

# Briefing note on caste-based discrimination in Yemen

IDSN Briefing Note · 2014

## The situation of the 'Al-Akhdam' in Yemen

The 'Al-Akhdam' community is a minority group, which is regarded as an 'untouchable' outcaste group in Yemen. For centuries 'Al-Akhdam' people have suffered perpetual discrimination, persecution, and social exclusion from mainstream society. They are at the bottom of the social and economic hierarchy when it comes to access to employment and conditions of work, and they are forced to live in isolation from the remaining society. The term 'Al-Akhdam' literally translates as "the servants" and is figuratively suggestive of "people held in contempt and servitude" in Yemen<sup>1</sup>.

While some studies and reports have been undertaken, there is a pressing need for more research and data to document the situation of the 'Al-Akhdam' in Yemen. Their total population number is unknown, and there are large inconsistencies between official and unofficial figures. The government census of 2004 stated that the number is 153.133, but other sources estimate that between 500.000-3.5 million persons belong to this minority group.

Some of the most critical problems affecting the 'Al-Akhdam' population are the lack of access to education adequate housing, employment, and basic social services. This has a negative effect on other living conditions, including health conditions. The 'Al-Akhdam' earn their living by performing 'dirty' jobs such as sweeping, collecting plastics, or begging – the latter being especially common for women. The level of child labour is extensive and adds to a vicious cycle of school dropouts and limitations in access to employment due to lack of basic education. Moreover, many 'Al-Akhdam' children suffer from serious diseases such as dyspnoea, malaria, and polio, and the death rate is high.

Key challenges to the enjoyment of fundamental human rights for the 'Al-Akhdam' include lack of access to political participation and education; extreme poverty problems conditioned by discrimination; unequal access to work; and forced labour.

## The 'Al-Akhdam' lack legal protection

Governments in Yemen have failed to recognise the particular plight of 'Al-Akhdam' and the massive human rights abuses and socio-culturally embedded forms of prejudice and discrimination to which they are exposed.

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<sup>1</sup> The term 'Al Akhdam' has been contested as it carries a derogative meaning. While the term 'Muhamasheen' may in some contexts refer specifically to the 'Al Akhdam', it is also frequently used to denominate a wider section of marginalised groups in Yemen, including communities not affected by caste-based discrimination, and therefore not subjected to the same forms of gross discrimination and exclusion.

No legislation exists to criminalise the practices of persecution, exclusion and discrimination against the 'Al-Akhdam'. Consequently, these practices go unnoticed, unreported and unpunished.

This is happening despite a (1991) Constitution that provides a general principle of equality to all citizens. There are no indications that such equality is extended to members of 'Al-Akhdam' communities. The Constitution fails to mention the customary laws that are practiced in Yemen, especially in rural areas. These laws openly and directly discriminate against 'Al-Akhdam' because they are allegedly descendants of non-Arab Christians and supposedly deficient in Arab and Islamic moralities and therefore unfit to hold any responsible position including the responsibility to own a property.

By failing to mention 'Al-Akhdam' rights and their inclusion in the category of citizens and by failing to challenge the authority of the customary laws that deny the 'Al-Akhdam' equal rights, the Yemeni Constitution also fails to extend constitutional rights and protection to 'Al-Akhdam'. Similarly by failing to denounce prevalent caste- and descent-based social differences the Constitution fails to recognise the 'Al-Akhdam' as equal citizens.

The abuses and crimes perpetuated against the 'Al-Akhdam' violate not only the rights and privileges that are guaranteed to all other Yemeni citizens, but the Government clearly fails to honour its obligations as set out in the Universal Declaration of Human Rights and International Human Rights Conventions that it has ratified.

The 'Al-Akhdam' people remain invisible in the context of national development strategies and budget allocations of the Government of Yemen. Till date there are no provisions for the 'Al-Akhdam' people to access public benefits for the basic and urgent needs they face. A recent invitation to a representative from the 'Al-Akhdam' people to present the concerns of the community in a national dialogue conference must be followed by a wider consultation with 'Al-Akhdam' communities and introduction of constitutional, legislative, policy and other measures as outlined in the recommendations listed below.

