

# UPR Yemen 2014

## The human rights situation of Al-Akhdam in Yemen

JOINT NGO SUBMISSION RELATED TO YEMEN FOR THE 17TH UNIVERSAL PERIODIC REVIEW SESSION SCHEDULED FOR JANUARY, 2014

SUBMITTED IN JUNE 2013 BY THE INTERNATIONAL DALIT SOLIDARITY NETWORK AND THE ALL YOUTH NETWORK FOR SOCIETY DEVELOPMENT

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## 1. INTRODUCTION

In this joint NGO submission, the All Youth Network for Society in Yemen and the International Dalit Solidarity Network (IDSN) provide an alternative report on the precarious human rights conditions of the Al-Akhdam minority in Yemen. IDSN and AYN acknowledge the research and drafting by Huda G. Seif, PH.D. for this report.

In the first Universal Period Review of Yemen in 2009, there was no reference to the human rights violations faced by the Al-Akhdam, despite the concerns and recommendations by UN Treaty Bodies raised on the topic prior to the review. The Government of Yemen has till date failed to address the observations and recommendations by UN Treaty Bodies to improve the situation of the Al-Akhdam, thus leaving discrimination on the grounds of work and descent unchallenged for the Al-Akhdam people. According to unofficial sources, there are between 500.000 and 3.5 million members of this excluded minority group<sup>i</sup>. There is a serious need for producing disaggregated data and further research on their situation in relation to the deeply engrained patterns of descent-based discrimination; the lack of surveys on the situation of Al-Akhdam remain an underlying challenge to address their situation.

For centuries Al-Akhdam have been literally forced to live outside mainstream society and suffered persecution and discrimination through which they are forcefully excluded from participating in public, economic, social, and political activities. The pejorative label of “Al-Akhdam” is forcibly imposed on this community from above and literally signifies a status of untouchable “servant caste.”<sup>ii</sup> Subsequently the outcaste Al-Akhdam are condemned as pariahs through economically exploitative social relations that collectively forces them to carry out the larger society’s most culturally loathed (polluting) and dehumanizing tasks (working with human waste with bare hands). For carrying out these tasks in most parts of Yemen, they are not adequately paid but only provided with small amounts of surplus meals given as alms.

In rural northern regions of Yemen where the political powers of local Sheikhs outweigh those of the central government, the status of Al-Akhdam and the conditions under which they live discount all norms and standards of basic human rights. Their designated outcaste status, exclusion and economic exploitation are more emphasized and exceedingly brutal and include limited yet unpaid agricultural activities only during harvest season in exchange for a meal or occasionally small part of grains hardly sufficient for minimally decent nourishment or survival. Such drastic measures of impoverishment maintains this minority at the bottom end of society so that they continue to be disposable and exploitable for carrying out despised, undignified, underpaid and dehumanizing tasks. And because no other economic activities are open to them, begging often becomes the only way to subsidize their family needs.

## 2. EXAMPLES OF CASTE-BASED DISCRIMINATION AND VIOLENCE AGAINST THE AL-AKHDAM IN CONTEMPORARY YEMEN

Al-Akhdam face a series of caste-based discrimination and violent actions that are meant to set them apart from mainstream society of contemporary Yemen. They cannot own land even if they manage to raise money accrued from rare cross-border work in Saudi Arabia. Local Sheikhs do not permit them to construct or inhabit privately organized multiple level dwellings but only shared flat dwellings with common or no exterior doors. The men are strictly not allowed to wear the symbolic dagger that all other Yemeni men wear today. If they do they risk violent reactions including expulsion from their village, physical harm or even homicide because they are accused of insulting tribal honours.

