



**Human Rights Watch Submission to the Committee on the Elimination of
Discrimination against Women
Review of Yemen’s periodic report for the 77th Pre-Session
February 2020**

We write in advance of the 77th pre-session of the Committee on the Elimination of Discrimination against Women and its review of the Republic of Yemen’s compliance with the Convention on the Elimination of All Forms of Discrimination against Women.

**1. Protection of Education and Equal Access to Education During Armed Conflict
(Article 10)**

The armed conflict in Yemen has had a grave impact on the accessibility of education for girls. UNICEF states that 2 million children are currently out of school; half a million of these children are estimated to have dropped out since 2015, and another 3.7 million are at risk of dropping out as the humanitarian crisis escalates.¹ Girls are especially vulnerable to dropping out of school for financial and safety reasons, which increases the likelihood of early marriage, abuse, and exploitation. As a result of the recruitment practices of armed groups nationwide, children, especially girls, are displaced in large numbers and vulnerable to sexual violence.

Primary education is compulsory under Yemeni Law from age 6 to 14.² However, guaranteeing this has become increasingly difficult during armed conflict. It is estimated that one in five schools can no longer be used as a “direct result” of the armed conflict in Yemen.³ Many public servants, including teachers, have reportedly gone over two years without regular salary payments, disrupting the school programs and schedules for millions

¹ UNICEF, “As School Year Starts in Yemen, 2 Million Children Are out of School and Another 3.7 Million Are at Risk of Dropping Out,” September 25, 2019.

² “Yemen Education and Literacy,” November 27, 2016, <http://uis.unesco.org/en/country/ye?theme=education-and-literacy>.

³ UNICEF, “As School Year Starts in Yemen, 2 Million Children Are out of School and Another 3.7 Million Are at Risk of Dropping Out,” September 25, 2019.

of children.⁴ The lack of a steady source of income has made it difficult for families to afford sending their children to school, as well as provide the transportation, supplies, and other materials their children need to receive a full education. If families can only afford to send some children to school, there is a higher chance that boys will be prioritized over girls for safety and cultural reasons.

Human Rights Watch has documented numerous incidents of parties to the conflict using schools for military purposes, as well as attacks on schoolchildren and education infrastructure, including attacks on or near school buildings and school buses:

In January 2016, Houthi militia turned a school for blind students in Sanaa into a target by basing themselves in the facility's compound.⁵ A Saudi-coalition bomb struck the compound on January 5, 2016, and although it did not explode, the school was damaged and four civilians were injured. At the time of the attack, at least 10 children all under the age of 12 were sleeping in the building when the bomb struck.

On December 23, 2016, a Saudi-coalition cluster munition attack struck an area near a girls' school and a boys' school in Saada city in northern Yemen, killing two civilians and wounding six, including a child. Students were told not to return to school the day after the attack, as the schools had to be checked for any explosive remnants, including unexploded submunitions.⁶

On January 10, 2017, a Saudi-led coalition airstrike near a school in northern Yemen killed two students, including an 11-year-old girl.⁷ Two girls, ages 8 and 12, were wounded in this airstrike. The school provided primary education for about 900 children. Students were either on their way to school, or getting ready to head there, when the airstrike occurred.

A Houthi-controlled warehouse that stored volatile material near the residential Sawan neighborhood in Sanaa caught fire and detonated on April 7, 2019, killing at least 15 children, 10 of whom were girls, and injuring more than 100 children and adults during class

⁴ Human Rights Watch, *World Report 2020: Yemen*, January 2020, <https://www.hrw.org/world-report/2020/country-chapters/yemen>.

⁵ "Yemen: Houthis Endangered School for Blind, Coalition Airstrike Shows Added Risks For People with Disabilities," Human Rights Watch news release, January 13, 2016, <https://www.hrw.org/news/2016/01/13/yemen-houthis-endangered-school-blind>.

