

Alternative report submitted to the UN Human Rights
Committee at its 104th session

Civil and political rights of the Al-Akhdam in Yemen

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PART I: BACKGROUND

Introduction

This alternative report is submitted on the occasion of the review of the fifth periodic report by the Government of Yemen by the UN Committee on Civil and Political Rights at its 104th session in March 2012. It focuses specifically on the human rights situation of the Al-Akhdam community in Yemen; a situation which has been addressed by the Committee in the List of Issues (para. 7). The report is divided into three parts: Background, issues of discrimination, and recommendations.

The report has been prepared by All Youth Network for Society Development in association with the International Dalit Solidarity Network (IDSN). The All Youth Network for Society Development is a local lobby and advocacy network, which is working for the elimination of other forms of discrimination in Yemen. IDSN is an international lobby and advocacy network, which is working for the elimination of caste-based discrimination and other forms of discrimination based on work and descent globally.ⁱ

UN treaty body observations on the Al-Akhdam in Yemen

The human rights situation of the Al-Akhdam people has been raised consistently by a number of the UN treaty bodies, including in the Concluding Observations of the UN Committee on the Elimination of Racial Discrimination (CERD) in 2006 and 2011, the UN Committee on Economic, Social and Cultural Rights (CESCR) in 2003 and 2011, and the UN Committee on the Rights of the Child (CRC) in 2005.ⁱⁱ

When Yemen was reviewed by the CERD Committee in February 2011, the Committee recommended the State Party to “study the root causes of the marginalization of the Al-Akhdam people” bearing in mind its General Recommendation No. 29 (2002) on Descent, and to “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” (CERD/C/YEM/CO/17-18, para. 15).

In May 2011, the CESCR Committee specifically recommended the Government of Yemen to adopt a national action plan to combat the social discrimination and marginalization faced by the Al-Akhdam people. Paragraph 8 of the Concluding Observations of 1 June 2011 (E/C.12/YEM/CO/2) states the following:

“The Committee calls on the State party to combat the social discrimination and marginalization faced by the Al-Akhdam people, including through temporary special measures, in line with the Committee’s general comment No. 20 on Non-Discrimination in Economic, Social and Cultural Rights, and to adopt a national action plan for this purpose, drawn up with the participation of Al-Akhdam people and equipped with an effective, participatory and transparent monitoring and implementation mechanism. The Committee also recommends that the planned measures focus on access to employment, adequate conditions of work, enrolment of children in education and prevention of school drop-outs, access to medical care, and reduction of child mortality, as well as access to adequate housing, water, sanitation and electricity.”

Descent-based discrimination and the Al-Akhdam

UN bodies and experts have repeatedly affirmed that the term “descent” in international human rights law encompasses caste and analogous systems of inherited status. The Al-Akhdam people are subject to a similar form of discrimination based on work and descent, as a minority group regarded as “untouchable” outcastes in Yemen.

In connection with the UN Human Rights Committee’s examination of Yemen at its 104th session, the Committee requests the following information from the Government of Yemen in paragraph 7 of the List of Issues (CCPR/C/YEM/Q/5) of 20 April 2011:

“Please provide information on the measures taken, if any, to end descent-based discrimination and all forms of discrimination against members of marginalized communities including the Al-Akhdam community.”

Whereas the International Covenant on Civil and Political (ICCPR) does not define the term “discrimination”, the Human Rights Committee states in General Comment No. 18 on Non-discrimination (1989) that it believes that “the term “discrimination” as used in the Covenant should be understood to imply any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms” (para. 7).

In General Comment No. 25 (1996), the Human Rights Committee also states that “persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements such as education, residence or descent, or by reason of political affiliation. No person should suffer discrimination or disadvantage of any kind because of that person’s candidacy” (para. 15).

