



EQUAL RIGHTS TRUST

The Equal Rights Trust
Submission to the Human Rights Council at the 32nd Session
of the Universal Periodic Review
The Universal Periodic Review of Yemen

The Equal Rights Trust is the global centre for excellence in equality law. Established in 2007, our vision is an equal world and our mission is to eliminate discrimination and ensure everyone can participate in society on an equal basis. We work in partnership with equality defenders to secure the adoption and implementation of equality laws.

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Universal Periodic Review (Third Cycle): Yemen
Written submissions of the Equal Rights Trust

Introduction

1. This submission focuses on the enjoyment of the rights to equality and non-discrimination in Yemen and examines in particular the impact of the ongoing conflict on the enjoyment of these rights. It presents the findings, conclusions and recommendations of the Equal Rights Trust's recently published report "**From Night to Darker Night: Addressing Discrimination and Inequality in Yemen**" (the "**Report**"), which is the result of field and desk-based research conducted over a number of years. The Report itself is attached as an Annex.
2. The last Universal Periodic Review (UPR) of Yemen took place under the 18th session of the UPR in 2014. The Report of the UPR Working Group (Human Rights Council, UN Doc. A/HRC/26/8) contained a series of recommendations related to the rights to equality and non-discrimination. In particular, states recommended that Yemen:
 - i. Ratify the two outstanding core UN human rights treaties, namely the International Convention for the Protection of All Persons from Enforced Disappearance (Recommendation 115.11, Argentina; Recommendation 117.5, Tunisia) and the Convention on the Rights of Migrant Workers (Recommendation 117.3, Philippines);
 - ii. Ratify the Rome Statute on the International Criminal Court (including Recommendation 115.1, Botswana);
 - iii. Protect journalists and HRDs from violence, threats and intimidation (including Recommendation 115.110, France and Recommendation 115.112, Colombia);
 - iv. Take steps to tackle gender discrimination and ensure gender equality (including Recommendation 115.47, Czech Republic and Recommendation 115.51, Switzerland);
 - v. Establish a minimum age for marital consent (including Recommendation 115.13, Spain and Recommendation 115.101, Viet Nam);
 - vi. Prohibit forced marriage (including Recommendation 115.15, Norway and Recommendation 115.100, Mexico);
 - vii. Combat all forms of violence against women, including domestic violence and harmful practices such as female genital mutilation (including Recommendation 115.66, Belgium and Recommendation 115.69, Guatemala);
 - viii. Promote education for women and girls (including Recommendation 115.144, Pakistan);
 - ix. Promote women's political participation (including Recommendation 115.117, Chile and Recommendation 115.118, Bahrain);
 - x. Promote the rights of persons with disabilities (Recommendation 115.153, Qatar); and

- xi. Protect the rights of migrants, refugees and internally displaced persons (IDPs) (including [Recommendation 115.155, Ethiopia](#) and [Recommendation 115.157, Colombia](#)) (together, the “**Recommendations**”).
3. Shortly after the 2014 review, the political and security situation in Yemen deteriorated sharply as violence erupted between the rebel group “Ansar Allah” (also known as the “Houthis”) and the internationally recognised government of President Hadi; by February 2015, President Hadi’s government had fled to Aden, and in March 2015 a Saudi-led coalition staged a military intervention at President Hadi’s request. The armed conflict in the country is ongoing as at the date of this submission.
4. The conflict has undermined the state’s ability to implement the Recommendations. Indeed, the conflict has meant that groups historically subject to discrimination and discriminatory rights violations – including journalists and HRDs, women and girls, persons with disabilities, and refugees and migrants – have become more vulnerable to existing types of discrimination, as well as facing new forms of discriminatory treatment and exclusion. Further, the conflict has given rise to large numbers of internally displaced persons, who have been subject to discrimination and denial of other rights.
5. These findings regarding the impact of the conflict on the rights to equality and non-discrimination in Yemen are amongst those presented in our Report, which seeks to provide a comprehensive assessment of the enjoyment of these rights. Given the comprehensive nature of the Report, this submission does not reproduce its findings in full, but instead highlights key findings that are relevant to any assessment of Yemen’s implementation of the Recommendations and the developments in the human rights situation that have occurred since 2014.

