



YEMEN

# “How Come You Allow Little Girls to Get Married?”

Child Marriage in Yemen

HUMAN  
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## Summary

Fourteen-year-old Reem, from Sanaa, was 11 years old when her father married her to her cousin, a man almost 21 years her senior. One day, Reem's father dressed her in a *niqab* (the Islamic veil that covers the face, exposing only the eyes), and took her by car to Radda, 150 kilometers southeast of Sanaa, to meet her soon-to-be husband. Against Reem's will, a quick religious marriage ensued. Three days after she was married, her husband raped her. Reem attempted suicide by cutting her wrists with a razor. Her husband took her back to her father in Sanaa, and Reem then ran away to her mother (her parents are divorced). Reem's mother escorted her to court in an attempt to get a divorce. The judge told her, "We don't divorce little girls." Reem replied, "But how come you allow little girls to get married?"

The political turmoil that has swept Yemen since early 2011 has overshadowed the plight of child brides such as Reem, as thousands of protesters took to the streets to demand the end of President Ali Abdullah Saleh's 33-year rule, and security forces responded with excessive and deadly force. But, while the focus of attention both inside and outside of Yemen is understandably the political future of the country, following President Saleh's agreement in November to cede power before elections in February, child marriages and other discrimination against women and girls in Yemen continue unabated. And while the president's resignation topped the list of most protestors' demand, many young demonstrators especially are calling for a wide range of reforms, including measures to guarantee equality between women and men, and an end to child marriage.

The world took notice of these gender-related abuses when Tawakkol Karman, a Yemeni woman activist, was in October named a co-recipient of the 2011 Nobel Peace Prize. Karman has spearheaded the anti-Saleh protests, and she also is a women's rights activist and a vocal proponent of setting a minimum age for child marriage. Honoring Karman serves as a reminder that respect for women's rights must not be ignored, including the rights of girls and women to be free from child and forced marriages and other forms of discrimination.

Yemen, the poorest country in the Middle East, is beset by high unemployment, widespread corruption and rampant human rights abuses. These abuses include child marriages, which are widespread. According to a nationally representative survey conducted by the Yemeni government and the United Nations Children's Fund (UNICEF) in 2006, 14 percent of girls in Yemen are married before reaching age 15, and 52 percent are married before 18. A 2005 study by Sanaa University noted that, in some rural areas, girls as young as eight are married.

In 1999 Yemen's parliament, citing religious grounds, abolished article 15 of Yemen's Personal Status Law, which set the minimum age for marriage for boys and girls at 15. Yemen currently has no minimum age for marriage. Boys or girls can be married at any age, but in practice it is girls who are most often married young, often to much older men. The only protection offered under article 15 of the Personal Status Law is the prohibition on sexual intercourse until girls reach puberty. However, as in the case of Reem and others documented by Human Rights Watch illustrates this prohibition in fact does not guarantee protection. Sometimes girls may be forced into sex and subjected to marital rape before puberty.

The consequences of child marriage can be devastating and long lasting. Research on child marriage conducted by experts and organizations show that most girls who marry young are removed from school, cutting short the education and skills needed to provide for themselves and their families. Many become pregnant and have children soon after marriage. As girls with little education and power in their marriage, they have little chance of controlling how many children they have, or when they have them. This increases their risk of reproductive health problems. They are often confined to the home and not permitted to work outside. Their low social status makes them more vulnerable to abuse.

Reproductive health studies show that young women face greater risks in pregnancy than older women, including life-threatening obstructed labor due to adolescents' smaller pelvises. Yemen has one of the highest rates of maternal mortality in the region. The shortage of prenatal and postnatal healthcare services, especially in Yemen's rural areas, place girls' and women's lives at risk. An overwhelming majority of Yemeni women still deliver at home, often without the assistance of a skilled birth attendant who could handle childbirth emergencies. Girls who marry young often have insufficient information on family planning or none at all. As young wives they find it difficult to assert themselves against older husbands to negotiate family planning.

Child marriage can also expose young girls and women to gender-based violence, including domestic abuse and sexual violence. A 2002 official survey on domestic violence in Yemen showed that 17.3 percent of respondents had experienced sexual violence, 54 percent suffered physical abuse, and 50 percent verbal threats. Domestic abuse—physical and emotional assault within the home—often isolates girls from their family and friends, preventing them from developing a support network to help them address the abuse. In 2005 the World Health Organization (WHO) conducted a multi-country study on domestic violence in different regions of the world that showed that women between 15 and 19 years old who are married run a greater risk of being exposed to sexual violence, including forced sex or marital rape.