## Recommendations

1. The State should take all necessary constitutional, legislative, institutional, political, economic and social measures to end discrimination against marginalized population groups, integrate them into development processes and enable them to exercise equal citizenship rights.
2. Constitutional provisions should guarantee the protection of the rights of the marginalized, including specifically the 'Al Akhdam'; the state should take all appropriate legal measures for their participation in public, civil and political life and access to decision-making position on an equal footing with the rest of population.
3. The Government should enact anti-discrimination laws that criminalise the socially enforced exclusion and discrimination imposed by both state and non-state actors on the 'Al-Akhdam' population, with specific provisions for law enforcement and protection by the public authorities; access to justice and non-discriminatory treatment of 'Al-Akhdam' people;
4. Anti-discrimination legislation must have specific provisions for guaranteeing prompt and adequate investigation into cases with perpetrators committing crimes against 'Al-Akhdam' being brought to justice and held accountable for their crimes.
5. The Government should establish a national body for the marginalized groups and prepare a national action plan for the elimination of discrimination against the 'Al-Akhdam' and improvement of their living conditions based on accurate data on the size and problems of the 'Al-Akhdam' and consultation with this community. The Government should make use of the draft UN Principles and Guidelines for the Effective Elimination of Discrimination based on Work and Descent as a model framework for developing a national action plan.<sup>i</sup>
6. The Government must immediately recognise the social and economic rights of the 'Al-Akhdam's including the right to adequate housing and to own property criminalising any cultural practices that interfere with the enjoyment of such rights;

7. Legislative measures must be supplemented through policies, programs, and projects that will counteract the deeply ingrained cultural violence and persecutions of 'Al-Akhdam':
8. The Government and state institutions must introduce legislative and policy measures for the protection of Al-Akhdam children from sexual, physical and psychological violence requiring special state-sponsored intervention, care and legal protection;
9. The Government must ensure that the right to education is guaranteed and implemented through special measures that recognise the special plight and circumstances of 'Al-Akhdam' children;
10. The Government should request international organisations mandated with education and child rights (UNESCO and UNICEF) to provide immediate assistance and guidance to protect the rights of Al-Akhdam children and support programmes in all areas affecting their livelihood.
11. The Government must respect international labour laws; and take immediate steps to eliminate forced labour and protect children in particular the most marginalised against child labour and other forms of abuse; the illegal exclusionary practice of employment of 'Al-Akhdam' as "sanitation workers" must be abandoned and other employment opportunities and economic activities be made available.

### UN conclusions and recommendations on the 'Al-Akhdam' in Yemen

[UN treaty bodies](#) have on various occasions expressed grave concern about the persistence of descent-based discrimination against the 'Al-Akhdam' community in Yemen. UN bodies have recommended the Government of Yemen to, among other things, take measures to combat *de facto* discrimination against the 'Al-Akhdam' in accordance with the [CERD General Recommendation 29 on descent](#), and to adopt a national action plan to address the issue.

The human rights situation of the 'Al-Akhdam' people has been raised by the following committees:

- UN Committee on the Elimination of Racial Discrimination (CERD) in 2011 and 2006;
- UN Committee on Economic, Social and Cultural Rights (CESCR) in 2011;
- UN Committee on the Rights of the Child (CRC) in 2005;
- In the List of Issues for the review of Yemen by the Human Rights Committee at its 104<sup>th</sup> session in March 2012, the Committee also asked for information on descent-based discrimination.

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#### *Human Rights Committee 104th session Yemen 2012*

In the [Concluding Observations](#) the Human Rights Committee expressed concern about "long-standing discrimination and marginalization of some minority groups such as the Al Akhdam community." (para. 12)

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#### *Committee on Economic, Social and Cultural Rights – Yemen 2011*

In the [CESCR Concluding Observations](#) the Committee expressed concern that the Al-Akhdam people continue to face social and economic marginalisation and discrimination, especially concerning access to employment, conditions of work, extensive level of child labour, extremely high levels of school drop-out, lack of adequate housing, water and sanitation, as well as electricity." (para. 7). It called on the Government of Yemen to "combat the social discrimination and marginalisation faced by the Al-Akhdam people" and to "adopt a national action plan for this purpose".

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#### *Committee on the Elimination of Racial Discrimination - Yemen 2011*

In the [CERD Concluding Observations](#) the Committee expressed concern "at the persistent and continued social-economic exclusion of descent-based communities such as the Al-Akhdam" and recommended that "the State party should study the root causes" of their marginalization. It further recommended that "the State party should strengthen its efforts to improve the welfare of all marginalized and vulnerable descent-

based groups, particularly the Al-Akhdam, in the fields of education, access to health, housing, social security services and property ownership.” (para. 15)

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#### *Committee on the Elimination of Racial Discrimination – Yemen 2006*

In the [CERD Concluding Observations](#) the Committee noted that it was “deeply concerned at the persistent reports of de facto discrimination” against the ‘Al-Akhdam’ and “particularly concerned about discrimination that interferes with or impairs the enjoyment of their economic, social and cultural rights.” The Committee recommended that the State party adopt a national strategy “to eliminate discrimination against members of marginalized and vulnerable descent-based groups.” It also recommended developing “legislation and practice prohibiting all discriminatory practices based on descent...” (para. 15)

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#### *Committee on the Rights of the Child - 2005*

In the [CRC Concluding Observations](#) the Committee expressed concern “at the disparities in the enjoyment of rights and at the social discrimination experienced by children belonging to the most vulnerable groups, inter alia, children who are also addressed as Akhdam children.” It recommended that the State party “prioritize and target social services for children belonging to the most vulnerable groups, including those children referred as Akhdam children...”