Background to the Report

6. The Trust has been working to document and combat discrimination and other human rights abuses in Yemen since 2014, in the context of the project *Protecting and empowering human rights defenders in Yemen and improving their capacity to challenge human rights abuses*, funded by the European Union’s European Instrument for Democracy and Human Rights. Our Report was developed in the context of this project.
7. The Report’s findings are based upon a combination of primary research with victims of discrimination and extensive desk-based research. A detailed explanation of the research methodology is contained in the Introduction to the Report.¹ In summary:
 - i. Ten groups of field researchers were commissioned by the Trust to undertake primary field research on discrimination and inequality and other human rights abuses through conducting semi-structured interviews with the groups identified as being most exposed to discrimination and other human rights violations: (i) human rights defenders, journalists and others experiencing discrimination on the basis of their actual or perceived political opinion; (ii) religious minorities; (iii) women; (iv) ethnic and racial minorities; (v) persons with disabilities; (vi) persons with HIV/AIDS; (vii) sexual and gender minorities; (viii) refugees; and (ix) internally displaced persons. Between 2015 and 2017, the research teams collectively documented approximately 6,000 cases of discrimination and other human rights abuses across 22 governorates in Yemen. In presenting the first-hand testimony of victims of discrimination in the Report, all personal identifying information was withheld out of respect for the victims’ wishes for anonymity and to eliminate any personal risk to the victims in disclosing their identity.

- ii. Extensive desk-based research was undertaken by researchers working under the direction of the Trust. This included a review of Yemeni laws and policies and relevant literature on discrimination and inequality in Yemen, including reports by both the government and non-governmental organisations (NGOs) to UN treaty bodies and the Universal Periodic Review process; government and intergovernmental data and reports; and research by international and national NGOs, academics and media institutions.
- iii. In order to ensure the accuracy of the Report's findings and conclusions, a draft of the Report was exposed to a validation process. Between February and April 2018, sections of the draft were reviewed by seven experts with in-depth knowledge and understanding of the legal and political context in Yemen, in addition to being subject to close editorial review and scrutiny by the Trust and its local partner. The feedback, comments and criticism received from the experts were addressed and incorporated into the final draft.

Key findings

Yemen's Legal Framework on Equality and Non-Discrimination

- 8. Our Report found that the Yemeni legal framework does not effectively guarantee the rights to equality and non-discrimination:²
 - i. Whilst Yemen has ratified or acceded to seven of the nine key human rights treaties, the status of the obligations arising under these treaties within the Yemeni domestic legal order is unclear, and the relationship between the Constitution, national laws and Yemen's international obligations is subject to debate.³ Further, the state has failed to ratify several important treaties which have a bearing on the right to equality, including the International Convention for the Protection of All Persons from Enforced Disappearance, the Convention on the Rights of Migrant Workers and the Rome Statute on the International Criminal Court.⁴
 - ii. There is no explicit right to non-discrimination in the Constitution. The general constitutional guarantee of equality is unclear in scope and is limited to citizens only. Various other provisions of the Constitution differentiate between the rights and freedoms of citizens and non-citizens.⁵
 - iii. Yemen lacks any comprehensive equality or anti-discrimination legislation. Whilst a small number of laws in other areas provide a guarantee of non-discrimination, these fall significantly short of offering comprehensive legislative protection of the rights to equality and non-discrimination.⁶
 - iv. The outbreak of the conflict has hindered the implementation of policies aimed at fostering the enjoyment of basic rights and protecting vulnerable groups, and has limited the government's ability to formulate and implement new policies and initiatives relating to equality and non-discrimination.⁷

Patterns of Discrimination and Inequality

- 9. Our Report found that, prior to the conflict which began in late 2014, discrimination and inequality in Yemen were widespread and severe. In summary:
 - i. There is a history of suppression of political dissent through the application of discriminatory and restrictive laws, and through discriminatory violence by state

actors against journalists, HRDs and other political opponents or activists on the grounds of their actual or perceived **political opinion**.⁸

