



YEMEN'S DARK SIDE

DISCRIMINATION AND VIOLENCE
AGAINST WOMEN AND GIRLS

STOP VIOLENCE
AGAINST WOMEN
AMNESTY
INTERNATIONAL



WOMEN IN YEMEN FACE SYSTEMIC DISCRIMINATION AND ENDEMIC VIOLENCE, WITH DEVASTATING CONSEQUENCES FOR THEIR LIVES. THEIR RIGHTS ARE ROUTINELY VIOLATED BECAUSE YEMENI LAWS AS WELL AS TRIBAL AND CUSTOMARY PRACTICES TREAT THEM AS SECOND CLASS CITIZENS.

Women are not free to marry who they want and some are forced to marry when they are children, sometimes as young as eight. Once married, a woman must obey her husband and obtain his permission just to leave the house.

Women are valued as half the worth of men when they testify in court or when their families are compensated if they are murdered. They are also denied equal treatment when it comes to inheritance and are often denied it completely.

Women are dealt with more harshly than men when accused of “immoral” acts, and men are treated leniently when they murder female relatives in “honour killings”.

Such discriminatory laws and practices encourage and facilitate violence against women, which is rife in the home and in society at large.

Despite this, recent years have seen some positive developments for women’s rights, such as the creation of the quasi-governmental National Women’s Committee (NWC) in 1996 and the appointment in 2001 of a minister of state for human rights, which was upgraded to ministerial level in 2003. The government has also engaged with intergovernmental bodies and reported to the UN committee overseeing the Convention on the Elimination of All Forms of Discrimination against Women, to which Yemen is a party.

Most significantly, women themselves have helped to create a vibrant civil society, and women’s non-governmental organizations (NGOs) have achieved some success in some campaigns for reforms. In 2009, for example, the government repealed Article 3(1) of the 1990 Nationality Law to allow children born to a Yemeni mother and a non-Yemeni father to qualify for Yemeni nationality.

However, other reforms are urgently needed. Amnesty International is calling for an end to discriminatory laws and violence against women, adding its voice to the demand of women in Yemen for full and equal access to their human rights.



A Yemeni woman holds a poster denouncing the failure of political parties to name women as candidates in the September 2006 local council elections. She was among protesters who marched to the presidential palace in Sana'a on 20 August 2006, where they met the President. The banner reads: "Women and politics participation".

Yemeni women protesting against the failure of political parties to name women as candidates in the September 2006 local council elections. The banner reads: "To the rejected political parties and organizations, you want the women to be only voters, it's our right to be candidates".

DISCRIMINATION AGAINST WOMEN

Instead of recognizing women as equal citizens to men with equal rights, Yemen's Constitution in Article 31 describes women as "sisters of men", an expression with cultural and traditional meanings which support the rule of women by brothers and other male family members. This phrasing falls far short of acknowledging women's equality, which is their right under international human rights law.

Discrimination against women in Yemeni legislation is reflected in family law, the exercise of male authority, and the lack of respect for women's personal integrity. In some instances, discrimination amounts to gender-based violence, such as extreme restrictions on woman's freedom of movement, and forced marriage of girls and women by their male guardian (*wali*).

Local NGOs, the NWC and others have identified 27 discriminatory provisions in Yemeni law that require amendment to ensure conformity with Yemen's international obligations. Some of the most pervasive are highlighted below.

FAMILY LAW

The Personal Status Law (Law No. 20 of 1992, as amended in 1997 and 1999), often known as the family law, covers matters relating to marriage, divorce,

custody of children and inheritance. It contains numerous discriminatory provisions that severely constrain women's lives and put them at risk of abuse.

Article 40 specifies that a wife must obey her husband and cannot leave the home without his permission. If she disobeys him or goes out without his agreement, he is entitled to make her return to the matrimonial home.

Article 12 states that a man can have up to four wives if he is fair to them all, can support them all, and informs his wife or wives that he plans to marry again.

By contrast, for a woman to marry at all, she must obtain the permission of her guardian, who would normally be her father or another male relative. If the male guardian does not consent, the woman may apply to a court for permission but this may not be granted. The guardian can file for an annulment of a marriage if the woman has married without his permission, even if this is against her wishes.

The requirement for women to obtain the permission of a guardian to marry clearly restricts women's rights guaranteed by international law, including the rights to freely choose a spouse, to marry and to equality before the law.

Women who assert their right to marry a partner of their choice against the wishes of their families risk physical violence and

restrictions on their freedom of movement. In some cases, women are forced into marriage.

The family law is also discriminatory in relation to divorce. Under Article 59, a man may divorce his wife at will, without even needing to provide a reason, yet a woman seeking a divorce must petition a court if she wishes to obtain one and can only do so on very limited grounds.

CHILD MARRIAGE

Early marriage of boys and girls is common in Yemen, particularly in rural areas. Girls are usually married at a younger age than boys. As a result, many leave school and are exposed to pregnancy and childbirth at an early age, putting at increased risk their health and that of the child. Denied full education, they are rendered financially and socially dependent on their husbands.

