

CEDAW Secretariat
Office of the High Commissioner for Human Rights (OHCHR)
Palais Wilson
52 rue des Pâquis
CH-1201 Geneva 10
Switzerland
By Post and E-mail: cedaw@ohchr.org

16 January 2015

Re: Information on Yemen for Consideration by the Committee on the Elimination of Discrimination against Women at its 62nd Pre-Sessional Working Group (9-13 March 2015)

Dear Distinguished Committee Members,

We respectfully submit this letter to supplement the fourth and fifth periodic report submitted by Yemen, scheduled for review by the Committee on the Elimination of Discrimination against Women (the Committee) during its 62nd pre-sessional working group taking place 9-13 March 2015. Equality Now and our partners, Yemeni Women Union, and the Arab Human Rights Foundation in Yemen, are writing to express our concern about human rights violations faced by women and girls in Yemen. This letter focuses on Yemen's obligation to address under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) child marriage, female genital mutilation (FGM) and discrimination in the law, in particular Yemen's Personal Status Act No. 20, 1992 and the nationality law.

Yemeni Women Union, is a non-governmental organization that works to protect and promote the rights of women and girls including providing social and legal counseling, shelter for women and girls and awareness programs targeting early/forced marriages. Arab Human Rights Foundation is a non-governmental organization with a branch in Yemen that works on women, youth, people with disabilities and children's rights. Equality Now is an international human rights organization with ECOSOC status working to protect and promote the rights of women and girls worldwide since 1992, including through our membership network comprised of individuals and organizations in over 190 countries.

Equality Now, together with local civil society organizations around the world and in Yemen, including the Yemeni Women Union and the Arab Human Rights Foundation, has been working to end child marriage. Since 2009, we have issued four Actions calling on the Yemeni government to fulfill its obligations under international law and pass a law prohibiting child marriages and ensuring violators are prosecuted and punished. Equality Now is also campaigning for the repeal or amendment of Yemen's sex discriminatory laws, including Article 40 Yemen's Personal Status Act No. 20, 1992 as well as Law No. 6 of 1990 Concerning Yemeni Nationality (as amended 2010)¹.

Child marriage, FGM and sex discrimination in the law, especially that which effectively promotes violence against women and girls, violate several articles of CEDAW including Articles 2 (right to elimination of discrimination), 3 (equality), 15 (right to equality before the law) and 16(2) (child marriage prohibited). Discrimination in nationality laws is expressly prohibited by

Article 9 of the Convention. It is worth noting that Article 6 of the current Yemeni Constitution confirms its adherence to international law.

Child marriage and FGM – lack of legislation

In its consideration of Yemen's report in 2008, "The Committee urges the State party ... to take urgent legislative measures to raise the minimum age of marriage for girls, in line with article 1 of the Convention on the Rights of the Child, which defines a child as being below the age of 18, and the provision on child marriage in article 16, paragraph 2, of the Convention, and stipulate that child marriages have no legal effects. The Committee also urges the State party to enforce the requirement to register all marriages in order to monitor their legality and the strict prohibition of early marriages as well as to prosecute the perpetrators violating such provisions...." (CEDAW/C/YEM/CO/6, ¶31).

As noted in our Actions and our December 2013 joint submission to the Committee on the Rights of the Child², we have been informed over the last several years of a number of cases of young Yemeni girls who have undergone or been at risk of child marriage, which has left them subject to many harmful consequences. For example, 11-year-old Wafa was married in 2010 to a 40-year-old farmer who repeatedly raped and tortured her. Equality Now and a local partner were successful in arranging for a lawyer to take up her case and helped her to obtain a divorce, but the harm to Wafa of her abuse was significant and could have been avoided with a law against child marriage.

Equality Now, Yemeni Women Union, and the Arab Human Rights Foundation are concerned that many girls continue to be at risk of child, early and forced marriage and subject to some of its many harmful consequences, in part due to the lack of a law prohibiting child marriages and setting a minimum age of marriage in line with international standards. In November 2013, for example, a young man reached out to the Yemeni Ministry of Human Rights to stop the marriage of his 11-year-old sister, Nada (not her real name) to her 23-year-old cousin. While the Ministry has intervened in cases like this before and prevented parents from marrying off young girls, it was unable to stop Nada's marriage as her father refused to relent and there is no law against child marriage.³ The Yemeni Human Rights Minister at the time, who consistently raised awareness of this issue in the media, stated that as long as there was no minimum age of marriage in Yemen, her power to stop these marriages was severely limited.