General Comment No. 18 refers to the definition of the term “discrimination” in the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). In CERD General Comment No. 29 (2002), the CERD Committee strongly affirmed that “discrimination based on “descent” includes discrimination against members of communities based on forms of social stratification such as caste and analogous systems of inherited status which nullify or impair their equal enjoyment of human rights.” Other treaty body committees, such as CESCR, CEDAW and CRC, have confirmed that caste and/or analogous forms of inherited status fall under the scope of these conventions.ⁱⁱⁱ

It is therefore welcomed that the Human Rights Committee takes up these concerns when examining the Government of Yemen’s fifth periodic report at its 104th session, because discrimination and marginalization of the Al-Akhdam people continues to severely impair their enjoyment of civil, political, economic, social and cultural rights.

PART II: HUMAN RIGHTS SITUATION OF THE AL-AKHDAM

Country information

The Republic of Yemen is located in south of Arabian Peninsula. It has an area of 474,580 sq km, divided into 20 governorates and municipality. Yemen’s geography is varied, including mountains, hills, plains, valleys, deserts, and islands. The system of government is a presidential Republic. The Yemeni Constitution and Islam are the main sources of

legislation. The laws specify a distribution of power among the executive, legislative, and judicial branches of government and support the principles of plurality of political parties. In Yemen, there are parliamentary elections.

The terms for members of parliament have been extended from four years to six years, and the presidential term has been extended from five years to seven years. The first elections of local councils took place in February 2001. Despite the Constitution's emphasis on decentralization of powers, in practice, the powers remain centralized. Yemen's economic growth is among the slowest worldwide and it is the poorest Arab country. Yemeni society is primarily agricultural and ruled by tribal traditions. In most of Yemen, the judicial system is weak and dependent upon the executive branch. Reports by the World Bank and Transparency International have confirmed that corruption is wide spread among most of the government utilities. Corruption weakens the established laws and judiciary, which in turn allows violations of human rights despite the measures taken such as the ratification of many conventions on human rights in 2003, and the establishment of human rights organizations and various civil society establishments.

According to the latest population census, Yemen's population is 19,721,643, with females and males representing 49.3% and 50.7% respectively. The population is distributed among twenty governorates and municipalities, in both urban and rural areas. Population growth decreased according to the latest population census to 3.02%¹. Yemen lacks many of basic human services, especially in more rural and remote locations. Small Jewish minorities exist in Yemen in addition to a marginalized group called the Akhdam (servants).

Discrimination against the Al-Akhdam

The term "Al-Akhdam" literally translates as "the servants" and is figuratively suggestive of "people held in contempt and servitude" in Yemen.^{iv} The total figure of this population is unknown, and there are large inconsistencies between official and unofficial numbers. The government census of 2004 stated that the number is 153.133, but unofficial sources claim that between 500.000-3.5 mio. persons belong to this minority group.^v

For centuries the Al-Akhdam has suffered perpetual discrimination, persecution and ensuing crimes at Yemen's most marginal social, economic, and political spaces where they are violently excluded from mainstream society as an "untouchable" ethnic outcaste.

Some of the most critical problems affecting the Akhdam population are the lack of access to adequate housing, employment, education, and basic social services. 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.

Violation of civil and political rights of the Al-Akhdams

A: Political Rights

With respect to article 25 (paragraphs a, b, c) of the ICCPR, all persons have the right and opportunity to equal political participation. The Al-Akhdam people are prevented from adequately enjoying this right in the following ways:

- 1) The Akhdams do not have the right and opportunity to equal political participation since they cannot nominate themselves for any elections and they

cannot hold high public positions of decision-making. So, all the governmental authorities exercise discrimination against the minorities of Akhdams.

