

## QUICK GUIDE TO ADDRESS WOMEN'S ISSUES DURING THE UNIVERSAL PERIODIC REVIEW ON YEMEN<sup>1</sup>

These Guides include:

- A list of issues mentioned in the National Report, the Compilation of official UN Documents and the Summary of Other Stakeholders Submissions, with references to the particular paragraphs in which they can be found.
- The full text of those paragraphs
- A reference to "gaps", that is, issues on which the National Report should/could have applied a gender perspective but failed to do so.
- Suggested questions and recommendations

References in the two working languages of the Council (English and French) have been kept in their original language.

**Issues** are highlighted. References from the National Report are *in Italics*.

All women's rights issues (included sexual rights' issues related specifically to women) are referred to in this Guide. Other sexual rights issues are referred to in the Sexual Rights Guides for each state under review

CEDAW ratified with reservations (Art. 29, para 1<sup>2</sup>). OP-CEDAW not ratified. Rome Statute not ratified. Palermo Protocol not ratified.

### Gaps

The National Report should/could have applied a gender perspective -that is, make reference to how the issue affects women and men in particular ways- but failed to do so in the following sections: 7(c) Yemeni children, (d) Refugees in Yemen (e) Action against corruption, 9. General measures and policies aimed at implementing civil and political rights, (a) The right to life, (b) The independence and efficiency of the judiciary, (c) Democracy and elections, (d) Freedom of opinion and expression, (e) Best practices in the area of civil and political rights, 10. General measures and policies aimed at implementing economic, social and cultural rights, (c) The high cost of living and achievement of food security. (e) 2. Technical education and vocational training, (h) Economic and financial reforms implemented during the period 2006-2008, (i) Impact of the global financial crisis and the food crisis on human rights, 11. Difficulties and challenges faced by Yemen in implementing its human rights policies.

### Access to justice

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<sup>1</sup> These Guides were produced by the Sexual Rights Initiative, a coalition of organizations based in Africa, Asia, Eastern Europe, Latin America and North America whose mandate is to advance women's issues broadly and sexual rights issues in the Human Rights Council. For questions, comments, suggestions please contact Alejandra Sardá-Chandiramani at [alejandra@mulabi.org](mailto:alejandra@mulabi.org)

<sup>2</sup> Article 29

1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

The 2005 Common Country Assessment report mentioned that problems of poor access to and **weak administration of justice** remain widespread and are particularly serious for **women**, especially in **rural areas** where the traditional **tribal system is male-centric** and the formal court system dysfunctional. Women face difficulties in accessing the courts because of **social restraints** and other **cultural, procedural and administrative impediments** inside the courts. With high illiteracy rates, population dispersion and absence of public awareness campaigns, **citizens remain unaware of their constitutional and legal rights** and are unable to exercise them. Weak administrative capacity and lack of adequate infrastructure of the judiciary (Ministry of Justice and the courts) compound the problem. The **litigation process is slow**, and is marked by **failure to execute court rulings**, thus leading to **lack of public trust in the Judiciary** (Para 27, Compilation)

### **Domestication of CEDAW**

( )The Committee on the Elimination of Discrimination against Women (CEDAW) was concerned, inter alia, that, **substantial parts of Yemen's legal system** remains in **contradiction** to the CEDAW. (Para 3, Compilation)

### **Early / forced marriage**

CEDAW was extremely concerned at the negative consequences of the 1999 amendment to the 1992 **Personal Status Law**, which **legalized the marriage of girl children below 15 years of age, with the consent of their guardian**, which is a serious violation of Yemen's obligations under the Convention. It remained deeply concerned at the "legality" of such early marriages of girl children, **some as young as eight years of age**, which amounted to violence against them. (Para 11, Compilation)

### **Economic rights/Right to development** (See recommendations)

### **Equality and non-discrimination**

*The Constitution explicitly sets forth a number of basic principles and guarantees for the promotion and protection of human rights, in particular the following: **All citizens are equal in terms of their rights and duties** (Para 4 (a), NR).*