A government study in collaboration with UNICEF on access to education for Yemeni girls shows that opportunities for education are restricted for many reasons. Many parents force girls to leave school when they reach puberty, or even earlier in rural areas where 80 percent of Yemen's population lives, to help with household and farm chores and because of a lack of female teachers and separate school infrastructure for girls. But parents also take girls out of school early to prepare them for marriage. Once married, very few girls continue or complete their education. Girls without a formal education have fewer opportunities to work and financially provide for themselves and their families.

Yemen is unlikely to meet a number of its Millennium Development Goals, a set of objectives agreed to by most United Nations (UN) member states to alleviate poverty and promote development by 2015. The United Nations Development Program (UNDP) cites child marriage as a factor that contributes to Yemen's lack of progress in meeting at least two goals: gender equality and reduced maternal mortality.

Yemen is party to a number of international treaties and conventions that explicitly prohibit child marriage and commit states parties to take measures to eliminate the practice. These include the Convention on the Rights of Child, the Convention on the Elimination of all Forms of Discrimination against Women, the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriage, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights.

Many officials in Yemen's parliament agree that a ban on child marriage is fundamental to safeguarding the rights of young girls. However, a small but powerful group of conservative parliamentarians oppose setting a minimum age for marriage, arguing that doing so would lead to "the spreading of immorality", undermine "family values," and would be contrary to Sharia, Islamic law. In 2009 a majority of parliamentarians voted to set the minimum age for marriage at 17. However, the conservative opposition used a parliamentary procedure to stall the draft law indefinitely. The political crisis in Yemen has paralyzed parliamentary action on this and many other legislative reforms. However, the next government should not use the crisis as an excuse to further delay protecting girls from the institutionalised abuse of legal child marriages.

Human Rights Watch calls on the Yemeni government to support women's and girls' rights to non-discrimination to end child marriage. The government should adopt and enforce a law setting a minimum age for marriage. It should work to change the cultural acceptance of child marriage, and promote education for girls and women. It should also take measures to prevent and redress domestic and sexual violence, and ensure that women



and girls have access to adequate reproductive health services. International stakeholders should boost girls' and women's access to education, to reproductive health information and services, and to protection from domestic violence.

## Key Recommendations

### To the Government of Yemen

- Set the minimum age for marriage at 18 in accordance with the definition of a child in the Convention on the Rights of the Child.
- Raise awareness with religious leaders about the harmful health consequences of child marriage on the lives of girls and women.
- Increase and improve access to reproductive health services and information for all girls and women, including access to emergency obstetric care and family planning.
- Develop retention strategies to ensure that girls who enroll in school are able to remain in school, such as financial incentives for families to keep girls in school and to subsidize the costs of uniforms and textbooks.
- Raise awareness about the obligation to register births and marriages through the media.

### To International Donors

- Advocate for programs that seek to address barriers to girls' education, such as subsidies for school-related costs and the provision of safe transportation for girls to schools in rural communities.
- Fund programs offering services to victims of domestic abuse and especially services tailored for young abuse victims.
- Support capacity-building initiatives for personnel at the Ministries of Interior, Justice, and Health on the registration all births, deaths, marriages, and divorce.

## Methodology

This report is based on field research conducted in Yemen's capital, Sanaa, between August and September 2010, as well as telephone interviews throughout 2011. In all, the researcher conducted 54 interviews. Thirty-one interviews were with girls and women who were married as children, under the age of eighteen. Out of concern for the women's and girls' privacy and security, Human Rights Watch interviewed them only at the offices of local nongovernmental organizations and a healthcare clinic exclusively for women. The other interviews were with a health practitioner, a school principal, members of nongovernmental organizations, and staff members at the Ministry of Health and the Ministry of Education. Human Rights Watch has conducted a thorough review of literature on child marriage in Yemen and other countries that show similar negative consequences on the lives of girls and women.

Due to security concerns relating to political instability in some regions of Yemen during the time of our research, our research was limited to the capital; however some of the women we interviewed were from 'Amran, Hudaida, and Hadhramawt governorates. Yemen has 21 governorates, and the majority of its population lives in rural areas. All interviews with girls and women were conducted in Arabic.

We have changed the names and withheld other key identifying details of girls and women in order to protect their identities, with the exception of one girl, Reem Al-Numeri. Reem's marriage, which finally ended in divorce in 2010, has been frequently featured in international media.