- 2) Akhdams do not participate in the Local councils or the Parliament, nor are any government specific positions available for them. They are not appointed in any sovereign positions or diplomatic posts because of the ethnic origin of Akhdams and the discrimination culture that is practiced against them by the community and the decision-makers.
- 3) Akhdams are not allowed to participate in the writing of government strategies of all the sectors and ministries. They are not given any priority when plans and programmes are designed, or consulted in this process.
- 4) In the elections, the votes of Akhdams are used only as a means of voting for a particular party or candidate and this is usually by force by some individuals in the government.
- 5) The government has never establish any law or amendment in the existing legislation that ensures Akhdams equal opportunities for political participation like other people in the country.

B: Civil Rights

According to article 26 of the ICCPR, all persons are equal before the law and are entitled without any discrimination to the equal protection of the law. The Al-Akhdam people are prevented from adequately enjoying this right in the following ways:

- 1) Regarding the right to equality before the law, Akhdams are dealt with differently. The state authorities deal with any suspected or accused person of Akhdams differently than they deal with other persons. Sometimes many accuses are fabricated against him/her and deal with him/her as if he/her was an animal.
- 2) Prisoners from the Akhdam community remains in prisons for a longer period that is determined in his/her verdict. This is because they cannot afford to pay the Public Interest or any other fees.
- 3) Some Shaiks use their influence in the government and target Akhdam families and members deliberately. They imprison them in private jails and sometimes scare them away or kill them. In response of such actions, the government does not take any procedures against the Shaiks (e.g. tracing them down, arresting them or suing them after a crime). Even if they are sued, the case takes no serious procedures or makes a fair judgment. Cases may also last for longer and sometimes the case is fabricated because the prosecutor is from the Akhdam, and it is considered a shame for a person from the Akhdams to sue a Shaik.
- 4) The law does not recognize the existence of the Akhdams, which is why they are given no rights; the lawmakers and law executors are most people who violate the rights of this group.

PART III: RECOMMENDATIONS

- 1) There must be national strategies and programs as well as actual government interests in promoting and protecting the civil, political, economic, social and cultural rights of the Akhdams, including the protection by public authorities, any institution or individuals.
- 2) The Government of Yemen should respect the Akhdams' desire in to identify themselves with the name they wish, and to the group to which they want to belong in accordance with the principle of self-identification.
- 3) The Government should ensure that legislation involving issues of citizenship and naturalization does not lead to discrimination against Akhdams.
- 4) The Government should take all the necessary measures to avoid any form of discrimination against the internal immigrants of Akhdams, especially women who are subjected to multiple forms of discrimination.
- 5) The Government should take all the necessary measures to ensure access to justice and a fair trial, especially in cases where the basic rights of Akhdams are violated.
- 6) The Government should find the best ways to communicate and ensure an effective dialogue between Akhdams and the central local authorities.
- 7) The Government should create mechanisms to encourage dialogue and relations between Akhdams and other community members, especially at the local levels in order to enhance the culture of acceptance and limit the negative practices of certain groups being marginalized, subsequently accepting each other as community members having equal rights and opportunities.
- 8) The Government should acknowledge the harms and damages faced by Akhdams during the war with Alhuthies (in Sa'ada) as a result of annihilating and removing them, and find ways to compensate them.
- 9) The Government should take the necessary measures in corporation with civil society to design projects and programs that enhance community members' culture of respecting others and reject any form of discrimination, especially against the Akhdams.

ⁱ IDSN members consist of national platforms in caste-affected countries in South Asia, solidarity networks, international associates, and national associates. For more information, visit:

ⁱⁱ For all references, see IDSN's website: <http://idsn.org/international-advocacy/un/un-treaty-bodies/yemen/>

ⁱⁱⁱ For all references, see the section on "General Comments" in the compilation of UN references by IDSN, 2011: http://idsn.org/fileadmin/user_folder/pdf/New_files/UN/UNcompilation.pdf

^{iv} CERD Alternative Report prepared by Alternative World/Partnership for Equitable Development and Social Justice in Association with International Dalit Solidarity Network (2006), p. 4

^v "Akhdam Category in Yemen. A comprehensive study about Akhdam in Yemen" by Noman Abdullah Alhakami , 2010, p. 42