



INFORMATION NOTE

4th periodic report of Yemen 65th session of the United Nations Committee on the Rights of the Child

Summary of Juvenile Justice related issues

Ratification of the Convention on the Rights of the Child by Yemen: May 1, 1991
Previous report presented in: June 2005 (39th session of the CRC)

1.1 JUVENILE JUSTICE - KEY ISSUES

I) Legislation:

- Undertook comprehensive review of Children's Act No. 45 of 2002, Juvenile Welfare Act No. 24 of 1992, Prisons Regulation Act No. 48 of 1991, and Military Penal Code No. 21 of 1998.
- The Juvenile Welfare Act was reviewed and draft amendments to a number of articles were submitted to the House of Representatives after they had been approved by the Government. Four new articles were also drafted for addition to the Act, specifically:
 - Article 1 bis, which defines a juvenile, for the purposes of the Act, as any person who was over 10 and under 18 when he or she was at risk of delinquency or considered a danger to society or committed an unlawful act;
 - Article 4 bis, which defines a juvenile at risk of delinquency as a person who 1) commits, participates in or facilitates the commission of any act defined in the Penal Code as a criminal offence, 2) commits an act associated with prostitution, indecency, depravity, immorality, gambling or drugs, or knowingly works for someone involved in such activities. In all instances, the measures prescribed in article 36 of the Act shall be imposed on juveniles below the age of 15. If the juvenile is over 15, the penalties in article 37 shall be imposed,
 - Article 12 bis: investigation into an assault of juvenile must be taken.
- A presidential decree concerning a regulation on the organization of the Ministry of Justice was issued, setting out the terms of reference for the technical bureau. The terms of reference include mention of children, in particular efforts to improve conditions for children in detention or placed in correctional facilities and offer legal guarantees to ensure that their treatment is consistent with domestic laws and international treaties.

II) Minimum age of criminal responsibility:

- Raising the age of majority to 18 years is under review, as well as raising this number for criminal responsibility, the age of marriage and the age of voluntary military service.



- Provisions prescribing penalties for offences committed against a person under 18 years of age have also been added to the relevant articles. These offences include: incitement of minors to theft; violation of personal liberty; use of force; deprivation of liberty; slavery; abduction and associated offences; threat; rape; indecent assault with coercion; incitement to prostitution and depravity; forcing a confession; and organ trafficking.

III) Number of children and length of detention:

a) Access to data:

No

X :Yes : *Data found in CRC Yemen report*

- From the statistics on record at the Ministry of the Interior and the Ministry of Social Affairs and Labour, it is clear that the number of cases of children in conflict with the law declines as the stages progress inasmuch as fewer cases are presented to the Department of Public Prosecutions than are registered by the police and court sentencing occurs in fewer cases than are brought by the Department of Public Prosecutions. This confirms that child rights principles, in particular that of the best interests of the child, are taken into account in dealing with such cases, the aim being to guarantee an appropriate protective environment for the child's rehabilitation and social reintegration, which also reflects the commitment.

Number of imprisoned children, 2003–2008

Item	Name of prison	2003	2004	2005	2006	2007	2008
1	San`a	46	44	53	54	63	56
2	Aden	12	4	13	20	27	75
3	Hudaydah	15	8	4	7	39	29
4	Ta`izz	2	2	2	2	4	6
5	Ibb	18	9	54	36	24	25
6	Hajjah	5	7	8	24	12	5
7	Dhamar	7	35	62	36	46	36
8	Hadramawt	5	4	4	6	17	35
9	Amran	8	1	14	14	15	28
10	Sa`dah	15	34	96	15	25	10
11	Rada`	4	7	26	38	28	31
12	Dali`	6	0	22	10	0	3
13	Mahwit	4	1	2	1	1	2
14	Abyan	2	1	1	2	2	1
15	Lahij	3	3	19	9	13	10
16	Bayda`	3	2	1	2	1	None
17	Shabwah	2	1	1	1	1	None
18	Seiyun	1	None	1	None	None	None
19	Ma`rib	3	1	2	1	1	4
20	Mahrah	1	None	1	None	1	None
21	Jawf	None	None	None	None	None	None
Total		162	164	386	279	320	356



Number of children living with their mothers in prison, 2003–2008

Item	Name of prison	Number of children
1	San`a	21
2	Aden	10
3	Hudaydah	13
4	Ta`izz	10
5	Ibb	8
6	Hajjah	1
7	Dhamar	2
8	Hadramawt	1
9	Amran	1
10	Sa`dah	2
11	Rada`	1
12	Dali`	1
13	Mahwit	1
14	Abyan	2
15	Lahij	2
16	Bayda`	None
17	Shabwah	None
18	Seiyun	None
19	Ma`rib	None
20	Mahrah	1
21	Jawf	None
Total		162