All participants consented to being interviewed after Human Rights Watch informed them of the purpose of the interview and the way in which their stories would be used and reported. Participants were informed that they could stop the interview at any time or decline to answer specific questions. Consent to interview girls under age 18 was granted by a parent, almost always the mother. In some of these interviews, the mother, a female family member, or a social worker was present during the interview. Those who travelled to meet with us were compensated for their travel expenses, but not for providing us with information.

# I. Background

Yemen is a country of more than 23 million people on the Arabian Peninsula. The World Bank estimated Yemen's annual per capita gross domestic product at US\$1,060 in 2009.<sup>1</sup> In 2011, Yemen ranked 154th out of 187 countries on the Human Development Index of the United Nations Development Program.<sup>2</sup> More than three quarters of Yemen's population live in rural areas.

The majority of Yemenis are Sunni Muslims, living mostly in southern and central Yemen, but Zaidis (a branch of Shi'a Islam) make up a large minority living mostly in the north. Islam is the state religion.<sup>3</sup> There are also small communities of Yemeni Baha'is, Christians, and Jews.<sup>4</sup>

Politically and socially conservative North Yemen and Marxist South Yemen were divided prior to 1990, at which point they formally unified. President Ali Abdullah Saleh came to power in North Yemen in 1978, and continued as president of the Republic of Yemen after unification.<sup>5</sup> Saleh is one of the world's longest-ruling leaders. A civil war that broke out between forces of the former north and south from May to July 1994 ended with the victory of the north. Despite the turmoil, the development of democratic institutions, civil society, and the rule of law continued in the 1990s.<sup>6</sup>

Yemen adopted a new constitution following unification. The 1991 constitution recognized that citizens "are equal in public rights and duties," and prohibited "discrimination between them based on sex, color, ethnic origin, language, occupation, social status, or religion."<sup>7</sup> Further changes were made to the constitution after the 1994 war. Sharia became the source of all legislation, not just a "main" source as before.<sup>8</sup> While article 40 of Yemen's

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<sup>1</sup> World Bank, "Yemen," undated, <http://data.worldbank.org/country/yemen-republic> (accessed April 11, 2011).

<sup>2</sup> UNDP, "Human Development Report 2011, Sustainability and Equity: A Better Future for All," 2011, [http://hdr.undp.org/en/media/HDR\\_2011\\_EN\\_Complete.pdf](http://hdr.undp.org/en/media/HDR_2011_EN_Complete.pdf) (accessed November 4, 2011), p. 137.

<sup>3</sup> Constitution of Yemen, September 29, 1994, <http://www.al-bab.com/yemen/gov/con94.htm> (accessed October 25, 2010), art. 2.

<sup>4</sup> US Department of State, "2009 Report on International Religious Freedom-Yemen," October 20, 2009, <http://www.unhcr.org/refworld/topic,464db4f52,4a97c09c2,4ae860f7c,o.html> (accessed October 25, 2010).

<sup>5</sup> Human Rights Watch/Middle East and North Africa, *Human Rights in Yemen During and After the 1994 War*, vol. 6, no. 1, October 1994, p. 4.

<sup>6</sup> Human Rights Watch, *Yemen: In the Name of Unity: The Yemeni Government's Brutal Response to Southern Movement Protests*, December 2009, <http://www.hrw.org/en/reports/2009/12/15/name-unity-o>, p. 12.

<sup>7</sup> Constitution of Yemen, May 16, 1991, <http://aceproject.org/ero-en/regions/mideast/YE/ICL%20-%20Yemen%20-%20Constitution.pdf/view> (accessed October 25, 2010), art. 27.

Constitution still provides for equal rights between men and women, article 31 undermines this premise. Article 31 reads:

Women are the sisters of men. They have rights and duties, which are guaranteed and assigned by Sharia and stipulated by law.<sup>9</sup>

Since 2007, southern separatists have conducted sit-ins, marches, and demonstrations to protest against their treatment at the hands of the northern-dominated central government.<sup>10</sup> The separatist movement continues to protest the lack of employment opportunities, corruption, and inequitable shares of oil revenues for southern provinces. It has demanded secession and the restoration of an independent southern Yemeni state.<sup>11</sup>

In the north, a truce in February 2010 ended most of the armed conflict that had raged in the governorate of Sa'da, along Saudi Arabia's border, since 2004. A group known as the Huthis, named after the leader of the initial rebellion, Husain al-Huthi, has fought Yemeni government forces and pro-government tribal fighters.<sup>12</sup> Occasional skirmishes have continued.<sup>13</sup>

In January 2011, inspired by pro-democracy demonstrations in Tunisia, Egypt, and other countries in the region, Yemenis began protests demanding President Saleh's resignation after 33 years in power. Starting in February, state security forces and armed plainclothes assailants, often acting in concert, responded to the largely peaceful protests with excessive and deadly force, killing at least 250 demonstrators and bystanders, and wounding thousands.

