywhere with, strangers; the importance of obtaining a birth certificate; and talking to adults about matters of which children are ignorant.

The Ministry of Endowments and Guidance produced booklets and publications and prepared model homilies for mosque preachers on the subject of children. Through guidance counsellors, operating in mosques and public venues, the Ministry raises awareness of these issues, including child smuggling.

VII. International assistance and cooperation

(a) Measures taken to address the root causes of the problem, such as poverty and unemployment

155. The Republic of Yemen implements national policies and programmes aimed at improving the socio-economic status of the families of smuggled children through:

Anti-poverty programmes and the widening of the social safety network to include targeted areas. The programmes include: small loans; productive family schemes; the Social Fund for Development; the Social Welfare Fund; and the Disabled Persons Welfare Fund.

Support is provided for a number of civil society organizations which assist poor families, including the Al-Salih Foundation for Social Development, which was founded in 2004 with the aim of eliminating poverty and improving living standards in the Republic.

Efforts by the Government to eliminate poverty and unemployment

156. The Government is perfectly well aware of the complexities of the unemployment problem, particularly following the job cuts in the government, public and mixed economy sectors as a result of the economic reform programme. Reducing unemployment levels poses a number of challenges, in particular that of achieving rates of economic growth which outstrip rising levels of manpower supply. In such circumstances, and in the light of current and future challenges, the Government has had to adopt a strategic planning approach which gives top priority to meeting the short- and long-term needs of Yemeni society and to creating a society which is capable of generating employment, driving economic development and complementing the role of the Government, since the person is both the object of development and the means by which it is achieved.

157. According to the results of the 2004 general census of dwellings, inhabitants and enterprises, the projected rate of unemployment for 2005 was 16.5 per cent. The figure had fallen by 2006 to 15.8 per cent of persons aged 15 and over. As a result of high rates of population growth, the population increased from 11.1 million in 2005 to 11.4 million in 2006, a rate of 2.7 per cent per annum. Although the unemployment rate has fallen sharply, it is still among the highest in the developing world.

158. The most important socio-economic strategy documents which drive the Government's actions are: "The strategic vision for Yemen until 2025"; the first socio-economic development plan, 1996-2000; the second plan, 2001-2005; the poverty reduction strategy, 2003-2005; and the third five-year plan for socio-economic development, 2006-2010.

159. Established policies and programmes focus on addressing fully the root causes of poverty and reducing the impact of poverty by strengthening the social safety net and creating a social protection mechanism for the poor and other groups adversely affected by the economic,

financial and administrative reform process. Initiatives for poverty alleviation and the elimination of unemployment have been developed into expanded programmes designed to include the following safety net and social protection mechanisms:

The Social Fund for Development and the Public Works Programme, which were set up to create a diverse range of public services and projects for the development of basic physical and social infrastructure, in particular by helping to increase productivity, stimulate investment, end the isolation of rural areas, expand markets and generate employment, in addition to raising the level of human development.

In keeping with the objectives of the national strategy for the development of small industries and enterprises, the Small Industry and Enterprises Fund offers limited amounts of micro-credit for the creation of income-generating small businesses and micro-enterprises and for employment generation.

The Agricultural Production and Fishing Support Fund finances and runs several projects and programmes relating to irrigation, water companies, crop production, animal raising and fishing. The Local Authority Act supports the decentralization process.

The national programme for the development of productive communities and families was set up to create services-centres that would assist families and local communities, and particularly women, afflicted by poverty.

The Social Welfare Fund offers cash assistance to impoverished inhabitants, older persons, orphans bereft of a family carer and impoverished rural women.

The Disabled Persons Welfare and Rehabilitation Fund provides social, institutional, individual and community welfare and rehabilitation services to persons with disabilities.

The General Insurance and Pensions Authority provides insurance coverage for civil servants and employees in the public and mixed economy sectors.

The General Social Insurance Institute provides insurance coverage for private sector employees.

The Military Pensions Department of the Ministry of Defence provides insurance coverage for military personnel.

The General Department for Pensions at the Ministry of the Interior provides insurance coverage for employees of the Ministry and of the public security services.

160. Notwithstanding the achievements scored between 2004 and 2006 by various safety net and social protection programmes and projects and the success of efforts to bring inflation under control, which have had a positive impact on the maintenance of real income and the protection

of low-income groups, the economic growth rate has been too low to raise the population's living standards and generate productive employment capable of guaranteeing sustainable growth, of reducing poverty and of curbing unemployment.