Women from Al-Akhdam are harassed in public and men feel free to solicit sexual favours openly because these women are considered to be lacking modesty and dignity and therefore are expected to accommodate illicit sexual advances and readily accommodate such demands with humility and humbleness. And because Al-Akhdam men are not allowed to carry daggers, they cannot defend them in public by the very common gesture of brandishing their daggers. Police and other public authorities do not see these acts as violations and simply ignore them as ‘funny’ public events or displays when Al-Akhdam face serious forms of public abuses. Public resistance and demonstrations of outrage by Al-Akhdam women are considered funny and amusing.

Public educational institutions allow for similarly abusive patterns of targeting Al-Akhdam through violence and exclusion. Children from this group cannot attend public schools due to common violent and humiliating practices including verbal and physical harassment, in addition to the economic difficulties that prevent them from obtaining school materials or decent clothing. Because schools are often far from home Al-Akhdam children have no means of getting there without the financial means of accessing a means of transportation.

Children from the Al-Akhdam community face a particular set of acute and everyday life-threatening challenges that are unique to the socio-cultural and economic practices of violence, exclusion and dehumanizing persecutions waged against this community. They are openly exposed to a range of rampant sexual, psychological and physical abuses and economic exploitations all of which are severely inhumane, and currently go without any recourse of justice or responses from the authorities. The dominant part of society relinquishes its ethical and moral responsibilities toward these children by depicting them as sub-humans and “little lechers” that seek to spread illicit sexuality among the wider community. At the same time multiple forms of sexual abuses and rape are perpetuated commonly and openly in public spaces such as market alleys. A crying child victim of sexual abuse is often lampooned and deplored as hysteric and is denied sympathy and compassion. Very anguished parents and collective outcries from this group are often threatened with detention followed by brutal destruction of their fragile dwellings.

### **3. YEMEN’S NORMATIVE AND INSTITUTIONAL FRAMEWORK FOR THE PROMOTION AND PROTECTION OF THE RIGHTS OF AL-AKHDAM**

Although the 1991 Constitution of Yemen declares equality of all citizens, there are no indications that such equality is extended to members of Al-Akhdam communities. The Government of Yemen is yet to adopt legislation to criminalize the practices of persecution, exclusion and discrimination against the Al-Akhdam and to develop policy measures. Subsequently, these practices go unnoticed, unreported and unpunished.

Governments in Yemen have failed to recognize the particular plight of Al-Akhdam and the massive human rights abuses and the socio-culturally embedded forms of prejudice and discrimination to which they are exposed. The Constitution of Yemen declares Yemen as an Arab nation and provides a general principle of equality to all citizens naturally perceived to be of Arab identity. The Constitution also declares Islam as the State religion and the Sharia (Islamic law) as the foundation/source of all legislation (Articles 1-3). But the Constitution falls short of specifically mentioning the centuries old and still practiced 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 deficient in Arab and Islamic moralities and therefore unfit to hold any responsible position including the responsibility to own a property. These customary laws also inform the ways in which the Sharia (the basis of the State Law) is locally interpreted and applied within Yemeni society and culture. 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 recognize the Al-Akhdam as equal citizens worthy of inclusion.

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 honor its obligations as set out in the Universal Declaration of Human Rights and International Human Rights Conventions ratified by the Government of Yemen.

Other 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; denied or limited access to health services and housing on par with other citizens; unequal access to work; and forced labour.

However, 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 Akhdam people to access public benefits for the basic and urgent needs they face. A recent invitation to a representative from the 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 legislative, policy and other measures as outlined in the recommendations section of this report.

#### **4. RECOMMENDATIONS TO THE GOVERNMENT**

Yemen has a long way to go in establishing reliable mechanisms for securing the human rights of its citizens. The human rights situation of Al-Akhdam, however, departs from this general concern and remains awash with multiple forms of discrimination and abuses. As a small and defenseless minority social group, Al-Akhdam are collectively targeted for dehumanizing persecution on the basis of their allegedly African ethnicity/descent and purportedly “deficient” social status. Such cultural imaginations have for centuries stigmatised the Al-Akhdam as an untouchable caste at the very margins of society’.