Women played an important role in anti-Saleh protests, despite beatings, harassment, and, in some cases, the condemnation of relatives. President Saleh in April 2011 admonished women demonstrators, saying "divine law does not allow" public intermingling of the sexes.<sup>14</sup> Women responded with further protests. In October 2011, Tawakkol Karman, a

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<sup>8</sup> "Note on the amended constitution, 1994," Yemen Gateway, <http://www.al-bab.com/yemen/gov/con94a.htm> (accessed November 11, 2010).

<sup>9</sup> Constitution of Yemen, September 29, 1994, <http://www.al-bab.com/yemen/gov/con94.htm> (accessed October 25, 2010), arts. 31 and 40.

<sup>10</sup> Human Rights Watch, *Yemen: In the Name of Unity*, p. 25.

<sup>11</sup> *Ibid.*, p. 4.

<sup>12</sup> Human Rights Watch, *Yemen: All Quiet on the Northern Front?: Uninvestigated Laws of War Violations in Yemen's War with Huthi Rebels*, April 2010, <http://www.hrw.org/en/reports/2010/04/07/all-quiet-northern-front-0>, p. 15.

<sup>13</sup> Internal Displacement Monitoring Centre, "Yemen: Conflict in various parts of the country continues to displace," August 12, 2011, <http://www.unhcr.org/refworld/docid/4e4a1cbf2.html> (accessed November 4, 2011).

<sup>14</sup> "Women Irate at Remarks of President of Yemen," *New York Times*, April 16, 2011, [http://www.nytimes.com/2011/04/17/world/middleeast/17yemen.html?\\_r=2](http://www.nytimes.com/2011/04/17/world/middleeast/17yemen.html?_r=2) (accessed November 2, 2011).

prominent woman journalist and human rights activist who has played a pivotal role in the protests, won the Nobel Peace Prize along with two women leaders from Liberia. In recent years, Karman has defied conservatives in her political party Islah, or the Islamists Congregation for Reform, by calling for a minimum age for child marriage.

In November 2011 Saleh signed a Gulf Cooperation Council (GCC) brokered agreement to cede power to vice president Abdo Rabu Mansour Hadi in exchange for immunity from prosecution. Under the accord, Saleh was to relinquish all power before early elections, scheduled for February 2012.

## The Status of Women and Girls

Yemen is a largely traditional clan-based society where patriarchal attitudes still prevail. Conservative social attitudes toward women and girls are reflected in legal discrimination.

Article 40 of Yemen's Personal Status Law states that a woman must obey her husband in all matters, including not leaving home without his permission and keeping up with domestic chores.<sup>15</sup> Article 152 notes that a woman may lose her right to maintenance if her husband divorces her for the following reasons: if she refuses to move into the marital home without a legitimate reason, if she leaves the marital home without a legitimate reason, if she works outside the home without previously requesting her husband's permission, and if she refuses to travel with him without a legitimate reason.<sup>16</sup>

The provisions in Yemen's Personal Status Law on marriage and divorce create particular hardships for women and girls. According to article 12, a man may marry up to four women provided that he is able to treat and financially provide for his wives equally, that the wife has knowledge of other marriages, and that the husband notifies his wife or wives that he will take another wife.<sup>17</sup> A man may divorce his wife by pronouncing his repudiation three times.<sup>18</sup> A woman may ask for separation from her husband on certain conditions, for example if the husband fails to provide financially for his family even though he is capable of doing so; if he abandons his wife for more than one year with no compensation, or for more than two years with compensation; if he is imprisoned for more than three years; or if he marries more than one woman and is unable to provide financially for his wives.<sup>19</sup> The

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<sup>15</sup> Personal Status Law (Qanun al Ahwal al Shakhsiyah), *The Ministry of Legal Affairs*, No.20, 1992, art. 40.

<sup>16</sup> *Ibid.*, art. 152.

<sup>17</sup> *Ibid.*, art. 12.

<sup>18</sup> *Ibid.*, art. 59.