*In addition to the constitutional provisions ( ) Yemen has enacted laws to support those provisions and ensure that they are implemented in practice, in particular: **The Civil Service Act, No. 19 of 1991, which regulates the civil service and the rights and duties of civil servants, providing for gender equality with respect to appointment, pay, promotion, training and leave entitlements, taking into account the situation of women** (Para 4 (b), NR)*

CEDAW is especially concerned, inter alia, that **discrimination against women** remains rampant, the development and advancement of women **has not significantly improved**, but has even **deteriorated** with regard to certain issues. (Para 8, Compilation)

### **Harmful traditional practices**

The Committee on the Rights of the Child (CRC) was concerned at the existence of harmful traditional practices in certain regions of Yemen, including **female genital mutilation (FGM)**, **early marriages** and **deprivation of education**. CEDAW noted with concern the **serious health complications for girls and women** arising out of the practice of FGM. (Para 39, Compilation)

## **Illiteracy**

The illiteracy ratio in Yemeni society is still one of the highest in the Arab world. The overall ratio is about 45.3 per cent and the ratio for females is 61.6 per cent. (Para 10 (e2), NR).

A 2008 World Bank report noted that about one-half of the population remains illiterate. The HR Committee noted with concern that the high rate of illiteracy among women hinders the enjoyment of their civil and political rights. (Para 42, Compilation).

Human Rights Information and Training Centre, Sana'a, Yemen; Yemeni Observatory for Human Rights (HRITC/YOHR) noted that the illiteracy rate in Yemen reached 50 per cent according to the World Bank report, and that it reached 40 percent according to the Ministry of Education (Para 35, Summary)

## **Laws that discriminate against women**

Government Committees worked in amendment of article 47 of the Personal Status Act, No. 20 of 1990, in order to grant women the right to request the annulment of a marriage in the event of a defect in the husband (Para 7 (a), NR)

CEDAW in 2008 noted with concern discriminatory provisions in the Personal Status Law of 1992 and in the Citizenship Law of 1990 which affect women's equal rights in matters relating to marriage, divorce, testimony, property, nationality, child custody and inheritance. (Para 10, Compilation)

CEDAW was concerned in particular at articles 273 and 275 of the Penal Code identifying and criminalizing acts violating "public decency", under which women are systematically prosecuted, as well as article 232 providing that a man, or any other male relative, who kills his wife, or female members of the family suspected of adultery, is not prosecuted with murder. (Para 19, Compilation)

Amnesty International (AI) noted that for many years, women's organizations and human rights NGOs have identified at least 20 laws which need to be amended or repealed in order to address discrimination against women. However, the amendments to the Penal Code, which the government now proposes, appear likely to further aggravate such discrimination and violence. AI noted, in particular, that a proposed amendment to Article 26 of the Penal Code would heighten the risk of "honour killings" and other killings within the family by allowing for the application of non-coded rules of Shari'a in addition to written legal texts. It further noted that a proposed amendment to article 297 of the Penal Code, which states that a woman's testimony is to be accorded half the value of that of a man, would change this to render a woman's testimony valueless on the ground that only male testimony is acceptable in Hudud. AI reported that another amendment proposes to criminalize Khilwa (meeting in private between a male and female who are not immediate relatives) and prescribe a punishment of up to one year's imprisonment. This punishment would be applicable to both men and women, but would likely impact most severely on women due to the many strict and severe forms of discrimination to which they are subject. (Para 18, Summary)

## **Maternal mortality/maternal health**

### **Patriarchal attitudes/stereotypes**

In 2005, the HR Committee welcomed the adoption of various measures for the advancement of women as well as the recognition by Yemen that stereotypical views of women's and men's social roles and responsibilities have had a negative impact on some aspects of Yemeni legislation (Para 10, Compilation)

## Public and political participation

(See Recommendations)

## Refugee Women

(See Recommendations)

## Reproductive health/rights

*During the past few years, a tangible improvement has been recorded in some health indicators. There has also been a sharp increase in the number of health facilities: ( ) an increase from 241 to 460 (90 per cent) in mother and child centres. In spite of these developments, the supply of health-care services is still limited. In addition, the Government has taken steps to increase the availability of reproductive health services. By 2005, such services were provided in 1,273 public health facilities (Para 10 (f), NR)*