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#### *High Commissioner’s technical reports on Yemen – 2014*

The OHCHR annual technical report on the human rights situation in Yemen [A/HRC/27/44](#) refers to the caste-based discrimination of Muhamasheen/‘Al-Akhdam’. Additionally three previous OHCHR technical reports also mention the plight of the Muhamasheen/‘Al-Akhdam’. The extracts regarding this minority group from all four reports can be accessed here:

- [Extracts regarding ‘Al-Akhdam’ from OHCHR reports on Yemen](#)
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#### *Alternative Reports*

- [The human rights situation of Al-Akhdam in Yemen](#): Joint submission for the 17<sup>th</sup> UPR session in January 2014 by All Youth Network for Social Development and IDSN, June 2013
  - [Alternative report on Civil and Political Rights of Al-Akhdam in Yemen](#): Submitted to the Council prior to the HRC 104<sup>th</sup> session by the All Youth Network for Social Development and IDSN, February 2012.
  - [An alternative report on the human rights situation of the Al-Akhdam population in Yemen](#): submitted to the Committee prior to the CSESR 46<sup>th</sup> session by the All Youth Network for Social Development and IDSN, May 2011
  - [Alternative Report to the joint 15<sup>th</sup> and 16<sup>th</sup> Periodic Report of the State Party Yemen](#): submitted to the Committee on the Elimination of Racial Discrimination during its consideration of the joint 15<sup>th</sup> and 16<sup>th</sup> Periodic Report of Yemen by the Alternative World/Partnership for Equitable Development and Social Justice in Association with IDSN, July 2006
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#### *Study on EU action in addressing caste-based discrimination*

[A human rights and poverty review: EU action in addressing caste-based discrimination, 2012](#)

This briefing document issued by the European Parliament’s Committee on Development assesses to what extent the EU has integrated the fight against caste-based discrimination in its external relations. The study includes several references to the situation of the ‘Al-Akhdam’ community. It notes that the ‘Al Akhdam’ “suffer similar forms of discrimination as castes in other countries” and adds that “no affirmative action or

anti-discrimination legislation exists.” The study also stresses that the EU makes no “reference to the Akhdam” in key documents. (p. 6)

With regard to the future perspectives of EU-Yemen relations, the study says that the EU may consider using its network of human rights focal points in EU delegations “to improve the information flow on caste discrimination and the best practices used to fight it”. It also recommends that the EU “should work towards more recognition of caste discrimination and promote legislation against caste discrimination and for reservations (quota) for low-castes” in countries such as Yemen. (p. 21-22)

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#### Films on Caste Discrimination including clippings on Yemen

- [We are not untouchable](#) – an introduction to caste discrimination, 2012
- [Dalit Women](#) – a thematic film on Dalit women, 2012

#### Articles

- [In pictures: Yemen’s ‘lowest of the low’ \(BBC News\)](#), October 2012
- [YEMEN: Girls, poor and black people most discriminated against - study](#), March 2009
- [Photo reportage on Yemen's 'Akhdam' community by the New York Times](#), February 2008
- [Languishing at the bottom of Yemen's ladder - New York Times](#), February 2008
- [In slums without hope, Yemen's untouchables](#), December 2008
- [YEMEN: Akhdam people suffer history of discrimination](#) November 2005

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<sup>i</sup> The draft UN Principles & Guidelines for the effective elimination of discrimination based on work and descent were published by the Human Rights Council in an annex to a report (A/HRC/11/CRP.3) at its 11<sup>th</sup> session in May 2009. As an overarching principle the draft P&G establish that all states, including Yemen, have a duty to make sincere efforts to dispel the prejudicial beliefs that constitute, support and reinforce discrimination based on work and descent, including notions of “untouchability”, pollution and caste superiority or inferiority, as well as to prevent actions taken on the basis of such beliefs. The principles and guidelines suggest the specific measures to be implemented for the effective elimination of this form of discrimination, including all necessary constitutional, legislative, administrative, budgetary and judicial measures and appropriate forms of affirmative action and public education programmes to prevent, prohibit and provide redress for discrimination based on work and descent in both public and private spheres; and ensure that such measures are respected and implemented by all state authorities at all levels.