<sup>19</sup> *Ibid.*, arts. 51-53.

wife must provide proof of these allegations before being granted a divorce. A wife who wishes to divorce her husband for other reasons may file for *khul'a*, or no-fault divorce, under which she is required to pay back her dowry and forego claims to maintenance.<sup>20</sup> Given women's economic dependence on their husbands, this requirement makes it difficult for women to seek and obtain a divorce.<sup>21</sup>

## Women's Political and Economic Participation

Women in South Yemen won the right to vote and stand for election in 1970, while women in North Yemen only won this right in 1983.<sup>22</sup> In 2006, 42 percent of registered voters were women, but only a small number ran for or held office.<sup>23</sup> Since unification, women have held no more than two out of the 301 seats in Yemen's House of Representatives, or parliament. Only two women have been appointed to Yemen's Consultative Council, the upper house of parliament, since its establishment in 2001.<sup>24</sup> Women's representation in local councils was 0.5 percent in 2006.<sup>25</sup>

Women aged 15 to 64 make up only 20 percent of the workforce, according to 2009 World Bank figures.<sup>26</sup> According to a 2005/2006 Yemeni government survey, the most recent data available, 35.6 percent of women work in the agricultural sector, and women make up 15.5 percent of workers in the education sector.<sup>27</sup> However, more than 70 per cent of women's

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<sup>20</sup> *Ibid.*, arts. 72 and 36.

<sup>21</sup> Freedom House, "Women's Rights in the Middle East and North Africa, Country Reports, Yemen," 2010, <http://freedomhouse.org/template.cfm?page=384&key=268&parent=24&report=86> (accessed October 25, 2010), p. 9.

<sup>22</sup> *Ibid.*, p. 18.

<sup>23</sup> "Yemen: More Women Voters, but Fewer Women Candidates," *IRINnews*, September 19, 2006, <http://www.irinnews.org/report.aspx?reportid=61842> (accessed October 25, 2010).

See also, UNDP, "Electoral Support Project for the Supreme Commission for Elections and Referendum of Yemen in Preparation for the 2006 Presidential, Governorate and Local Council Elections," 2006, [http://www.undp.org/ye/reports/24773cf49b1155Election\\_11\\_Evaluation\\_Report\\_Final.doc](http://www.undp.org/ye/reports/24773cf49b1155Election_11_Evaluation_Report_Final.doc) (accessed April 11, 2011), p. 1.

<sup>24</sup> Freedom House, "Women's Rights in the Middle East and North Africa, Country Reports, Yemen," <http://freedomhouse.org/template.cfm?page=384&key=268&parent=24&report=86>, p. 19.

See also, Inter-Parliamentary Union, Yemen Majlis Alshoora (Consultative Council), [http://www.ipu.org/parline/reports/2354\\_A.htm](http://www.ipu.org/parline/reports/2354_A.htm) (accessed August 17, 2011).

<sup>25</sup> UNDP, "Electoral Support Project for the Supreme Commission for Elections and Referendum of Yemen in Preparation for the 2006 Presidential, Governorate and Local Council Elections," [http://www.undp.org/ye/reports/24773cf49b1155Election\\_11\\_Evaluation\\_Report\\_Final.doc](http://www.undp.org/ye/reports/24773cf49b1155Election_11_Evaluation_Report_Final.doc), p. 16.

<sup>26</sup> World Bank, "Yemen" <http://data.worldbank.org/indicator/SL.TLF.CACT.FE.ZS> (accessed April 11, 2011). In 2000, female labor force participation was 18.1 percent, and in 2005 it increased slightly to 21.3 percent. In 2008 the total female labor force participation had remained stagnant at 21.7 percent. During the same years in 2000, 2005, and 2008, the total labor force participation for men was 67.7 percent, 66 percent, and 65.9 percent respectively, slightly decreasing per year. United Nations Statistics Division, "Yemen," undated, <http://data.un.org/CountryProfile.aspx?crName=Yemen> (accessed November 10, 2010).

<sup>27</sup> Government of Yemen, Central Statistical Organization, "Yearbook 2009" [www.csoyemen.org/publication/yearbook2009/Labor Force.xls](http://www.csoyemen.org/publication/yearbook2009/Labor Force.xls) (accessed April 11, 2011), p. 116.

work in agriculture is conducted as unpaid family labor.<sup>28</sup> The agricultural sector accounts for 14-19 percent of the gross domestic product.<sup>29</sup> A 2003 Yemeni family health survey showed that one-third of the women surveyed about entering the labor force made a joint decision with their husbands to work, 16 percent said it was their own decision, and 44 percent said it was their husband's decision.<sup>30</sup>

A survey conducted in 2000 by the Social Development Fund and the World Bank on small and medium enterprises in Yemen showed that only 3 percent of such businesses were owned by women.<sup>31</sup> Out of 5,238 households surveyed, 31 percent of women worked in beauty care; 30 percent in the education field; 10 percent in the textile industry, and 7 percent in healthcare.<sup>32</sup>