IV) Trial conditions:

- Children and death penalty and life imprisonment legislation
 - Children under the age of 7 are not held criminally responsible under Article 31.
 - If he is between 7 and 15, the judge shall order, instead of the prescribed penalty, imposition of one of the measures provided by the Juveniles Act.
 - If the offender was over 15 and under 18 years of age, he shall be sentenced to a penalty of not more than one half of the maximum penalty prescribed by law.
 - Article 37 of the Juveniles Act provides that if a juvenile who is over 15 years of age commits a crime punishable by the death penalty, he shall be sentenced to a term of imprisonment of not less than 3 years and not more than 10 years. In all other offences, he shall be sentenced to a penalty of not more than one quarter of the maximum penalty prescribed for each offence by law.
 - No young person shall be held fully criminally responsible if he was under 18 years of age at the time of committing the act.

V) Detention conditions

a) In general (access to health, education, etc.):



- Refugee children in conflict with the law are dealt with in accordance with the principles and measures provided for in the Convention on the Rights of the Child, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, and domestic laws and legislation.
- The same legal proceedings are followed in their cases as for Yemeni children in conflict with the law; their cases are heard by juvenile courts and non-custodial measures are imposed on them or they are placed in juvenile care homes where their interests so require.
- They are also provided with pro bono legal aid during legal proceedings to ensure that they are protected from any violence, abuse or violation of their rights.
- Children in the 15-18 age group are placed in separate wards in main correctional facilities on the basis of the age of juveniles as defined in the current laws, as the draft amendments emphasizing that children up to the age of 18 must enjoy the rights afforded under the Convention on the Rights of the Child to children in conflict with the laws have not yet been approved. A number of considerations are nonetheless taken into account when dealing with such children, including:
 - Their segregation from adult prisoners and placement in separate wards where their privacy is respected;
 - Access to educational, health and cultural services and skills training.
- Children under 2 are kept with their mothers in prison, as it is in the best interests of children of this age to stay with their mothers. After, children are handed to a guardian if one is available.
 - Prisons have a special children's area, where there is a library housing children's storybooks, a television and children's toys. The Central Prison Administration in San'a pays for the children's milk and food every month and other entities, including the Ministry of the Interior, the Ministry of Human Rights, the Saleh Foundation and charities, provide milk, soap, biscuits and other forms of assistance
- Social guidance homes provide welfare, psychological recovery and social reintegration services and activities for child offenders between the ages of 7 and 15. There are 10 social guidance homes offering care and rehabilitation for juveniles. Seven of them are boys' homes, located in San'a City and in the governorates of Aden, Ta'izz, Ibb, Hudaydah and Hadramawt, and three are girls' homes located in San'a City and Aden. The programmes and services concerned consist in:
 - Social welfare (accommodation, food and clothing);
 - Psychological recovery;
 - Education services;
 - Health services;
 - Religious guidance and counselling;
 - Cultural, recreational and sports activities;
 - Training and vocational rehabilitation.



b) Pre-trial detention:

- No juvenile under 15 years of age may be held at a police station or any other security facility but must be entrusted to the supervision of his legal guardian, testamentary tutor or authorized representative, or otherwise be placed in the nearest rehabilitation and care home for a period of not more than 24 hours, if his release is considered to pose a danger to himself or others, and referred thereafter to the Department of Public Prosecutions for his situation to be considered in accordance with the provisions of the law.
- Where necessary in the case of a serious offence, a juvenile over 15 years of age may be held at a police station for a period of not more than 24 hours and in a place that precludes him from mixing with other detainees who are older than him.
- If the charge against a juvenile is such that he must remain in custody, the competent prosecution office may order that he be placed in a juvenile rehabilitation and care home and be presented whenever requested, provided that the placement is for no more than one week, unless the court orders an extension of that period.
- The juvenile may be delivered into the care of a parent, guardian or testamentary tutor, who must safeguard him and present him whenever requested to do so. This procedure must be followed if the juvenile cannot be placed in a rehabilitation and care home.

c) Separation from adults:

- Refugee children in conflict with the law are dealt with in accordance with the principles and measures provided for in the Convention on the Rights of the Child, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, and domestic laws and legislation. The same legal proceedings are followed in their cases as for Yemeni children in conflict with the law; their cases are heard by juvenile courts and non-custodial measures are imposed on them or they are placed in juvenile care homes where their interests so require. They are also provided with pro bono legal aid during legal proceedings to ensure that they are protected from any violence, abuse or violation of their rights.
- Children under 2 are kept with their imprisoned mothers, and are then given to a guardian if one is found.