The Government of Yemen must be called upon to make genuine efforts for restituting the human dignity of this community; to honour its own Constitution and to respect its legally binding obligations to international human rights conventions to safeguard minority rights.

The submitting organisations present below specific recommendations on selected, key human rights issues as well as a set of general recommendations. Other important human rights concerns that deserve equal attention, including the intersecting and multiple forms of discrimination against Al-Akhdam women have not been dealt with specifically due to space and data limitations.

##### **4.1 VIOLATIONS OF THE CONVENTION ON THE RIGHTS OF THE CHILD (CRC)**

*“THE COMMITTEE IS DEEPLY CONCERNED AT THE PERSISTENCE OF DISCRIMINATORY SOCIAL ATTITUDES AGAINST GIRLS. FURTHERMORE, THE COMMITTEE IS CONCERNED 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, CHILDREN BORN OUT OF WEDLOCK, CHILDREN WITH DISABILITIES, STREET CHILDREN AND CHILDREN LIVING IN RURAL AREAS.” 7. CRC CONCLUDING REMARK, 2005.*

The Convention on the Rights of the Child provide legally binding instruments for protecting a range of basic human rights considered to be universal and pertaining to the welfare, protection and survival of children which include the right to survival; the right to develop to the fullest; the right to protection from harmful influences, abuse and exploitation; and the right to participate fully in family, cultural and social life.

By agreeing to ratify the legally binding obligations of the CRC in May 1991, the Yemeni State has committed itself to 1) the responsibility of protecting children's rights as stipulated by the Convention and 2) to periodically report to the Committee charged with monitoring state implementations of its obligations. The following failures and violations are noteworthy samples:

- The Yemeni State has failed to acknowledge the general realities of Yemeni society regarding the composition of its population hence the existence of children belonging to the Al-Akhdam. In so doing the Yemeni State withholds the realities of ongoing massive violations of the universal rights of these children.
- By not acknowledging the realities of the everyday violence endured by Al-Akhdam children, the Yemeni State has failed to observe and implement its legally binding responsibilities and obligations to the universal human rights of Al-Akhdam children as stipulated by the Convention on the Rights of the Child and guaranteed by the Constitution of Yemen;
- The Yemeni State fails to protect the special rights of Al-Akhdam children as particularly vulnerable children requiring special attention, care and protection. The Yemeni State has not taken any steps to provide protection by implementing special measures that could seek to address the particular vulnerabilities that come with the violence of social inequality and exclusion with which Al-Akhdam children are faced.

### **SPECIFIC RECOMMENDATIONS**

- The Yemeni State and its government must immediately and officially recognise the plight of Al-Akhdam children as extremely vulnerable children requiring special state-sponsored intervention, care and legal protection;
- The Yemeni State must respect its legally binding obligations to the Convention of the Rights of the Child. It should genuinely attend to the Al-Akhdam universal child rights to survival, compulsory basic education, to develop to their fullest capacities and to protection from harmful influences pertaining to the cruel culture of exclusion and marginality to which they are continuously exposed;
- The Yemeni State must immediately introduce legislative and policy measures for the protection of Al-Akhdam children from sexual, physical and psychological violence all of which are deployed and practiced through the Yemeni culture of outcaste status;

### **4.2 VIOLATIONS OF THE CHILD RIGHT TO BASIC EDUCATION**

Access to education is indisputably a fundamental human right and a basic instrument for the exercise of all other rights. It is the most assured venue for the right to live a life free from fear of poverty and insecurity. The United Nations and in particularly UNESCO provide international normative instruments that also prescribe international and national legal obligations for fulfilling the rights to education and in particular the rights to basic education that is free for all. Educated children become informed adults who can recognize

their fundamental human rights to live in dignity, peace and security. They are also likely to fight for such rights when they are denied to their children. When a State voluntarily fails or refuses to extend its obligations to children from a historically persecuted minority like Al-Akhdam or when a government places (or refuses to remove) obstacles for achieving such rights to minorities, they are also denying future claims of this minority to economic, social, political and cultural rights.