## Violence against Women and Girls

Women and girls in Yemen experience gender-based violence, in particular domestic abuse, sexual violence and harassment, and female genital mutilation.<sup>33</sup>

A 2002 survey of 120 women living in Sanaa found that 46 percent of women in the sample experienced physical abuse while 13.3 percent reported that they had been sexually harassed.<sup>34</sup> More than 28 percent of respondents said that their husbands had confined them in their homes at some point in their life.<sup>35</sup> Additionally, 74 percent of the women surveyed also experienced verbal abuse by their husbands.<sup>36</sup> A 2003 government survey on violence against women in urban and rural areas, which covered more than 13,000 households, found that 59 percent of rural women and 71 percent of women living in urban areas said they were physically beaten by their husbands because of family problems.

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<sup>28</sup> Government of Yemen, Ministry of Planning and International Cooperation, "Millennium Development Goals, Needs Assessment, Yemen Country Report," September 2005, [http://www.yemencg.org/library/en/mdgs\\_en.pdf](http://www.yemencg.org/library/en/mdgs_en.pdf) (accessed April 11, 2011), p. 47.

<sup>29</sup> Government of Yemen, Ministry of Planning and International Cooperation, "Millennium Development Goals Assessment Report, Yemen Country Report," 2005, [http://www.yemencg.org/library/en/mdgs\\_en.pdf](http://www.yemencg.org/library/en/mdgs_en.pdf), p. 6.

<sup>30</sup> Government of Yemen, Ministry of Public Health and Population, "Family Health Survey, 2003," [http://www.mophp-ye.org/arabic/docs/Familyhealth\\_english.pdf](http://www.mophp-ye.org/arabic/docs/Familyhealth_english.pdf) (accessed April 11, 2011), p. 42.

<sup>31</sup> International Finance Corporation, "Gender Entrepreneurship Markets Country Brief: Yemen," 2006, [www.siteresources.worldbank.org/.../YemenFINALNovember272006.doc](http://www.siteresources.worldbank.org/.../YemenFINALNovember272006.doc) (accessed November 11, 2010), p. 1.

<sup>32</sup> *Ibid.*, p. 2.

<sup>33</sup> United Nations, "Country Assessment on Violence against Women: Case of Yemen," August 2010, [http://www.un.org/womenwatch/ianwge/taskforces/vaw/Country\\_Assessment\\_on\\_Violence\\_against\\_Women\\_August\\_2\\_2010.pdf](http://www.un.org/womenwatch/ianwge/taskforces/vaw/Country_Assessment_on_Violence_against_Women_August_2_2010.pdf) (accessed April 11, 2011), p. 7.

<sup>34</sup> Mohamed BA-Obaid, Catrien C-J-H Bijleveld, "Violence Against Women in Yemen: Official Statistics and Exploratory Survey," *International Review of Victimology*, 2002, vol. 9, pp. 331-347.

<sup>35</sup> *Ibid.*

<sup>36</sup> *Ibid.* The study was based on a sample study of 120 girls and women between the ages of 15 and 55.



Eleven percent of rural women and 6 percent of urban women said they were beaten for not obeying their husbands, 23 percent of rural and 16 percent of urban women were beaten by their husbands for no reason, and 7 percent of women in both categories said they were beaten for reasons other than those listed above.<sup>37</sup>

According to a report submitted by Yemeni NGOs to the CEDAW (Convention on the Elimination of All Forms of Discrimination against Women) committee —the UN expert group that monitors implementation of CEDAW) — in 2007, “domestic violence in cases related to honor is [a] concealed phenomenon in Yemen.”<sup>38</sup> The report noted that families handled such cases internally and little information reached police stations.<sup>39</sup> The murder of women by family members was often not officially reported or was recorded as natural deaths.<sup>40</sup> In rural areas, a death certificate citing the cause of death is not always necessary for burial.<sup>41</sup>

The prevalence of female genital mutilation is much higher in the coastal and southern regions (with the exception of Aden) of Yemen than in other areas. A national survey conducted by the Yemeni government in 2003 found that 33.1 percent of girls and women between 15 and 49 in urban areas, and 40.7 percent in rural areas had their genitalia cut, mostly in their first few months of life.<sup>42</sup>

## Literacy and Access to Education

Yemen has one of the highest illiteracy rates in the Middle East and North Africa. A survey commissioned by the United Nations Educational, Scientific and Cultural Organization (UNESCO) found that as of 2007, the adult literacy rate for Yemenis aged 15 and over was 59 percent: 77 percent for males and 40 percent for females. There was a gap of over 30 percent between Yemen’s literacy rate and that of Saudi Arabia, the United Arab Emirates, and Oman, where the literacy rates were 85 percent, 90 percent, and 84 percent, respectively.<sup>43</sup> The youth literacy rate for those between 15 and 24 was significantly higher

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<sup>37</sup> Government of Yemen, Ministry of Public Health and Population, “Family Health Survey,” [http://www.mophp-ye.org/arabic/docs/Familyhealth\\_english.pdf](http://www.mophp-ye.org/arabic/docs/Familyhealth_english.pdf), pp. 171-172.