We understand during the national dialogue last year, the constitution and legislation committee agreed that a minimum age of marriage should be set at 18. This follows strong and consistent recommendations by several treaty monitoring bodies, including the Committee on the Rights of the Child⁴, the Human Rights Committee⁵ and the Committee on Economic, Social and Cultural Rights⁶. These are welcome developments and we applaud the government of Yemen for taking steps against this harmful practice including specifying a minimum age of marriage under article 124 of the new draft constitution. However, the pace of implementation remains uncertain and we would encourage the Committee to support the government in ensuring a minimum age of marriage at 18 is set as soon as possible and that measures are put in place to ensure the law is publicized and enforced.

With regard to FGM, the Committee in its concluding observations of 2008 urged "the State party to adopt, without delay, the Safe Motherhood Law recent presented to the Parliament, which includes, provisions prohibiting any practice that endangers women's health such as early marriages and female genital mutilation". (CEDAW/C/YEM/CO/6, ¶31). Unfortunately, the bill was adopted but without including a minimum age of marriage or prohibiting female genital

mutilation. We understand, however, that the National Dialogue Conference has recommended a bill prohibiting FGM.

We hope this Committee will continue to urge Yemen to act as quickly and comprehensively as possible to prohibit both child marriage and FGM.

Sex-discriminatory personal status and nationality laws persist

Yemen's laws continue to explicitly discriminate against girls and women, particularly in regard to rights within marriage and perpetual male guardianship. For example, Article 40 of Yemen's Personal Status Act grants a husband the right to be "obeyed" by his wife, including eliminating the wife's ability to refuse intercourse and to leave the conjugal home, including for employment, absent spousal permission. Article 40 of the Personal Status law essentially condones marital rape by making the wife's consent to sexual relations irrelevant.

In its consideration of Yemen's report in 2008, the Committee, "urges the State party to enact without delay, in accordance with its general recommendation 19, legislation on violence against women and girls, including domestic violence, to ensure that all violence against women constitutes a criminal offence, that women and girls who are victims of violence have access to immediate means of protection, including shelters, and redress and that perpetrators are prosecuted and punished adequately. The Committee calls upon the State party to amend, without delay, the Penal Code to ensure that marital rape is criminalized. ..." (CEDAW/C/YEM/CO/6, ¶17). The Human Rights Committee⁷ and the Committee on Economic, Social, and Cultural Rights⁸ have since made similar recommendations. In addition, we hope this Committee will further emphasize that male guardianship over wives is a form of discrimination against women and girls and a violation of the CEDAW.

With regard to the nationality law, we note that the Committee recommended in 2008, "that the State party amend all other discriminatory provisions, including the right a child born to a Yemeni mother has to acquire his or her mother's nationality in the same circumstances he or she would acquire it from a Yemeni father. It also recommends that the State party grant the same five year residency rights a non-Yemeni wife of a Yemeni husband has to a non-Yemeni husband of a Yemeni wife. (CEDAW/C/YEM/CO/6, ¶41). We are pleased to note that Yemen did remove the discrimination with regard to the right of the mother to pass her nationality to her children. The government, however, has yet to revise the nationality law so that women can pass their citizenship to their foreign spouses on an equal basis with men, and Yemeni women can still lose their nationality upon marrying non-Muslim foreign spouse. We respectfully ask that the Committee raise this issue also with the State party and push for further change.

Suggested Questions for the List of Issues

We would respectfully urge the Committee to raise with the government of Yemen in its List of Issues the following questions with regard to violations of the Covenant addressed in this letter:


- What are the government's plans to set a minimum age of marriage for girls of 18, either in the Constitution and/or other legislation and to then enforce the law to protect girls?
- What are the government's plans to introduce measures to ensure that child brides who wish to end their marriages are supported and must not be forced to pay back their dower (to which they lack access to in the first place)? What

measures has the government explored to safeguard the rights of child brides who end their marriages and to provide them access to education and security?