- ii. Whilst there are a number of **religious** groups in Yemen, legal primacy is afforded to Islam in the Constitution, and a number of laws discriminate against religious minorities, including, for example, the Press and Publications Law and the Penal Code which prohibit blasphemy. Instances of discrimination and abuse have been documented against members of religious minorities.⁹
 - iii. Yemen has consistently ranked at the bottom of global gender rankings on account of the severe discrimination and inequality faced by Yemeni **women** in all areas of life. A combination of negative societal stereotypes, a weak legislative framework and discriminatory laws means that gender-based violence and child marriage are prevalent, women are treated unequally in relation to marriage, divorce and inheritance, and they face discrimination in work, education, healthcare and public life.¹⁰
 - iv. The Muhamasheen – the lowest ranking group in Yemen’s social hierarchy – have historically been subject to widespread social stigma which exposes them to discrimination on the basis of **ethnicity and descent** and makes them vulnerable to a range of rights violations, from discriminatory violence, to discrimination in land ownership and housing, employment and education.¹¹
 - v. **Persons with disabilities** face discrimination in various areas of life, including employment, education and healthcare, due to significant social prejudice and a weak legislative framework. The Constitution affords limited protection to persons with disabilities, and the Law on the Care and Rehabilitation of Disabled Persons of 1999 adopts a medical, rather than social, model of disability, contrary to international legal standards.¹²
 - vi. The number of persons living with **HIV and AIDS** in Yemen has grown steadily since the early 1990s. In 2009, the Law on Community Protection from HIV/AIDS and the Protection of the Rights of Persons Living with HIV/AIDS was adopted; however, persons with HIV/AIDS still experience high levels of social stigma, and face discrimination in the areas of housing, work, education and health.¹³
 - vii. Yemen is one of the most repressive countries in the world for **Lesbian, Gay and Bisexual** (LGB) persons. Same-sex sexual conduct is illegal and subject to harsh penalties, including death by stoning. Stigma surrounding homosexuality is high, with individuals having to conceal their sexual orientation. As such, there is very little information available regarding the situation of the LGB community in Yemen.¹⁴
 - viii. Large numbers of **refugees, asylum seekers and economic migrants** travel to Yemen, and are at risk of being subject to number of rights violations, including arbitrary detention, discriminatory violence and other ill-treatment, and being returned to their country of origin in breach of the principle of *non-refoulement*. Those that remain experience various manifestations of discrimination, including in employment and in accessing services such as healthcare.¹⁵
10. The key finding of our Report relates to the impact of the conflict on these established patterns of discrimination. The Report finds that the conflict has not affected the Yemeni population in a uniform manner. Rather, **groups already exposed to discrimination**

and marginalisation have suffered new forms of discrimination and discriminatory rights violations since the outbreak of the conflict. For example:

- i. Whilst discrimination on the basis of actual or perceived **political opinion** was prevalent prior to the conflict, individuals perceived to be political opponents of the parties to the conflict have been subject to new rights violations. Journalists, human rights defenders and civil society activists in particular have been targeted on the grounds of their perceived political opinions; such individuals have been killed, arbitrarily detained and subjected to discriminatory torture and ill-treatment.¹⁶
- ii. **Religious minorities** have been subject to new discriminatory rights violations since the outbreak of the conflict; for example, members of the Bahá'í community have increasingly been subject to severe discrimination on account of their religious beliefs.¹⁷ Other minorities have been subject to discriminatory violence, including Christians and those considered to be atheists, and there has been a marked increase in the destruction of sites of worship and other sites of religious and cultural importance by non-state armed groups.¹⁸
- iii. Members of the **Muhamasheen** community have also faced new forms of discriminatory treatment since the outbreak of the conflict, including being discriminated against in the provision of humanitarian aid and assistance.¹⁹

11. The Report also finds considerable evidence that the **discriminatory treatment of historically marginalised groups has been exacerbated by the conflict**, with pre-existing patterns of discrimination and inequality being more pronounced than before. For example:

- i. The conflict has exacerbated the entrenched discrimination and inequalities faced by **women and girls** in Yemen. Rates of gender-based and domestic violence have increased as a result of the current conflict, with this being attributed to displacement, poverty and the breakdown of mechanisms for protection and the rule of law.²⁰ Rates of child marriage have also reportedly increased as a result of the conflict, with families resorting to child marriage as a “coping mechanism” in order to ease the financial burdens they face as a result of the current economic turmoil in the country.²¹ Women’s political participation at the national and international levels has reportedly been neglected since the outbreak of the conflict.²²
- ii. The conflict has had a particular impact on the **Muhamasheen**, given their already marginalised status. For example, members of the Muhamasheen, who already suffered from a lack of access to healthcare due to their low social status, informed the Trust’s researchers that they have been denied adequate healthcare to treat injuries sustained during the conflict.²³
- iii. The conflict has also increased the exclusion experienced by **persons with disabilities**: for example, the conflict has exacerbated the challenges faced by children with disabilities in enjoying their right to education; this is due in part to the adverse impact of the conflict on social welfare benefits, which have resulted in shortages of equipment at schools such as wheelchairs and hearing aids.²⁴

12. Finally, **the conflict has created new groups vulnerable to discrimination**. Most obviously, the conflict has given rise to large numbers of **IDPs**, many of whom are extremely poor, having been subject to multiple displacements; they face considerable

difficulties in accessing shelter, healthcare, food and water. Certain issues arising from the conflict – such as the impact on access to education – have had a particular effect on IDPs.²⁵ Moreover, the Trust’s research indicates that displacement has been operating in conjunction with other characteristics, with individuals experiencing multiple discrimination on the grounds of, for example, their IDP status and their gender or ethnicity/descent. IDPs belonging to groups that are already vulnerable to marginalisation and discriminatory treatment, such as women and the Muhamasheen, experience unique risks and challenges.²⁶