<sup>38</sup> Sisters Arab Forum for Human Rights, “Yemeni NGOs 2nd Shadow Report on Implementation of the Convention of Elimination of Discrimination against Women (CEDAW),” June 2007, <http://www.arabhumanrights.org/publications/countries/yemen/shadowreports/SAFHR-Yemen-cedaw41-08e.pdf> (accessed February 15, 2011), p. 26.

<sup>39</sup> *Ibid.*, p. 27.

<sup>40</sup> *Ibid.*

<sup>41</sup> *Ibid.*

<sup>42</sup> Government of Yemen, Ministry of Public Health and Population, “Family Health Survey,” [http://www.mophp-ye.org/arabic/docs/Familyhealth\\_english.pdf](http://www.mophp-ye.org/arabic/docs/Familyhealth_english.pdf), pp. 165-166.

<sup>43</sup> UNESCO, “Education for All Global Monitoring Report: Reaching the Marginalized,” 2010, <http://unesdoc.unesco.org/images/0018/001866/186606E.pdf> (accessed February 15, 2011), p. 413. The estimates are

than the adult literacy rate, estimated at 80 percent. But the gap between the literacy rates for male youths aged 15 to 24 and for female youths in the same age bracket remained wide (93 percent for the former and 67 percent for the latter).<sup>44</sup>

The improvement in literacy rates for youths may be due to the fact that in 2001 education in Yemen became compulsory for both boys and girls between the ages of six and fifteen.<sup>45</sup> But despite this progress, approximately 900,000 primary school age children were out of school in 2005. Almost 70 percent of these were girls, and 88 percent of them lived in rural areas.<sup>46</sup> According to UNESCO's 2010 global monitoring report on education, the net primary school enrollment rate for boys in 2005 was 85 percent, but only 65 percent for girls.<sup>47</sup> The discrepancies between the enrollment rates of girls and boys widens in secondary grades.<sup>48</sup>

Numerous explanations have been put forward for the wide gap in enrolment rates for boys and girls. Some families withdraw girls from school to marry, to help with household chores, or to care for smaller children. Additionally, many families in rural areas insist on having separate classrooms for boys and girls, and female teachers for girls, in order to keep their girls in school. Some families in rural areas wish for their girls to remain in school after they reach puberty so long as female teachers are available to teach them. Many families feel that having female teachers will ensure that girls have a safe environment, and also value female teachers as a role model since teaching is a respected profession.<sup>49</sup> The ratio of female to male teachers in elementary education is 12: 100 in rural areas. In secondary schools, the ratio is 8-11 females to 100 male teachers.<sup>50</sup> UNICEF has also found that girls' education is impeded by families' lack of awareness about the importance of education, especially for girls.<sup>51</sup>

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based on the most recent data available for each country between the period between 2001 and 2007. The gap in literacy rates between males and females in these three countries is also smaller, 12 percentage points in Saudi Arabia, 10 percentage points in Oman, and in the UAE, women led men in literacy rate by 2 percentage points. *Ibid.*, p. 308.

<sup>44</sup> *Ibid.*, p. 309.

<sup>45</sup> UNESCO, International Bureau of Education, "Yemen, Early Childhood Care and Education Programmes," 2006, <http://unesdoc.unesco.org/images/0014/001472/147256e.pdf> (accessed November 11, 2010), p. 2.

<sup>46</sup> UNESCO, "Education For All Global Monitoring Report: Reaching the Marginalized," <http://unesdoc.unesco.org/images/0018/001866/186606E.pdf>, p. 80.

<sup>47</sup> *Ibid.*, p. 341.

<sup>48</sup> The net secondary school enrolment rate in 2005 for children between 12 and 17 was 48 percent for boys, and 26 percent for girls. *Ibid.*, p.365.

<sup>49</sup> Yemen Ministry of Education, UNICEF, Adventist Development and Relief Agency (ADRA), *The Learning Conditions for Girls in Yemen: Advancing Girls' Education for the Attainment of Equal Opportunities* (Sanaa: Ibn al Yemen Press, August 2005), pp. 76 and 77.