⁶ "Yemen: Saudi-led coalition Airstrike Near School, 2 Students, Administrator Killed; 3 Children Wounded" Human Rights Watch news release, February 16, 2017, <https://www.hrw.org/news/2017/02/16/yemen-saudi-led-coalition-airstrike-near-school>.

⁷ Ibid.

time.⁸ The blast destroyed and damaged two schools, where 10 girls and a boy died. The cause of the explosion remains unknown, but the Houthis' decision to store volatile material near homes and schools, despite the foreseeable risk, contributed to the death and injury of dozens of schoolchildren and adults.

The military use of schools by the parties to the conflict has also disproportionately impacted girls' access to education. The Global Coalition to Protect Education from Attack reported in 2019 that local militias and gangs were known to cut off access to school for girls in particular and even threaten school administration members with bombings if girls were allowed to continue to attend.⁹

In October 2017, Yemen became the 70th country to endorse the Safe Schools Declaration, thereby committing to protect students, teachers, and schools during conflict, including by implementing the *Guidelines for Protecting Schools and Universities from Military Use During Armed Conflict*. By endorsing the declaration, Yemen committed itself to a number of measures aimed at strengthening the prevention of, and response to, attacks on students, teachers, and schools, including by: collecting reliable data on attacks and military use of schools and universities, providing assistance to victims of attacks, investigating allegations of violations of national and international law and prosecuting perpetrators when appropriate, developing and promoting "conflict sensitive" approaches to education, and seeking to continue education during armed conflict.

A report by the United Nations Office of the High Commissioner for Human Rights (OHCHR) documented in September 2019 that some Yemeni forces have begun to withdraw military personnel from some schools, in line with the commitments of the Safe Schools Declaration.¹⁰ However, the report found that at least 20 schools were still in use by Yemeni armed forces, Houthis, and United Arab Emirates and Sudanese-backed forces. A Safe Schools Committee within the Ministry of Education was also established in February 2019.¹¹

⁸ "Yemen: Warehouse Blast Kills Schoolchildren, Houthis Stored Volatile Material in Residential Area" Human Rights Watch news release, May 9, 2019, <https://www.hrw.org/news/2019/05/09/yemen-warehouse-blast-kills-schoolchildren>.

⁹ "Safeguard Yemen's Future: Protect Education from Attack." Briefing Paper, Global Coalition to Protect Education from Attack. February 2019, http://www.protectingeducation.org/sites/default/files/documents/safeguard_yemens_future_2019.pdf.

¹⁰ OHCHR, "Situation of Human Rights in Yemen, including violations and abuses since September 2014; Report of the detailed findings of the Group of Eminent International and Regional Experts on Yemen," September 2019, https://www.ohchr.org/Documents/HRBodies/HRCouncil/GEE-Yemen/A_HRC_42_CRP_1.PDF.

¹¹ "Safe Schools Declaration News #5," Global Coalition to Protect Education from Attack, December 18, 2019, <https://mailchi.mp/protectingeducation/ssdnewsletters>.

We encourage the Committee to pose the following questions:

- Are protections for schools and universities from military use included in any policies, rules, or trainings for Yemen's armed forces?
- How many schools were either partially or wholly used for military purposes by government security forces during the reporting period, and for what time?
- What steps are being taken to address and remedy the disproportionate harm to girls' access to education as a result of hostilities and military use of schools?
- How many students are deprived of educational facilities as a result of hostilities, the military use of their school, or the need for their school to be repaired or reconstructed, provided access to education elsewhere?

2. Child Marriage (Article 16)

Current trends suggest that child marriage is on the rise in Yemen. According to the UNFPA, the average age for girls to get married is about 15 years old.¹² More precise estimates are difficult to ascertain in this context.

Economic instability and poverty in Yemen are among the prevailing reasons for children to enter marriages. Girls who enter marriages at a young age face greater risks in pregnancy, including difficulties during childbirth that can result in death. Child marriage also often ends a girl's education and can expose her to domestic violence.