VI) Preventive measures:

- Preventive treatment aimed at developing children's abilities in various areas through training and rehabilitation for the children themselves and training for their mothers in how to cope with the children.

VII) Alternative measures:

- The concluding observations of the UN CRC report noted that it wished Yemen would promote alternative measures to detention (see below in conclusions).

VIII) Re-adaptation / reinsertion of children:

- Follow-ups to ensure the child is being protected occur.
 - With support from UNICEF and Save the Children Sweden, field visits to the governorates are conducted by members of the national network for protecting children in conflict with the law in order to evaluate the situation of such children in judicial institutions (prisons, courts, guidance homes, public prosecution offices and police stations) and check that they are receiving care and protection. A report was



submitted to the entities and institutions concerned in order for them to implement its recommendations.

- The Ministry of Human Rights follows up on children in conflict with the law, visiting central prisons, social care homes and juvenile justice institutions as part of its annual plan. It also ensures follow-up through the General Department for Communications and Complaints and the activities of the Welfare and Reform Department.

IX) Training of professionals:

- Work in the area of juvenile justice has been expanded through the establishment of new authorities, institutions and procedures, represented in two new juvenile courts, staffed with two members of the juvenile prosecution service, in Hajjah and Abyan governorates.
- The Supreme Council for Motherhood and Childhood, in cooperation and collaboration with relevant bodies, took steps to improve conditions for children in conflict with the law and to establish the National Child Protection Network to tend to the welfare of such children. The Network's purpose is to:
 - Improve conditions for children in conflict with the law and minimize the number of children in circumstances liable to place them in conflict with the law;
 - Coordinate efforts by the competent authorities to care for and protect juveniles in the framework of a joint action plan;
 - Support, assist and follow up on relevant activities and projects;
 - Raise public awareness of children's rights.
- Juvenile justice personnel have received training and capacity-building to improve their knowledge of the Convention on the Rights of the Child, other relevant international instruments and domestic laws.
- Training activities have been expanded and awareness heightened through training courses organized for a large number of governmental authorities and institutions and civil society organizations. Some examples:
 - Child rights training for nine national personnel (representing 50 per cent of all students in the first batch) as part of a master's programme in child rights at the Lebanese University, in cooperation with the Arab Institute for Human Rights;
 - Early child development training for 17 national personnel via Canada's Victoria University;
 - Special courses for judges (including presidents of juvenile courts), prosecutors, lawyers, juvenile police officers and women police officers;
 - Courses for personnel working in social care homes and for social workers working with children in conflict with the law;
 - Courses on implementation of the Convention on the Rights of the Child and the two Optional Protocols and on follow-up of the implementation of the Committee's recommendations;
 - Courses for teachers and head teachers; Courses for health professionals, personnel working with mothers and children, and mental health personnel; Courses on combating child smuggling; Courses on



combating AIDS; Special training for personnel, supervisors and experts in the area of child protection; Courses for educators on alternatives to corporal punishment in schools;

X) Role of the media:

- Multiple channels have been used to disseminate and raise awareness of the Convention on the Rights of the Child:
 - Official (audiovisual and print) and unofficial (non-governmental and political party) media;
 - Yemeni and international NGO activities;
 - Text messages and various other media to raise awareness of the rights of the child;
 - The website of the Supreme Council for Motherhood and Childhood and other governmental and non-governmental websites;
 - Radio and television spots, posters and leaflets to raise awareness of children's rights in different spheres

XI) Child participation and sensibilization:

- A number of AIDS awareness programmes have been implemented for children placed in institutional care (juveniles, street children, orphans and juveniles in prison). Approximately 900 institutionalized children benefited from these programmes. Some 2,000 leaflets were also distributed to children.
- Children take part in monitoring the conditions of children in juvenile justice institutions, as members of the Children's Parliament conduct on-site visits and meetings with these children, both periodically and on an impromptu basis. Their recommendations are then submitted to the relevant authorities via the Democracy School.

XII) Other relevant areas:

- The share of public spending on education rose from 17.6 per cent of total spending in 2000 to 21.2 per cent in 2005. Average public spending on the health sector amounted to roughly 6 per cent of GDP during the period 2005–2009, with current spending averaging 88.4 per cent of the education budget during the same period.