While noting the existing health policies and programmes, CEDAW was concerned about the high rate of infant, child and maternal mortality in Yemen, and the limited access to health care services and family planning, especially in rural areas. Similar concerns were raised by CRC and the Committee on Economic, Social and Cultural Rights (CESCR) (Para 38, Compilation). The 2007-2011 United Nations Development Assistance Framework (UNDAF) report noted that prevailing social and cultural norms constrain the use of family planning. Much of the lack of access, even to physically accessible services is due to social restrictions on movement of women and the absence of female health workers.

## Rights of girls

CRC, in 2005, was deeply concerned at the persistence of discriminatory social attitudes against girls (Para 14, Compilation)

## Right to education

*Female enrolment rates in general and in higher education have been increased through the provision of more accommodation for female students, payment of study fees for indigent female students, introduction of new fields of specialization at women's colleges and the establishment of women's summer and sports centres (Para 7 (b), NR). The Ministry of Education developed a basic education strategy in 2001 ( ). The Yemeni Government has made considerable progress in raising standards at the different levels of education. The most important points are: Special action in support of education for girls, inter alia through continued implementation of the relevant national strategy; School fee exemption for girls enrolled in the first to the sixth grade ( ); Two studies of the educational situation of girls in Yemen, and a national review of projects undertaken in support of education for girls in Yemen (Para 10 (e1), NR)*

*Actions have been taken in support of technical education and vocational training on behalf of women and various categories of persons with special needs so that they can be integrated into the educational process. In spite of these efforts, the educational situation in Yemen still presents major challenges. ( ) The proportion of children in the 6 to 14 age group attending basic education is 75 per cent. At the secondary education level, the enrolment ratio is about 40.5 per cent. In addition to action to promote education for girls and increase their enrolment ratio, it has undertaken other important activities such as the following: Opening of five centres to provide courses in women's skills for rural women; Organization of five workshops to establish coordinating councils in support of*

education for girls, Conduct of three field studies to examine expenditure on education for girls, capacity-building for establishments dealing with education for girls and promotion of social involvement at the local and central levels (Para 10 (e2), NR)

In 2008 the ILO Committee of Experts noted that the ratio of girls to boys enrolled in basic education has increased from 38 to 39 per cent from 2002/03 to 2005. However, free access to compulsory education and the high cost of schooling remained an important problem in Yemen. (Para 41, Compilation). A 2008 World Bank report noted that ( ) Yemen still has significant secondary education gender gaps and in higher education the proportion of male students significantly surpasses that of females. (Para 42, Compilation).

### **Right to work**

Government Committees worked in the Addition of two new articles to the Labour Act, No. 5 of 1995, as amended; the first amendment requires employers to take the necessary precautions to protect pregnant workers from any risk to their health or pregnancy and reserves their right to treatment or compensation; and the second requires employers to grant male or female workers a month's marriage leave with full pay (Para 7 (a), NR)

Amendment of articles 45 and 47 of the Labour Act, No. 5 of 1995, as amended; article 45 grants pregnant women the right to maternity leave with full pay for a period of 70 days, prohibits the employment of working women during maternity leave and grants an additional 20 days of maternity leave in the event of a difficult birth or the birth of twins; article 47 prohibits employers from dismissing pregnant women during their maternity leave under any circumstances, and requires them to provide a place where women may pray and spend the work breaks required by law (Para 7 (a), NR)

With a view to increasing and improving the income of poor families, 57 productive family centres were established in all the Republic's governorates to provide training for women in a variety of technical and occupational skills. Over the past seven years, these centres have trained no fewer than 61,000 women in 16 occupations such as dressmaking, knitting, computer skills, printing and secretarial skills, domestic economy, etc., and 20 schools have provided training courses in leatherwork and wood and glass engraving (Para 10, NR)

### **Sexual Violence**

AI noted that for many years, women's organizations and human rights NGOs have urged the government to address discrimination and violence against women, including rape and other sexual violence, at the hands of both state and non-state actors (Para 18, Summary)