Yemen currently has no minimum age for marriage. Attempts have been made in Parliament to raise the minimum age of marriage to 18; for example, one of the outcomes of the National Dialogue Conference (2013-2014) was a draft of a new constitution that included a ban on child marriage.¹³ In April 2014, the then-minister of social affairs and labor and the minister of legal affairs presented a draft Child Rights Law to the then-Cabinet establishing 18 as Yemen's minimum marriage age for adoption and then review at Parliament.¹⁴

¹² UNFPA Yemen, "Child Marriage on the Rise," October 4, 2016, <https://yemen.unfpa.org/en/news/child-marriage-rise>; "Child Marriage is Stalling Sustainable Development," World Economic Forum, October 18, 2019, <https://www.weforum.org/agenda/2019/10/sustainable-development-goals-hindered-by-child-marriage/>

¹³ Anne K. Bang, "Unfulfilled Hopes. The Quest for a Minimum Marriage Age in Yemen, 2009-2014," *CMI Report*, 2016. <https://www.cmi.no/publications/5817-unfulfilled-hopes-minimum-marriage-age-in-yemen>

¹⁴ "Yemen: End Child Marriage, Enact Law Establishing Minimum Age; Punish Violators" Human Rights Watch news release, April 27, 2014, <https://www.hrw.org/news/2014/04/27/yemen-end-child-marriage>.

However, the status of Parliament is currently “expired” as its six-year term has ended and power remains split between the internationally recognized Yemeni government and the Houthis.¹⁵

We encourage the Committee to pose the following questions:

- What steps are being taken to resume Parliamentary discussion on setting a minimum age for marriage?
- What mechanisms are there in place to ensure accurate registration of births, deaths, marriages, and divorce?
- How is the government working to change the cultural acceptance of child marriage and promote education for girls and women?
- Do girls currently in marriages have access to legal redress and child protection services?
- Are there retention strategies in place to ensure that girls who enroll in school are able to remain in school?
- Are there monitoring systems in place to identify girls most vulnerable to child marriage?

3. Violence Against Women and Girls (Articles 1, 2, 3, and 12)

Violence against women has increased about 63 percent since the conflict escalated in 2015.¹⁶ Prior to the conflict, women faced discriminatory laws that increased the vulnerability of females to violence, but during the current conflict, warring parties’ actions have led to the displacement of women and girls in large numbers, and exacerbated discrimination and violence against them.¹⁷

Gender-Based Violence

Yemen has no law designed specifically to protect women from gender-based violence, only the general protection provided in the Penal Code that criminalizes infliction of physical harm. Provisions in the Personal Status Law create conditions that can facilitate marital rape and domestic violence. Article 40 of the Personal Status Law, for example, as revised

¹⁵ Al-Haj, Ahmed, “Yemen President Returns Home for a Rare Parliament Session,” Associated Press, April 12, 2019, <https://apnews.com/f4b6604060f047478561089ee4a8990b>.

¹⁶ Human Rights Watch, *World Report 2020: Yemen*, January 2020, <https://www.hrw.org/world-report/2020/country-chapters/yemen>.

¹⁷ Ibid.

in 1998, requires a woman to be obedient to her husband. Article 40 does not permit a woman to leave the matrimonial home without her husband's permission except in very narrow circumstances. The provision requires that women allow their husbands to have sexual relations whenever the husbands require.¹⁸ Marital rape is not criminalized.

Likewise, provisions in the Penal Code also increase the vulnerability of women to violence. Article 232 of the Penal Code allows for reduced and lenient sentences for men convicted of so-called "honor killing." It provides that a man who murders or injures his wife, mother, daughter, or sister or her partner after finding them in the act of committing adultery should receive a maximum prison sentence of one year or a fine.¹⁹ In addition, where a family member has killed a female relative in the name of "honor," he can be pardoned by his family.