The Right to Education (Article 26) borders the rights to take part in cultural life (Art. 27) and to enjoy the benefits of scientific progress and its applications (Art. 27). It is also linked to the right to freedom of opinion and expression including the right for all to seek, receive and impart information (Art. 19).<sup>iii</sup>

In the Republic of Yemen, illiteracy among the Al-Akhdam minority is close to 90 per cent for women and 50 per cent for men.<sup>iv</sup> This estimate is based on a survey in the most progressive region of Yemen regarding education - the Governorate of Taize. Retention in public schools is very low. About 98 per cent of children from this minority group never graduate but mostly drop out way before completing the 3<sup>rd</sup> grade. Only two per cent reach secondary school and not all of them graduate or continue to go higher education. There are no reported or observed children from this community enrolled in any private school in comparison to 61 per cent of children from the larger dominant society.

Evidently there are deeply imbedded structural and social causes that impede access to education for this minority. The following are some of the immediately observed reasons<sup>v</sup>:

- Most parents do not have the resources for books or clean clothes which leads to the further humiliation of children thereby re-emphasizing the myth of pollution;
- Public schools are often far away from children's residents and communities and children are psychologically vulnerable to actually expect to be taught by a person from mainstream society; Instead they timidly end up providing services for the school instead of being given lessons;
- Aggression and violence towards them by teachers and other students. A majority of teachers in elementary schools in Yemen have only high school certificates and come from rural areas where the persecution against Al-Akhdam is a strict cultural practice; teachers themselves do not want to have Al-Akhdam children in their class. In the absence of any legislation or government policies of protection, these teachers can literally chase away Al-Akhdam children from classrooms or allow themselves and other students to violate them through humiliation, verbal abuses and refusal to sit close to Al-Akhdam children. Often teachers assign compulsorily these children to clean class toilet facilities as "expected" of their untouchable caste. When they clean they are called "polluted" and therefore unfit for the classroom. Often parents, especially in rural areas, do not dare oppose these practices.
- While corporal punishment is a widespread phenomenon in Yemen, children of Al-Akhdam are severely exposed to humiliating corporal punishment;
- Both boys and girls of Al-Akhdam are exposed to a widespread sexual violations and abuses; sexual "access" to these children is widely normalised in a society otherwise strict in sexual matters between adults.
- Absence of any governmental protection from all of the above abuses and obstacles

## **SPECIFIC RECOMMENDATIONS**

1. The Government must genuinely extend the right to education to Al-Akhdam children as free at least in the elementary stage. Such rights must be guaranteed through special measures that recognise the special circumstances of the Al-Akhdam community;

2. Based on a thorough research the Government must seek to identify all the cultural factors and social venues that are deployed to deny access to education; based on such identification it must put in place new legislative and policy measures to redress them all; including giving special opportunities to Al-Akhdam children and for youth to attend universities;
3. The Government must promote school attendance among Al-Akhdam by ensuring parents and children protection from harassment and by providing safety, dignity and security in schools;
4. The Government must draft legislative measures for criminalising the denial of education to Al-Akhdam through any means including unlawful expulsions from schools;
5. The Government must restore the freedom of movement for this community so they can choose to live close to schools; the Government should also guarantee the construction of schools if such communities demand so close to the areas where they live;
6. Given the overall economic, social and psychological crisis suffered by Al-Akhdam, the Government must make special amendment to ensure that Al-Akhdam children enroll, attend and remain in school by providing special funds. The Government could enlist the assistance of WFP to ensure that Al-Akhdam children are nourished while at school.
7. All these measures are long overdue and should be pursued immediately and in consultation with leaders and parents from this minority;
8. The Government could request international organisations mandated with education and child rights (UNESCO and UNICEF) to provide immediate assistance and guidance to carry out these recommendations and propose further guidelines especially in planning, executing, monitoring and evaluating projects and programs to this end;