Protection of victims

161. A number of safe childhood centres for the protection and rehabilitation of street children were set up, with support from international organizations operating in Yemen such as UNICEF, and civil society associations were enlisted to help with the administration and running of these centres. The safe childhood centres offer street children social welfare, psychological recovery and social reintegration services through a diverse range of integrated activities which begin with drawing street children into the centres and offering them rehabilitation (health, education, culture, leisure, sports and work) and culminate in the return of children to their families or their natural environment or, as in the case of orphans, for example, in placement in an alternative environment such as a social welfare home. Children who use the services of these centres tend to be homeless or to come from broken families or to be

victims of domestic violence who have run away from home.

162. There are three safe childhood centres located in the governorates of Sana'a City, Aden and Ta'izz respectively. The centres are managed and overseen by civil society associations entrusted with the task by the Ministry. A total of 1,026 street children used the services of the centres in the period from 2002 to 2005. There are many other private associations devoted to the protection and rehabilitation of street children. Some of these associations are subsidized by the Government; others are independently funded. These associations are particularly active in this domain.

163. Table 5 shows the number of users of safe childhood centres (street children) in the governorates in 2006.

Table 5

Number of users of safe childhood centres (street children) in the governorates in 2006

Item	Name of centre	Governorate	Number of users
1	Safe childhood centre	Sana'a City	104
2	Safe childhood centre	Aden	143
3	Safe childhood centre	Ta'izz	149
Total		396	

164. Ten social reform homes, eight for boys and two for girls, were established in eight governorates for children in conflict with the law. The homes offer children who have been convicted by the courts care, rehabilitation and training, providing social welfare, psychological recovery and social reintegration services to young offenders between 7 and 15 years old. The services are used by close to 900 boys and girls each year.

Table 6

Number of juvenile reform institutions in the Republic of Yemen

Item	Name of institution	Governorate	Capacity	Number of users per annum	Year established	Main oversight bodies	Main support bodies
1	Social Reform Institution for Boys	Sana'a City	150	3 000	1979	Ministry of Social Affairs	Ministry of Social Affairs
2	Amal Welfare Institution for Girls	Sana'a City	50	40	2001	Ministry of Social Affairs, run by Al ISalih Foundation	Ministry of Social Affairs, run by Al ISalih Foundation
3	Social Reform Institution for Boys	Aden	50	110	2000	Ministry of Social Affairs, run by the Association for Persons with Special Needs	Ministry of Social Affairs, Al ISharqah Association
4	Social Reform Institution for Girls	Aden	50	15	2005	Ministry of Social Affairs	Ministry of Social Affairs
5	Social Reform Institution for Boys	Ta'izz	50	135	1979	Ministry of Social Affairs, private board of governors	Ministry of Social Affairs, private board of governors
6	Social Reform Institution for Boys	Hudaydah	50	165	2003	Ministry of Social Affairs	Ministry of Social Affairs
7	Social Reform Institution for Boys	Ibb	60	40	2003	Ministry of Social Affairs	Ministry of Social Affairs
8	Social Reform Institution for Boys	Hadramawt	50	45	2003	Ministry of Social Affairs	Ministry of Social Affairs
9	Social Reform Institution for Boys	Hajjah	30	50	2005	Ministry of Social Affairs	Ministry of Social Affairs
Total		900					

165. For the first time ever, young persons with a debt to society are receiving care. Once they have served their sentences, they are released from special children's wards in prison and are entrusted to their guardians, who must promise to care for them and make sure that they do not reoffend.

(b) Relevant international conventions and treaties

166. The Republic of Yemen has ratified a number of relevant international conventions, which are listed below:

The Slavery Convention of 1926, as amended by the Protocol of 1953 (ratified on 9 February 1987)

The ILO Forced Labour Convention, 1930 (No. 29) (ratified on 14 April 1969)

The ILO Abolition of Forced Labour Convention, 1957 (No. 109) (ratified on 14 April 1969)

The Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (ratified on 9 February 1987)

The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (ratified on 6 April 1989)

The ILO Worst Forms of Child Labour Convention, 1999 (No. 182)

(c)International financial assistance

167. International donor organizations, including UNICEF and a Swedish child welfare organization, together with the Social Fund for Development offer financial and technical assistance for awareness-raising workshops, training programmes and the preparation of training manuals on the implementation of the Optional Protocol.

(d)Relevant legal provisions not found in the Optional Protocol

168. We were not able to obtain any information on this subject. Any such information will be included in future reports.