Other legal provisions that criminalize *zina* (sexual intercourse outside of marriage) and "immoral acts" have a discriminatory impact on women.²⁰ For example, under "immoral acts," a woman can be prosecuted for the offense of *khilwa* if found in the company of a man who is not her relative. Such provisions undermine women's rights, including to equal protection under the law.²¹ Criminalizing consensual sex between adults also increases women's vulnerability to rape and other sexual abuse as women are likely to be deterred from reporting such crimes, fearing their own prosecution for *zina* or "immoral acts."

Female Genital Mutilation

Female genital mutilation (FGM) is practiced in some governates of Yemen, where the figures can be as high as 84 percent of women and girls who are cut. By 2013, research demonstrated that 19 percent of all women and girls nationwide had undergone some form of FGM. Ninety-nine percent of women who are victims of FGM are mutilated within the first

¹⁸ Law No 40. of 1998 regarding Personal Status (hereafter Personal Status Law) (in Arabic) at http://www.yemen-nic.info/db/laws_ye/detail.php?ID=11351 (accessed January 28, 2020).

¹⁹ Law No. 12 of 1994 regarding crimes and punishments (hereafter Penal Code), as amended by law no.16 of 1995 and Law No. 24 of 2006, article 232 (in Arabic) at http://www.yemen-nic.info/db/laws_ye/detail.php?ID=11424 (accessed January 28, 2020).

²⁰ Article 12 lists *zina* as one of the crimes that would fall within the classification of hudood (hadd singular) crimes that are crimes as prescribed under Sharia. Article 263 provides that where *zina* is committed by an unmarried man or woman they are to be punished by a maximum of 100 lashes and a court may also on the basis of ta'zir (discretion) sentence them to a maximum of one year in prison; if the person was married when committing *zina*, it is punishable by stoning to death.

²¹ Chapter 3 of the Penal Code refers to "scandalous" acts in breach of modesty, which is defined under article 273 as "a scandalous act in breach of modesty are all acts contrary to public decency or modesty, nudity, revealing intentionally their genitals or indicating a breach of modesty and contrary to etiquette." For instance, article 275 states in cases of scandalous acts with a female that they could be imprisoned up to one year or a fine if the act was committed without the female's consent but if she consented then the two of them could be sentenced to a maximum of six months or a fine not exceeding 1,000 riyals (US\$5).

year of birth, with 93 percent mutilated within the first month.²²

Because of the fragile healthcare system prior to the conflict and the collapse of the healthcare system amidst the fighting, particularly emergency care, in many rural areas of Yemen, FGM can lead to death or long-term health consequences. The Yemeni government keeps no official data on deaths associated with FGM, so the number of Yemeni girls who have lost their lives due to the practice remains unknown.²³

A law banning FGM was debated during Yemen’s National Dialogue Conference in 2014. Conference members concluded that those who carry out FGM should be subject to criminal prosecution. In response to this and other National Dialogue recommendations, in April 2014 a Child Rights bill that criminalizes FGM and stipulates prison sentences and fines for offenders was submitted for ministerial review. However, the bill was pending before the cabinet when the hostilities escalated and there was a change in the government.

We encourage the Committee to pose the following questions:

- What steps are being taken to make all forms of violence against women and girls, including domestic violence, a criminal offense?
- What steps are being taken to repeal or amend laws that facilitate violence against women, including those related to “honor killings” and *zina* (sexual intercourse outside marriage)?
- Are there mechanisms in place by which victims can report violence to government officials and receive a response?
- What legislative steps are being taken to eliminate the practice of female genital mutilation (FGM) for children and non-consenting adult women?
- How does the government define FGM?

4. Abuse Against Migrant and Yemeni Women and Girls in Detention (Articles 1,2 and 12)

Yemeni government officials have tortured, raped, and executed migrants and asylum seekers from the Horn of Africa in a detention center in the southern port city of Aden.

²² “Yemen: National Health and Demographic Survey 2013,” Ministry of Public Health & Population & Central Statistical Organization, Republic of Yemen (July 2015), <https://dhsprogram.com/pubs/pdf/FR296/FR296.pdf>.

²³ “Killing My Daughter Haunts Me: Female Genital Mutilation in Yemen,” unpublished Human Rights Watch research, 2014.