### 4.3. THE RIGHT TO WORK VIOLATIONS

The Universal Declaration of Human Rights to which the Yemeni Constitution declares adherence specifically refers to the following:

- *ARTICLE 23:*
  1. *EVERYONE HAS THE RIGHT TO WORK, TO FREE CHOICE OF EMPLOYMENT, TO JUST AND FAVORABLE CONDITIONS OF WORK AND TO PROTECTION AGAINST UNEMPLOYMENT;*
  - 2) *EVERYONE, WITHOUT DISCRIMINATION, HAS THE RIGHT TO EQUAL PAY FOR EQUAL WORK AND*
  - 3) *EVERYONE WHO WORKS HAS THE RIGHT TO JUST AND FAVORABLE REMUNERATION ENSURING FOR HIMSELF AND HIS FAMILY AN EXISTENCE WORTHY OF HUMAN DIGNITY, AND SUPPLEMENTED, IF NECESSARY, BY OTHER MEANS OF SOCIAL PROTECTION.*
- *ARTICLE 24:*

*EVERYONE HAS THE RIGHT TO REST AND LEISURE, INCLUDING LIMITATION OF WORKING HOURS AND PERIODIC HOLIDAYS WITH PAY.*

In the northern parts of Yemen, the government violates these universal rights (and by extension its own constitution) when it forces and limits Al-Akhdam to exclusively carry out tasks culturally perceived to be polluting. The modern state apparatuses of the last five decades in Yemen have ingeniously reconfigured the centuries-old practice of social condemnation of Al-Akhdam by their exclusive employment as exploitable, underpaid, indented labour at municipal services as manual sanitation workers and street sweepers euphemistically phrased as *Ummal Al-Nadhafah* (sanitation workers)” in towns and cities.<sup>vi</sup> There are no other economic opportunities opened to them. In so acting the Yemeni state “clearly violates Articles 29, 40 and 41 of the Yemeni Constitution which guarantees equality and the right to freely participate in the economic life of the country.”<sup>vii</sup> In recent years and fearing external scrutiny of such unconstitutional practices (Alternative Report to CERD, 2006), the Yemeni municipalities use private companies to manage on their behalf the hiring of Al-Akhdam as sanitation workers. With no contracts issued and no minimum benefits, the workers are left in perpetual insecurity where they can be fired at the whims of often ruthless supervisors. With abysmally low wages, the manual cleaning tasks assigned to individuals is so overwhelming

that the worker has to bring his entire family including small children to complete the task. This further exposes children and women to the danger of further abuses in alleys and street corners in the middle of the night.

As a measure of survival Al-Akhdam children and women carry out other polluting and often very hazardous tasks such as sorting out foothills of waste materials in dumping and collection areas in search of metal scrapes and recyclable plastic objects with their bare hands and feet. These are then sold very cheaply to middlemen who make a profit because Al-Akhdam has no connections to the industry that recycle these materials. To survive with the meager income and unpredictable wages from municipalities, women and children as young as four have no choice but to subsidize the family income as beggars and urban waste scavengers in search of food that often leads to serious and deadly diseases and for which they find no medical relief.

### **SPECIFIC RECOMMENDATIONS**

- The Government must respect international labour laws and lift the illegal exclusionary practice of employment of Al-Akhdam as “sanitation workers,” by opening to them other employment opportunities and economic activities
- The Government must practice all the legal obligations when employing Al-Akhdam workforce by providing them with legal contracts, equal and dignified working conditions and by extending to them the privileges of such employment;
- The Yemeni government must allow and encourage the formation of committees tasked with the monitoring and evaluation of such legislative measures so as to see their impact and effectiveness for improving the status of Al-Akhdam in Yemeni society
- The Yemeni government must provide special programs that target the improvement of Al-Akhdam work force through training programs;