1.2. GENERAL OBSTACLES:

- Various difficulties and problems are encountered in working with juveniles, in particular:
 - The adoption of the draft amendments to the Juvenile Welfare Act has been delayed in the House of Representatives;
 - Juvenile care homes are understaffed;
 - The budgets allocated to juveniles care homes are still somewhat limited, especially with respect to spending on vocational, cultural and recreational activities;
 - The internal rules and the job descriptions for those working in juvenile homes are inadequate and the intention now is to start work on improving them;
 - The aftercare programme is inadequate and, because there is no mechanism for implementing it, some juveniles reoffend owing to the



lack of aftercare, which is a problem connected with the understaffing issue;

- There is no probation programme to prevent juvenile offending;
- There are few juvenile police branches in the governorates;
- There are weaknesses in the mechanism for monitoring and registering juvenile cases and violations of children's rights, notwithstanding the existence of juvenile courts, prosecution offices and care homes in some governorates;
- There are still too many entities (especially prosecution offices) involved in placing juveniles in homes in that there are dedicated juvenile prosecution offices and yet various other prosecution offices continue to place juveniles in homes, meaning that the efforts of juvenile care homes are dispersed among juvenile prosecution offices and other prosecution services;
- NGO-run homes do not play a strong enough role in delivering protection services to juveniles at the governorate level, with the exception of San`aa City and Aden;
- Many of the persons working with juveniles, particularly those working directly with them in care homes, public prosecution offices, the courts or the police service, still need continuous training, further training and sensitization.

1.3. INTERAGENCY PANEL ON JUVENILE JUSTICE: Did the Committee ask any questions in relation to technical advice and assistance in juvenile justice or if they mention the Panel in any way?

No
X: Yes

- In concluding observations of UN CRC:
 - Make ***use of the technical assistance tools developed*** by the Interagency Panel on Juvenile Justice and its members, including the United Nations Office on Drugs and Crime (UNODC), UNICEF, OHCHR and NGOs, and seek technical assistance in the area of juvenile justice from members of the Panel.

2. MAIN CONCLUSIONS AND RECOMMENDATIONS BY THE COMMITTEE:

Concerns:

- ***Cases of children who have been sentenced to death*** and executed in the State party, including a girl who was 15 years at the time of committing a crime and who was executed in 2012 and with the 33 cases of children who have already been sentenced to the death penalty, three of which were approved by the former President. Moreover, more than 150 children at risk of being sentenced to death due to, *inter alia*, the low levels of birth registration, non-guarantee of fair trial standards and the lack of clear technical criteria to determine the age of juveniles in conflict with the law.
- ***The minimum age of criminal responsibility is still set at 7 years in the Juvenile Car Act***

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(24/1992) of the State party (CRC/C/YEM/CO/Add.267, para. 75).

- ***The situation of children in conflict with the law between 15 and 18 years***, who are treated as adults by the justice system and held in prisons for adults, due to provisions in the Yemeni Juvenile Care Act, stating that only children 15 years and younger should be referred to the juvenile system
- ***The arbitrary detention of children in conflict with the law despite having served their sentence*** due to the insolvency of their parents or legal guardians to pay the relevant fines and/or civil compensations
- The ***harsh conditions faced by children detained in police stations or prisons***, the lack of adequate alternatives for pre-trial and other forms of detention and the non-respect of fair trial guarantees
- The ***lack of adequate human and financial resources of the juvenile justice system***.

Recommendations:

- ***Address definition of the child, corporal punishment, harmful practices, education and administration of juvenile justice.***
- ***Strengthen its efforts to disseminate the Convention and sensitize the public*** in general, including children about children's rights through awareness raising programmes, such as person to person communication campaigns targeting remote rural areas, with the view to ensuring that the public in general consider children a subject of rights.
- ***Strengthen its efforts to provide all professionals working for and with children with adequate and systematic training*** in children's rights, in particular law-enforcement officials, teachers, media, health workers, social workers, personnel working in all forms of alternative care and migration authorities. They should also undertake awareness raising campaigns, elaborate specific manuals and conduct capacity-building workshops.
- It recommends that the State party take the necessary measures to ensure the adoption of the legislative amendment ***to raise the minimum age of criminal responsibility*** in line with international standards.
- ***Take concrete measures to enforce article 31 of the Penal Code*** which prohibits the implementation of the death penalty against anybody whose age is under 18 years at the time of committing the crime.
- Noting the Ministry of Education issued Decree No. 426 (2012) prohibiting corporal punishment in schools, there ***is concern at the challenges to the effective implementation of this decree***, such as the lack of adequate monitoring mechanisms, the teachers' preconceptions regarding corporal punishment as a disciplinary measure and the lack of accountability mechanisms. Also, there is concern that corporal punishment continues to be widely used within the family, in alternative care settings and as a sentence for a crime.
- Committee ***notes the efforts made by the State party to strengthen the juvenile justice system***, such as the development of a juvenile justice information system in 9 governorates and the integration of children's rights in the curriculum of the Police Academy and the High Judiciary Institute.
- The State party needs to ***bring its juvenile justice system fully into line with the Convention, in particular articles 37, 39 and 40***, and with other relevant standards, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules), the Guidelines for Action on Children in the Criminal Justice System, and the Committee's general comment No. 10 (CRC/C/GC/10, 2007).
- ***Raise the minimum age of criminal responsibility*** to an internationally acceptable level.
- ***Review the relevant legislation, including the Yemeni Juvenile Care Act*** to ensure that