Past videos and photos of the detention facility show hundreds of men and boys in a crowded concrete hangar, with women and girls sitting on a stone floor. Former detainees reported that the facility was overcrowded, with dire sanitation conditions and little access to medical care. The provision of food was inconsistent, and guards would occasionally withhold food. Former detainees said guards sexually assaulted women and girls regularly.

One woman, from Harar, Ethiopia was arrested by Yemeni soldiers with a few dozen other Ethiopian men and women. When they arrived in Buraika, she was separated from her husband. The male guards made the women take off their abayas and headscarves and checked their bodies and hair. They took them to a room with about 100 other women. Guards would beat them regularly, she said, when the women would wail or yell. The guards did not provide much food, and the supply was not consistent. Every night, the guards would take one or two women with them, she said. Most women were eventually forced to go with the guards. If a woman refused to sleep with the guards, they would retaliate by withholding food for two days, she said. She knew five girls – a 12-year-old, two 15-year-olds, and two 17-year-olds – who were held in the facility with her and who had been raped.²⁴

Dozens of Yemeni women were also being held without charges in secret Houthi prisons, where they are often subjected to torture and mistreatment. Their families are not aware of their whereabouts.²⁵

We encourage the Committee to pose the following questions:

- What steps are being taken to ensure migrant detainees are held in conditions that meet international standards?
- Are specific protections for women and girls held in migrant detention centers included in the trainings, rules, policies, and manuals for detention center staff?
- What mechanisms are there in place to identify children in detention?
- Under what conditions are children held in detention?

²⁴ “Yemen: Detained African Migrants Tortured, Raped: Grant Access to Asylum Procedures; Hold Abusers Accountable,” Human Rights Watch news release, April 17, 2018, <https://www.hrw.org/news/2018/04/17/yemen-detained-african-migrants-tortured-raped>.

²⁵ “Yemeni Group: Houthi Rebels Hold, Torture Female Detainees.” AP News, Maggie Michael. January 17, 2019, <https://apnews.com/ob4af81e4c1a4e5abce813d5eacdd975>.

- How do authorities and detention center staff ensure children have access to appropriate food and medical care and can communicate with their families?
- What supervision mechanisms are there in place to monitor the conduct of detention center staff members?
- Are there channels by which detainees may report instances of abuse or mistreatment and receive response?

5. Women's political participation (Article 3)

Women could always be found at the forefront of political and academic activist spaces in Yemen, although the context of turmoil and violence since 2015 has significantly impeded their access to formal political and peacebuilding channels.²⁶ For example, women's participation in politics in the National Dialogue Conference during the transitional period in 2013 resulted in many achievements for women's rights, albeit frozen now. The draft constitution received significant input from female politicians, which was reflected in the draft constitutional provisions banning child marriage and a 30 percent quota for women in governing bodies and institutions.

The conflict has stalled further progress or discussion on the new constitution, and women have been marginalized from further participation. During peace talks in 2015, women were excluded from participating.²⁷ Only one female delegate was present at the negotiation table at the Yemen peace talks in Stockholm in December 2018.²⁸ A handful of women from three different groups were also present at the 2019 talks, but their presence did not translate into a formal seat at the negotiation table.²⁹

We encourage the Committee to pose the following questions:

- What mechanisms are in place to ensure active political participation of women in political and legislative bodies?
- What steps are being taken to ensure inclusive representation of women in peace talks at the international level?

²⁶ Afrah Nasser, "Yemen's Women Confront War's Marginalization." MERIP, no. 189 (Winter 2018). <https://merip.org/2019/03/yemens-women-confront-wars-marginalization/>.

²⁷ Ibid

²⁸ Afrah Nasser, "Yemen: Women, War & Political Marginalization," *Atlantic Council* (blog), January 25, 2019. <https://www.atlanticcouncil.org/blogs/menasource/yemen-women-war-political-marginalization/>.

²⁹ Ibid.