### **State Institutions/Plans of Actions**

The Higher Council on Women ( ) represents a significant step forward in the advancement of the status of Yemeni women and reflects the State's genuine interest in women's issues throughout the country. One of the Council's main functions is to incorporate women's issues in political, social, economic and cultural policies and in all integrated development plans (Para 5 (g), NR). The National Commission on Women was set up in 1996 by a decision of the Prime Minister and in response to the recommendations of the 1995 Beijing Conference. The decision assigned the Commission a number of tasks, the most important of which were: to propose and contribute to the formulation of policies, strategies and plans relating to women; to improve the situation of women in rural and urban areas; and to identify priorities for development projects on behalf of women (Para 5 (h), NR). One of the Higher Council on Mother and Child Affairs most important tasks is to formulate

*strategies and public policies* relating to mother and child affairs that are consistent with the Constitution, the laws in force and national human development strategies (Para 5 (i), NR). Departments for the advancement of women in the provinces, established pursuant to Republican Decree No. 265 of 2001, carry out studies to *ascertain the situation of women in local communities, submit proposals for various kinds of improvements and encourage women to participate in public life* (Para 5 (n), NR).

In 2008, CEDAW expressed satisfaction with the work of the *Women's National Committee*. It commended the recommendations of the Women's National Committee to the Government, although not yet adopted by the Parliament, to *amend the many remaining discriminatory laws*, such as the Personal Status Law, the Crime and Penalty Law, the Election and Referendum Law, the Nationality Law, the Labour Code and the Prison Law (Para 6. Compilation)

### **Trafficking of women/Forced prostitution**

CEDAW was concerned with so-called "*tourist marriages*" or "*temporary marriages*" of *young Yemeni girls*, usually from poor families, to non-Yemenis, usually *rich men* from neighbouring countries, which have become more common in the last years with the development of tourism. (Para 23, Compilation)

### **Women in prison**

*Support for the establishment of a shelter for released women prisoners* where they receive post-release care and are prepared for reintegration into society (Para 12 (3), NR). Government Committees worked in addition of an article to the Police Authorities Act, No. 15 of 2000, granting women the *right to serve in the police force* and to *oversee the conditions of women prisoners* (Para 7 (a), NR)

The Committee against Torture (CAT) and CESCR expressed concern about the situation of women in prisons and detention. Additionally, CEDAW was concerned that *female inmates frequently overstay their sentence* due to the *refusal* of their guardian or family to receive them home after their sentences have been completed or they are *unable to pay* the blood money that has been assessed as payable. It was also concerned that the majority of women in prison have been sentenced for *prostitution, adultery, alcoholism, unlawful or indecent behaviour*, in a *private or public* setting (Para 20, Compilation)

Joint Submission (Sisters Arab Forum for Human Rights; Yemeni Organization for the Defence of Rights and Freedoms; Committee against Torture and Arbitrary Arrests; Change Organization; Cairo Institute for Human Rights Studies) reported that ( ) *cases of rape have been attributed to some officers in women's prisons* (Para 14, Summary)

### **Suggested questions and recommendations**

- Recommend that Yemen concentrates efforts in building its legal system in such a way that it can guarantee every citizen, and particularly women's access to justice, inter alia by strengthening judicial capacity and infrastructure; providing sensitization on gender issues, in the tribal-based and the official system, and concentrating efforts in overcoming social constraints that impede women's access to justice
- Recommend that Yemen takes urgent measures to reduce maternal mortality rates, particularly by guaranteeing women's access to health care in rural areas through addressing the social restraints impeding such access and providing rural health facilities with enough qualified female staff.