Recommendations

13. The Equal Rights Trust makes a series of recommendations aimed at ensuring enjoyment of the rights to equality and non-discrimination.²⁷ In particular, the Trust recommends that Yemen should:

- i. Intensify efforts to bring an end to the current hostilities and commit to resolving the conflict through inclusive, peaceful political dialogue, given that the cessation of hostilities is the essential first step to addressing the humanitarian needs of the population, and restoring respect for human rights, including the rights to equality and non-discrimination.
- ii. Facilitate the delivery of humanitarian assistance in a non-discriminatory manner, and ensure full and unhindered access for humanitarian actors.
- iii. Immediately cease and refrain from all acts of discrimination and discriminatory violations of human rights.
- iv. Mainstream the principles of equality and non-discrimination in any peace-building initiatives and post-conflict reconstruction efforts.
- v. End impunity through conducting a thorough, independent inquiry into all alleged human rights violations, including discriminatory killings, torture, sexual and other violence and ill-treatment.
- vi. Ratify all international treaties which have an important bearing on the rights to equality and non-discrimination, including the International Convention for the Protection of all Persons from Enforced Disappearance, the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Rome Statute of the International Criminal Court.²⁸
- vii. Undertake a comprehensive review of domestic legislation to identify discriminatory laws and take immediate steps to amend or repeal such laws to ensure compliance with its international obligations. This should include, *inter alia*, repealing provisions of the Penal Code which permit discriminatory violence against women (including provisions relating to honour-based violence), and which criminalise same-sex sexual relations.²⁹
- viii. Ensure that its Constitution guarantees the rights to equality and non-discrimination in accordance with its international human rights law obligations.³⁰
- ix. Adopt comprehensive equality legislation appropriate for the implementation of the right to equality.³¹

- x. Review existing legislation or legal provisions which purport to protect the rights to equality and non-discrimination, and make such amendments as are necessary to ensure that such laws are compatible with international best practice.³²
- xi. Introduce positive action measures to overcome past disadvantage and accelerate progress towards equality for vulnerable and marginalized groups.³³

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¹ See Equal Rights Trust, *From Night to Darker Night: Addressing Discrimination and Inequality in Yemen*, June 2018, (the “**Report**”), pp. 11-14.

² For a complete discussion of Yemen’s Legal and Policy Framework, see Part 2 of the Report.

³ See section 2.1.1.5 of the Report.

⁴ See section 2.1.1 of the Report.

⁵ See section 2.1.2.1 of the Report.

⁶ See sections 2.1.2.2 and 2.1.2.3 of the Report.

⁷ See section 2.1.2.4 of the Report.

⁸ See section 3.1 of the Report.

⁹ See section 3.2 of the Report.

¹⁰ See section 3.3 of the Report.

¹¹ See section 3.4 of the Report.

¹² See section 3.5 of the Report.

¹³ See section 3.6 of the Report.

¹⁴ See section 3.7 of the Report.

¹⁵ See section 3.8 of the Report.

¹⁶ See section 3.1 of the Report, in particular pp. 125-133.

¹⁷ See section 3.2 of the Report, pp. 146-150.

¹⁸ See section 3.2 of the Report, pp. 150-155.

¹⁹ See section 3.2 of the Report, in particular pp. 214-215.

²⁰ See section 3.3 of the Report, pp. 172-174.

²¹ See section 3.3 of the Report, p. 177.

²² See section 3.3 of the Report, pp. 192-193.

²³ See section 3.4 of the Report, pp. 212-214

²⁴ See section 3.4 of the Report, p. 231.

²⁵ See section 3.9 of the Report, pp. 268-270.

²⁶ See section 3.9 of the Report, in particular pp. 267-268 and 271.

²⁷ See the Trust’s detailed recommendations in Part 4 of the Report, pp. 278-288.

²⁸ See the Trust’s specific recommendations for the strengthening of Yemen’s international commitments related to equality at pp. 282-283 of the Report.

²⁹ See the Trust’s specific recommendations at pp. 283-284 of the Report.

³⁰ See the Trust’s specific recommendations at pp. 284-285 of the Report.

³¹ See the Trust’s specific recommendations at pp. 285-286 of the Report.

³² See the Trust’s specific recommendations at pp. 286-287 of the Report.

³³ See the Trust’s specific recommendations at pp. 287-288 of the Report.