#### **4.4. VIOLATIONS WITH REGARD TO THE RIGHT TO ADEQUATE HOUSING**

International human rights law recognises the right to adequate housing as an aspect of the broader right to an adequate standard of living. As a concept, “the right to adequate housing” is multidimensional and involves a wider range of rights and State duties/obligations all of which are violated by the Yemeni State vis-à-vis the Al-Akhdam. The UN Committee on Economic, Social and Cultural Rights for example interprets the right to adequate housing as the “right to live somewhere in security, peace and dignity.”<sup>viii</sup>

Regardless of the recent history of wide-ranging economic hardships and widespread poverty in Yemen, the Al-Akhdam faces an exclusively different set of violations with regard to their right to adequate housing. For centuries and up to this present time the Al-Akhdam in northern Yemen are forbidden from owning or leasing land for agricultural purposes or for constructing their home dwellings. In rural areas they are also forbidden from constructing their homes like the rest of society, i.e. according to common architecture preferences. In addition, no one wants to live next to them or even rent them residence units in the rare cases when they could afford to pay rent. Consequently, they are crammed in exterior places or unwanted, unhygienic or polluted parts of towns where they are perpetually excluded from mainstream society as ‘untouchables’.

While no one expects the Yemeni State to provide a home to each and every one of its displaced Al-Akhdam citizens, the violations of their rights to adequate housing relate to the following areas:

- Denied security of tenure by culturally not allowing them to own property or lease land. There is no government legislation or measures that protects them from the widely and openly practiced housing discrimination;
- Denied right to choose one's residence and to determine where to live and to freedom of movement;
- Denied legal protection against frequent government sponsored or privately organized forced evictions and arbitrary demolition of their homes and destruction of personal materials and possessions;
- Denied adequate time and notice for preparation to salvage personal possessions when suddenly evicted and properties and personal belongings destroyed. Therefore they are forced to become internally displaced people (IDPs) yet they are denied emergency relief assistance and measures appropriate to the situation;
- Illegally forced to inhospitable and inhabitable places without the provisioning of construction materials or emergency shelters such as tents or even plastic sheets. In this case they are illegally denied physical safety and protection by illegally exposing them to cold, heat, damp, rain, floods and other weather related hazards;
- In all the above, vulnerability relating to the abuses of Al-Akhdham rights to adequate housing in Yemen, this minority group largely possess the descriptions of Internally Displaced People (IDPs).

#### **4.5 GENERAL RECOMMENDATIONS TO THE GOVERNMENT OF YEMEN**

1. The Government should enact anti-discrimination laws that specifically criminalise the socially enforced exclusion and discrimination imposed by state and non-state actors on the Al-Akhdham population; with specific provisions for law enforcement and protection by the public authorities.
2. The Government should take immediate measures to ensure access to justice and non-discriminatory treatment of Al-Akhdham people when detained and accused of a crime; new legislation must have specific provisions for guaranteeing prompt and adequate investigation into cases with perpetrators committing crimes against Al-Akhdham being swiftly brought to justice and held accountable for their crimes.
3. The Government should make a national action plan for the elimination of discrimination against the Al-Akhdham and improvement of their living conditions with a specific national development aim and objectives. This must be based on exact data about the size and problems of the Al-Akhdham community. The Government is encouraged to 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 comprehensive national action plan to eliminate discrimination against the Al-Akhdham.<sup>ix</sup>
4. The National Human Rights Commission should be encouraged to take on human rights violations against the Al-Akhdham as a priority issue and to contribute to the preparation of a national study on the topic and the drafting of special legislation;
5. The Government of Yemen should respect the Al-Akhdham desire to identify themselves with the name of their choice;
6. The Government must provide immediate physical protection of Al-Akhdham from the dangers of violence perpetuated against them; it must legally lift the cultural barriers that prevent them from seeking and receiving 1) protection from established protection services such as police departments and national security services, 2) health services from public health facilities and hospitals;