- While commending Yemen for the steps already taken to ensure girls' right to education, recommend that it also develops and implement sensitization and awareness programs and campaigns to eradicate discriminatory social attitudes toward girls.
- Ask Yemen how is the principle of equal pay for equal work among women and men being currently implemented.
- Ask Yemen what steps are being taken to address the problem of sexual violence against women and girls
- Ask Yemen if the shelter for released women prisoners has already been created and if so, what impact it's having on their welfare.
- Recommend that Yemen takes all necessary steps to guarantee that women who have already fulfilled their jail sentences are not forced to remain deprived of their liberty because of their families' refusal to take them back.
- Recommend that Yemen eradicates the custom of 'blood money' and redoubles efforts at sensitization and awareness on human rights and particularly women's rights in the Yemeni society.
- Recommend that Yemen undertakes serious investigations on accusations of rape in women's prisons, adequately protecting the victims and witnesses and punishing the perpetrators.

#### CEDAW

- To incorporate the principle of **equality** between women and men in its Constitution, or other appropriate legislation, in line with article 2 (a) of the Convention, and reflect fully the definition of discrimination contained in article 1 of the Convention in its national legislation (Para 3, Compilation)
- To transform the **Women's National Committee** into a Ministry within the Government (Para 6, Compilation)
- To consider carefully all recommendations made by the Committee and ensure that its **obligations under CEDAW**, its religious principles and its cultural and social values are made compatible in order to promote and protect fully the human rights and fundamental freedoms of Yemen's women (Para 8, Compilation)
- To take measures to ensure equal rights between women and men with regard to personal status and to amend the Personal Status Law to prohibit **polygamy** and to abolish the institution of **guardianship** (Para 10 Compilation)
- To take urgent legislative measures to raise the minimum **age of marriage** for girls; stipulate that child marriages have no legal effect; and to enforce the requirement to register all marriages in order to monitor their legality and to develop awareness-raising campaigns (Para 11 Compilation)
- To repeal any **discriminatory penal provisions** of the Penal Code, including articles 273, 275 and, in particular, 232, as already proposed by the Women's National Committee several years ago, to ensure that homicides committed against women by their husbands or male relatives are prosecuted and punished in the same way as any other murders (Para 19, Compilation)
- To adopt all necessary measures to prevent the so called "tourist marriages" or "temporary marriages" of young Yemeni girls to older non-Yemeni men, a form of **sex tourism** (Para 23, Compilation)
- To take effective and sustained legal measures, including temporary special measures, to increase the **representation of women** at all levels and spheres of politics, especially in decision-making positions, and to undertake awareness-raising campaigns about the importance of women's participation in decision-making for society as a whole, including in the public and private sectors (Para 34, Compilation)

- To implement targeted policies and programmes, including temporary special measures in order to increase the number of women in the formal **work** force, especially in the public sector (Para 36, Compilation)
- To take measures through its mainstreaming efforts and Poverty Reduction Strategy (PRS) to address the specific **vulnerability of women in poverty**, including efforts to ensure women's representation in the participatory approaches taken in the management of poverty reduction programmes and to utilize temporary special measures to this effect. (Para 37, Compilation)
- To adopt without delay the **Safe Motherhood Law** recently presented to the Parliament, which includes provisions prohibiting any practice that endangers women's health, such as early marriages and female genital mutilation, in addition to ensuring the provision of contraceptives in all health centres (Para 39, Compilation)
- To implement measures to ensure access to girls and women to all levels of **education**, including access to proper and dedicated toilet facilities, which have a direct impact on the realization of their right to education, especially in rural areas (Para 41, Compilation)
- To strengthen its efforts to improve the **literacy** level of girls and women (Para 42, Compilation)
- To raise general awareness of the importance of **education** as a human right and as a basis for the empowerment of women, and to take steps to overcome traditional attitudes that perpetuate discrimination (Para 42, Compilation)
- To ( ) ensure **refugees** their right to security, especially for women and children due to their exposure to violence (Para 43 Compilation)

#### Committee on Economic, Social and Cultural Rights

- To implement fully its National Action Plan for **Education** for All (Para 41, Compilation)

#### Amnesty International

- To ensure that all its **laws**, starting with the amendments to the Penal Code currently being discussed, are free from discrimination against women and unequivocally prohibit violence against women (Para 18, Summary)
- To address discrimination and violence against women, including rape and other **sexual violence**, at the hands of both state and non-state actors (Para 18, Summary)