- What are the government's plans and to enact and effectively implement legislation banning FGM?
- What are the government's plans to repeal or amend all sex discriminatory laws, including Article 40 of the Personal Status Act and Law No. 6 of 1990 Concerning Yemeni Nationality (as amended 2010)? What are the government's plans to criminalize domestic violence and marital rape?

Thank you very much for your kind attention, and please do not hesitate to contact us if we can provide further information.

Sincerely,


Yasmeen Hassan
Global Director
Equality Now

/S/
Fathia Abdallah
President
Yemeni Women Union

/S/
Rajaa Al Masabi
Chairwoman
Arab Human Rights Foundation

¹ See Equality Now's *Words and Deeds – Holding Governments Accountable in the Beijing +15 Review Process*, available at <http://www.equalitynow.org/node/370> and *Ending Sex Discrimination in Nationality and Citizenship laws* (May 2014), available at http://www.equalitynow.org/take_action/discrimination_in_law_action471. Equality Now is also a member of the Global Campaign for Equal Nationality Rights, www.equalnationalityrights.org

² Available at http://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/YEM/INT_CRC_NGO_YEM_15965_E.pdf

³ Equality Now's Action 34.4 *Yemen: End early marriages by enacting and enforcing a minimum age of marriage law* (Sept. 2013, updated 10 Dec. 2013), available at http://www.equalitynow.org/take_action/adolescent_girls_action344

⁴ The Committee on the Rights of the Child, "expresse[d] its serious concern at the absence of a legal provision setting a minimum age of marriage... It is further concerned at the considerable delay, since 2007, in adopting the legislative amendment which proposes to set the minimum age of marriage at 18 years, due to opposing views within the Parliament in this regard." It "recommended that the State party take the necessary measures to ensure the adoption of the legislative amendment setting the minimum age of marriage at 18 years for girls and boys ... in line with international standards" and urged "the State party to: (a) Expedite the adoption of the draft amendments ... which set the minimum age of marriage at 18 years;" (CRC/C/YEM/CO/4, ¶¶ 27-28, 49, Jan. 2014).

⁵ The Human Rights Committee in its recommendations to Yemen, "urge[d] the State party to ensure equality between men and women in the enjoyment of all the rights enshrined in the Covenant, which necessitates abolishing all discriminatory provisions in matters of marriage, divorce, testimony and inheritance. In this regard, the State party should inter alia (a) set a minimum age for marriage that complies with international standards; ... (c) eradicate the use of temporary marriage for the sexual exploitation of children..." (CCPR/C/YEM/CO/5, ¶ 10, Apr.2012).

⁶ The Committee on Economic, Social and Cultural Rights in June 2011 in its concluding observations to the government of Yemen stated that it was "deeply concerned that the amendment to the Personal Status Act No. 20 of 1992 by Law No. 24 of 1999, legalizing marriage for girls under 15 years of age with the consent of their guardians, remains in force and that in October 2010 the Parliamentary Sharia Committee prevented the entry into force of an amending act aimed at establishing a minimum age of marriage. The Committee is also concerned about the growing number of victims of child marriages (art. 10)." It recommended "that the State party: (a) adopt and implement the Law on the minimum age of marriage and set it at 18 years of age in accordance with recommendations by relevant international bodies; (b) ensure access to effective remedies and other forms of necessary protection to victims of child marriages; and (c) undertake to raise awareness of the negative effects of child marriages." (E/C.12/YEM/CO/2, ¶ 19).

⁷ In its concluding observations on Yemen the Human Rights Committee recommended that, "The State party should criminalize marital rape and other forms of domestic violence, prosecute alleged perpetrators of such crimes and sentence them in a manner which is proportionate to the nature of the crime committed... It must also take more effective action to prevent and punish domestic violence and provide assistance to the victims." (CCPR/C/YEM/CO/5, ¶ 9).

⁸ The Committee on Economic, Social and Cultural Rights also called on Yemen to "immediately promulgate the Domestic Violence Act No. 6 of 2008 and thereby criminalize domestic violence and marital rape." (E/C.12/YEM/CO/2, ¶17).