7. The Government must immediately recognise the Al-Akhdam's rights to Adequate Housing by restituting their right to own a property and by criminalising any cultural practices that interfere with the practice and enjoyment of such rights;
8. The Government must immediately act to produce urgent legal measurements and related policies to stop the cultural violence that leads to the displacement of Al-Akhdam;
9. Legislative measures must be supplemented through policies, programs, and projects that will counter-act the deeply ingrained cultural violence and persecutions of Al-Akhdam in particular from:
  - a. Ongoing illegal practices of eviction, raids, and destruction of properties;
  - b. Continuous discrimination in accessing early education system by providing protection from persecution in class rooms and schools;
  - c. Providing direct assistance for school meals for Al-Akhdam children who would otherwise go hungry; criminalise school related abuses and persecutions;
  - d. Providing legally binding affirmative actions and positive discrimination of Al-Akhdam to allow access to higher education and to ensure graduation through free tuitions and living support;
10. The Government should create effective mechanisms to ensure dialogue and relations between the Al-Akhdam and other community members, and between the Al-Akhdam and the central and local authorities.

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## ANNEX I

### UN Treaty Body references on Al-Akhdam

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

In the [Concluding Observations](#) the Human Rights Committee raised the following concern on the situation of the Al-Akhdam:

- 1. The Committee is concerned about reports of long-standing discrimination and marginalization of some minority groups such as the Al Akhdam community, 80% of which is illiterate and which suffers from extreme poverty, and has inadequate access to health care, water and other basic services. The Committee is particularly concerned that in the context of the 2011 unrest, the Al Akhdam community has suffered from acts of aggression and intimidation, which have allegedly not led to any investigation and prosecution so far (arts. 2, 7 and 26).*

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

In the [CESCR Concluding Observations](#) the Committee raised the following concerns and recommendations on the situation of the Al-Akhdam:

- 7. The Committee is deeply concerned about the widespread manifestations of discrimination in Yemen against disadvantaged and marginalized individuals and groups, in particular women, which often bear a structural character.*

*The Committee recommends that the State party adopt a comprehensive anti-discrimination law, addressing all disadvantaged and marginalized sectors of the society. The Committee invites the State party to draw guidance in these endeavors from its General Comment No. 20 (2009) on non-discrimination in economic, social and cultural rights.*

- 8. The Committee is concerned that the Al-Akhdam people continue to face social and economic marginalization 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, (art.2).*

*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, elaborated 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.*

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

In the [CERD Concluding Observations](#) the Committee raised the following concerns and recommendations on the situation of the Al-Akhdam:

- 15. While noting the State party's efforts to introduce safety net programmes aimed at improving the livelihoods of marginalized groups, the Committee is concerned at the persistent and continued social-economic exclusion of descent-based communities such as the Al-Akhdam, some of whom are understood to be of African descent. The Committee also expresses its concern at the failure by the State party to acknowledge that the Al-Akhdam have different ethnic characteristics (articles 2(2) and 5).*

*Bearing in mind its General Recommendation No. 29 (2002) on Descent, the Committee recommends that the State party should study the root causes of the marginalization of the Al-Akhdam people. The Committee further recommends 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.*

*The Committee recommended the State party to submit its 19th and 20th periodic reports in a single document, due on 17 November 2013 (...) and that it addresses all points raised in the present concluding observations.*

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

In the [CERD Concluding Observations](#) the Committee raised the following concerns and recommendations on the situation of the Al-Akhdam:

*8. The Committee takes note of the discrepancy between the assessment of the State party, according to which Yemeni society is ethnically homogenous, and credible information the Committee has received regarding descent-based and/or culturally distinguishable groups including the Al-Akhdam. In light of its general recommendation 4 (1973) as well as of paragraph 8 of its reporting guidelines, the Committee reiterates its recommendation to the State party that information on the ethnic composition of the population be provided in its next periodic report. It also recalls its general recommendation 8, which states that identification of ethnic or racial groups shall, if no justification exists to the contrary, be based upon self-identification by the individual concerned, and draws the attention of the State party to general recommendation 29 (2002) on article 1 (1) of the Convention, regarding descent.*