Local NGOs have told Amnesty International that all too often girls are forced by their families to marry men who are considerably older than them. Forced marriages, especially those involving school-age girls, are frequently associated with domestic violence.

Parents in poor rural areas often marry off their daughters at a young age as girls are seen as a drain on resources, even when the girls are contributing to the household's income by herding animals or otherwise helping on the farm. The marriage will bring



in a dowry (*mahar*), which is intended for the bride but is often taken in part or full by the father.

Marrying girls off at a young age is also widely seen as a way of safeguarding the family's "honour", as it ensures that the girl's behaviour is above suspicion of "immoral" behaviour and would be a virgin on marriage.

There are no reliable statistics on such marriages in Yemen because births, especially in rural areas, and marriages are often not registered or not registered properly. Article 14 of the Personal Status Law requires marriages to be registered within a month, but there are no penalties for failing to do so. NGOs have called for a fine to be imposed if a marriage is not registered.

The Maternal and Child Health Survey, conducted in 1997, found that 14 per cent of women aged between 20 and 24 who were questioned had married before they were aged 15, and 48 per cent before they were 18. In the poorest fifth of the population, 57 per cent had married before they reached 18.

Initially, Article 15 of the Personal Status Law prohibited the marriage of girls under the age of 15. However, the subsequent Law No. 24 of 1999 removed the age restriction and legalized the marriage of girls under the age of 15 provided that the guardian consents and the marriage is not consummated before the girl reaches puberty.

The public attention sparked by the case of eight-year-old Nojoud (see below) and other cases of early marriages has given further impetus to the campaign of the NWC and NGOs to raise the minimum age of marriage to 18. In February 2009, the parliament passed a law to make 17 the minimum age but by October the President had yet to ratify it.

"Exchange marriages" are another form of gender-based discrimination although Yemeni rights activists say the practice is now declining. A girl from one family is married into another family in exchange for a girl from that family being married into the first family. Neither family provides a dowry.

This type of marriage is more common in poor rural areas. Families appear to resort to such marriages to avoid paying a dowry. If one of the marriages fails, the other must end too, even if the couple is happy.

INHERITANCE

The family law provisions on inheritance state that a daughter should receive half the share inherited by a son. In practice, men frequently take all of the inheritance due to their women relatives, particularly in rural areas.

Some families deny their daughters access to their inheritance if they marry outside the family, or forbid their daughters to marry outside the family to protect their property. NGOs have called for a law to penalize men who take a woman's inheritance or dowry by force or threat, or by exploiting women's inability to seek justice effectively.

FATIMA HUSSEIN-BADI



"I cannot bear to remain endlessly on death row; I want my case to be resolved."

Fatima Hussein-Badi, speaking to Amnesty International in February 2009

Fatima Hussein-Badi, a woman in her mid-forties with four grown-up children, is facing execution. After an unfair trial, she was sentenced to death in 2001 along with her brother Abdullah for the murder of her husband Hamoud Ali al-Jalal.

Police investigations into the crime were marred by gross irregularities. Fatima Hussein-Badi was reportedly questioned for over five hours at night without a lawyer. When she refused to confess, her brother was brought to her with his face covered in blood. She was then threatened with rape in front of her brother, who apparently confessed to the murder to protect her.

In September 2003 the Supreme Court found that Fatima Hussein-Badi did not kill her husband but had helped to hide his body. It ruled in favour of commuting her sentence to four years' imprisonment, while upholding the death sentence against her brother.

As it was a capital case, the ruling had to be ratified by President 'Ali 'Abdullah Saleh. However, after the Head of Parliament urged the President to uphold both death sentences, the President ordered the Supreme Court to review the case again. In August 2004 the Supreme Court upheld the death sentences and Abdullah was executed in May 2005. Fatima Hussein-Badi remains at risk of execution.

NOJOUR MOHAMMED ALI NASSER



Nojoud Mohammed Ali Nasser was just eight years old when she was married off by her father to a 30-year-old man in February 2008. She says that her husband physically and sexually abused her, and that her family refused to help her. She told the *Yemen Times* newspaper:

"He used to do bad things to me, and I had no idea as to what a marriage is. I would run from one room to another in order to escape, but in the end he would catch me and beat me and then continued to do what he wanted. I cried so much but no one listened to me. One day I ran away from him and came to the court and talked to them."

"Whenever I wanted to play in the yard he beat me and asked me to go to the bedroom with him."

Nojoud Mohammed Ali Nasser's lawyer, Shaza Nasser, told Amnesty International:

"Nojoud ran away and went to a court in Sana'a in April. She spoke with a judge and asked him to grant her a divorce."

Shaza Nasser represented her in court, and the marriage contract was ended.

Right: Students compete in sprint race during a week-long women's sports event in Sana'a, 4 March 2009. Women rarely take part in sporting activities in Yemen.

VIOLENCE AGAINST WOMEN

Violence against women is common in Yemen, perpetrated by the state, the community and the family.

No specific law protects women in Yemen from violence. The Penal Law criminalizes physical harm, but does not mention domestic violence or violence against women, and does not cover psychological harm. Because social norms allow men to hit their wives, daughters and sisters, this failure of the law to explicitly cover domestic violence and other forms of violence against women makes it inadequate.