children in conflict with the law between 15 and 18 years are treated as children and referred to the juvenile justice system.

- **Increase the number of specialized juvenile court facilities** to cover the 21 governorates and procedures with adequate human, technical and financial resources, designate specialized judges for children and ensure that such specialized judges receive appropriate education and training.
- **Ensure the provision of qualified and independent legal aid** to children in conflict with the law at an early stage of the procedure and throughout the legal proceedings as well as ensure full respect of fair trial guarantees.
- **Ensure that all children (boys and girls) between 15-18 years old are removed immediately from prisons** for adults and transferred into juvenile care centres.
- **Develop and implement legal provisions and strict procedures to ensure that children between 15-18 years** are not sentenced to death and their cases are handled by the juvenile justice system.
- **Take appropriate measures to ensure that children in conflict with the law** are not arbitrarily detained, due to their impossibility to pay fines and/or civil compensations related to the offense they have committed.
- **Promote alternative measures to detention**, such as diversion, probation, mediation, counselling, or community service, wherever possible, and ensure that detention is used as a last resort and for the shortest possible period of time and that it is reviewed on a regular basis with a view to withdrawing it.
- In cases where detention is unavoidable, **ensure that the children are not detained together with adults** and that detention conditions are compliant with international standards, including with regard to access to education and health services.

3. DCI perspective/response:

- info on what DCI sections do on these issues
- recommendations by DCI sections

(to get this information, send the report to the National section and ask them if they have any information for this part).

Sources:

- United Nations Convention on the Rights of the Child
- United Nations Committee on the Rights of the Child. Concluding observations and recommendations to the Initial report of Yemen.
- United Nations Committee on the Rights of the Child. Initial report and 2nd/3rd periodic reports of Yemen (State reports).
- Yemen NGOs' Working Group 'on Protection of Children Rights', (Alternative report)

4. ANNEX:

5.1. CRC members present

Dr. Naser Mohsen Nasser Baoom (Head of Delegation)

H.E. Dr. Ali M. Majawar (Member)

Mr. Adel Dabwan Saeed Al-Sharabi (Member)

Brig. Ahmed Mohsen Salem Kassim (Member)



Mr. Abdulatef Ali Hasan Al-Hamdani (Member)

Dr. Najeb Khalil Abdul Al-Mahmud Ahmed (Member)

Mr. Ameen Ahmed Shamsan Al-Mashwali (Member)

Mr. Hazdar Saleh Al-Gabil (Member)

Mr. Mohamed Al-Foqumi (Member)

5.2. Composition of country delegation
(list)

Ms. Agnes Akosua Aidoo (Ghana)

Ms. Amal Aldoseri (Bahrain)

Ms. Aseil Al-Shehail (Saudi Arabia)

Mr. Jorge Cardona Llorens (Spain)

Ms. Sara de Jesús Oviedo Fierro (Ecuador)

Mr. Bernard Gastaud (Monaco)

Mr. Peter Gurán (Slovakia)

Ms. Maria Herczog (Hungary)

Ms. Olga A. Khazova (Russian Federation)

Mr. Hatem Kotrane (Tunisia)

Mr. Gehad Madi (Egypt)

Mr. Benyam Dawit Mezmur (Ethiopia)

Ms. Yasmeeen Muhamad Shariff (Malaysia)

Mr. Wanderlino Nogueira Neto (Brazil)

Ms. Maria Rita Parsi (Italy)

Ms. Kirsten Sandberg (Norway)

Ms. Hiranthi Wijemanne (Sri Lanka)

Ms. Renate Winter (Austria)