*15. The Committee is deeply concerned at the persistent reports of de facto discrimination against descent-based, culturally distinct communities, among others, the Al-Akhdam. The Committee is particularly concerned about discrimination that interferes with or impairs the enjoyment of their economic, social and cultural rights (arts. 2 (2) and 5). In light of its general recommendation 29, the Committee recommends that the State party develop and put into action a national strategy with the participation of members of affected communities, including special measures to be adopted in accordance with article 2 (2) of the Convention, in order to eliminate discrimination against members of marginalized and vulnerable descent-based groups. In particular, the Committee recommends that the State party develop legislation and practice prohibiting all discriminatory practices based on descent in employment, housing and so as to ensure equal access to health care and social security services for members of affected communities, in particular the Al-Akhdam.*

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## Committee on the Rights of the Child - 2005

In the [CRC Concluding Observations](#) the Committee raised the following concerns and recommendations on the situation of the Al-Akhdam and descent based discrimination towards children:

*32. The Committee is deeply concerned at the persistence of discriminatory social attitudes against girls. Furthermore, the Committee is concerned 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, children born out of wedlock, children with disabilities, street children and children living in rural areas.*

*33. The Committee recommends that the State party:*

*b) Prioritize and target social services for children belonging to the most vulnerable groups, including those children referred to as Akhdam children, children with disabilities, street children and children living in rural areas; (...)*

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## ANNEX II

### UN Special Procedures Mandate Holders

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## Pending country visits Yemen

- (Requested on 11 Jan.13) Working Group on people of African Descent
- (Requested in 6 September 2011) Special Rapporteur on freedom of association and assembly
- (Requested in 2006) Special Rapporteur on freedom of religion
- (Requested in 2005, 2007) Special Rapporteur on torture

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## ANNEX III

### List of UN and International Conventions ratified by the Yemeni State:

- *International Covenant on Civil and Political Rights (CCPR)* on February 9, 1987.
- *International Covenant on Economic, Social and Cultural Rights (CESCR)* on February 9, 1987.
- *The Convention on the Elimination of All Forms of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)* on November 5, 1991.
- *The International Convention on the Elimination of All Forms of Racial Discrimination (CERD)* on October 18, 1972.
- *The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)* on May 30, 1984.
- *The Convention on the Rights of the Child (CRC)* on May 1, 1991.

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<sup>i</sup> There is a pressing need for more data and research to document the situation of Al-Akhdam. 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 other sources estimate that between 500.000-3.5 million persons belong to this minority group.

<sup>ii</sup> Huda Seif, *the Accursed Minority: The Ethno-Cultural Persecution of Al-Akhdam in the Republic of Yemen: A Documentary and Advocacy Project*. Islam and Human Center for the Study of Law and Religion, Rights Project, Emory Law School, Atlanta, Georgia, USA, 2006.

<sup>iii</sup> Universal Declaration of Human Rights,

<sup>iv</sup> Noaman A. Alhakami, "Akhdam Category in Yemen : A Comprehensive Study about Akhdam in Yemen" DIA, Taiz, Yemen, 2010.

<sup>v</sup> Huda Seif, " Social Impediments to Girls Education in Two Governorates in Yemen", UNICEF, Sana', 1997.

<sup>vi</sup> Seif, Huda, *Moralities and Outcasts: Domination and Allegories of Resentment*; Ph. D. Dissertation, Department of Anthropology, Columbia University, New, NY, 2003.

<sup>vii</sup> Ibid and Yemeni Constitution.

<sup>viii</sup> UN Committee on Economic, Social and Cultural Rights

<sup>ix</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.