Reporting of domestic violence is affected by the prevailing view that such violence should not be publicized because it would harm the reputation and honour of the family.

Visible proof of domestic violence must usually be shown by a wife before the authorities will take seriously a claim of abuse by her husband. When women do report such abuse, they are often blamed for causing it, including by their families.



No comprehensive statistics on the incidence of violence against women are maintained by the authorities in Yemen. Yet, even the limited information available shows that violence against women is a major problem and that it is not being tackled effectively by the authorities.

In 2001, according to the Yemen Women's Union, 128 women were murdered, 244 were physically harmed or were victims of attempted murder, and 80 women were raped. The NWC says that the 2003 Health Survey showed that 17 per cent of women beaten by their husbands received medical care for their injuries but only 5 per cent reported the incidents to the police.

WOMEN AND THE JUSTICE SYSTEM

The Penal Law codifies blatant discrimination against women. Article 12, for example, provides that blood money or *diya* (financial compensation paid to the family of a murdered victim) for the murder of a woman is half that paid for the murder of a man.

A similarly discriminatory rule in Article 42 applies to financial compensation paid for actual or grievous bodily harm (*'arsh*).

The Penal Law also provides lenient punishments for men who commit "honour killings" (murder of a female relative for her perceived "immoral" behaviour or if she is found committing *zina* – sexual intercourse outside of marriage). Article 232 provides that a man who murders or injures his wife or her partner having caught them committing adultery should receive a maximum prison sentence of a year or a fine. In most other murder cases, the punishment is death.

Such laws send a strong message to society that women are worth less than men, and that men can kill them with virtual impunity.

The problems are exacerbated by the vague definition of "immoral" acts, which gives the predominantly male law enforcement authorities wide powers in determining what kind of behaviour constitutes such acts. Women are often deemed to have committed an "immoral" act when found in the company of a man who is not a close

relative (*khilwa*). Although such provisions apply to both men and women, it has a greater impact on women because of societal norms that control women's behaviour.

For example, a Yemeni woman told Amnesty International that she had been forced by her father to marry a man for money. Her husband later divorced her, but then decided that he wanted to remarry her. The woman said that when she refused to go to her father's house because he wanted her to remarry the man, her husband accused her of *khilwa* with her cousin.

The laws relating to *zina* or other "immoral" conduct impact disproportionately on women. Social attitudes mean that women are more likely to be accused of such offences, and women convicted of these offences often remain in prison after serving their sentences because no male relative will collect them, although this is not required by law. In addition, the threat that these laws will be invoked against them often deters women from reporting rape or sexual violence.



In a further discriminatory twist, Article 45 of the Evidence Law states that women cannot testify in cases involving *zina*.

The criminalization of *zina* and *khilwa* is inconsistent with international human rights standards, in particular an individual's right to freedom from arbitrary interference with their privacy and family, and freedom of association.

ACCESSING JUSTICE

Although women in Yemen have the right to seek justice and in theory have equal access to the courts, in practice they face numerous obstacles in accessing justice.

The legal system is male dominated at all levels. Many police and court officials believe that police stations and courts are "no place for respectable women".

Access to justice is particularly difficult for women living in poor rural areas, as they

invariably face severe restrictions on their freedom of movement and must generally be accompanied by their male guardians. Illiteracy, lack of awareness of their rights and their general absence in public life all further hamper women's access to justice.

When women come into contact with the law as suspects, they are at risk of gender-based violations, including sexual abuse. Arrests, interrogation and trial of women suspects are usually carried out by men. The risk for these women of rape and other torture is increased when they are held incommunicado and denied access to a lawyer.

Left: Members of Yemen's women shadow parliament attend their first convention in Sana'a, 23 April 2009. The shadow parliament comprises 120 women who ran as candidates in previous legislative elections but were not elected.

Front cover: Yemeni women in the old city of Sana'a

RECOMMENDATIONS

The Yemeni government must take effective measures to address discriminatory laws and practices, protect the right of women to equality with men and to be free from all forms of discrimination, and address the underlying social and cultural attitudes that discriminate against women.

In particular the Yemeni authorities must:

- bring all laws, practices, policies and procedures into full conformity with international human rights law and standards;
- ensure that women have equality with men in law and practice, including under family law;
- exercise due diligence by protecting women and girls against human rights abuses within the family, in particular forced marriages and physical and psychological

abuse, and ensure that violence in the family is addressed and those responsible are held to account;

- repeal or reform laws on "immoral" behaviour to ensure that such laws conform to international standards and do not impact in a discriminatory way on women;
- ensure that law enforcement officials, public officials and members of the judiciary receive training in gender-sensitive approaches to violence and other violations of women's rights, and that women who are subjected to violence are not re-victimized because of gender-insensitive law enforcement practices;
- take steps to recruit and train women police officers, prosecutors, interrogators and judges in sufficient numbers so that women officers are present whenever women are arrested and detained or interviewed by the police or members of the judiciary.

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Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion – funded mainly by our membership and public donations.

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