<sup>50</sup> *Ibid.*, pp. 74, 75, 111 and 113.

<sup>51</sup> UNICEF Division of Policy and Planning, "Accelerating Girls' Education in Yemen: Rethinking Policies in Teacher Recruitment and School Distribution," February 2007, [http://www.unicef.org/policyanalysis/files/Accelerating\\_Girls\\_Education\\_in\\_Yemen\(1\).pdf](http://www.unicef.org/policyanalysis/files/Accelerating_Girls_Education_in_Yemen(1).pdf) (accessed October 5, 2010), pp.5-6. See also, CEDAW Committee, "Consideration of reports submitted by States parties under article 18 of the Convention

A school principal from Hudaida told Human Rights Watch:

Most girls are taken out of school after fourth or fifth grade [around nine or ten years], just when they become adolescents and begin puberty. The girls return to the home, they cook, fetch water and wood, or are married off if there is an opportunity.<sup>52</sup>

Kawkab, who cut short her secondary education when she was married, told Human Rights Watch:

I used to like school, especially English. I wanted to teach English, but my family made me enter the house and the kitchen.<sup>53</sup>

Twenty-one-year-old Arwa finished elementary school, but her family did not allow her to go to secondary school. Instead, she cared for her younger siblings. She said:

I used to like going to school...I was sad when my mother forced me to leave. I wanted to be a doctor.<sup>54</sup>

Some parents regard girls' education as a waste of time and money, believing that a girl's place and future is in the home. In 2006, the Ministry of Education abolished the annual school fee for primary education of 640 riyals (approximately US\$3) to encourage more girls to enroll in school, especially in rural areas.<sup>55</sup> Other fees for mandatory uniforms and school activities still exist, impacting girls' access to education.<sup>56</sup> Ahmad Ayadil, a school principal, remarked, "Girls are intelligent and more receptive to education [than boys], but they're not given a chance."<sup>57</sup>

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on the Elimination of All Forms of Discrimination against Women," Yemen, March 13, 2007, CEDAW/C/YEM/6, <http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-YEM-CO-6.pdf>, p. 28.

<sup>52</sup> Human Rights Watch interview with Ahmad Ayadil, school principal, Sanaa, August 29, 2010.

<sup>53</sup> Human Rights Watch interview with Kawkab M., Sanaa, September 2, 2010.

<sup>54</sup> Human Rights Watch interview with Arwa K., Sanaa, September 2, 2010.

<sup>55</sup> UNESCO, "Education for All Global Monitory Report 2008, Regional Overview: Arab States," <http://unesdoc.unesco.org/images/0015/001572/157267e.pdf> (accessed May 24, 2011), p. 8. See also, "Yemen: Government Waives Girls Tuition Fees to Boost Female Enrolment," *IRINnews*, May 7, 2006 <http://www.irinnews.org/Report.aspx?ReportID=26601> (accessed May 24, 2011).

<sup>56</sup> Global Campaign for Education, RESULTS Education Fund, "Make It Right, Ending the Crisis in Girls' Education," 2011, [http://www.ungei.org/infobycountry/files/MakeltRight\\_Report\\_07.pdf](http://www.ungei.org/infobycountry/files/MakeltRight_Report_07.pdf) (accessed November 11, 2011), p. 20.

<sup>57</sup> Human Rights Watch interview with Ahmad Ayadil, August 29, 2010.

## II. Child Marriage and Government Failure to Protect Girls and Women

### Child Marriage Around the World

Worldwide, more than 51 million girls between the ages of 15 and 19 are married. This figure is based on demographic health surveys conducted in various countries around the world that document marriages of persons above 15 years. The total figure for child marriage is certainly higher because these official statistics do not survey married girls who are under 15.<sup>58</sup> The Population Council, an international organization that conducts research on HIV/AIDS, gender, and poverty and youth in order to improve reproductive health services, noted that according to the 2006 Demographic Health Surveys, one in seven girls worldwide would marry before her 15th birthday.<sup>59</sup>

The majority of these young girls live in parts of sub-Saharan Africa and South Asia, often in places characterized by persistent poverty and low levels of economic development.<sup>60</sup> Child marriage is especially common in countries where the majority of the population live on less than US\$2 per day, and in countries with a low gross domestic product (GDP) per capita.<sup>61</sup> Research conducted by international organizations found that child marriage was also common in societies in which families premised their “honor” on daughters’ virginity before marriage, leading to early marriages of daughters to prevent premarital sex.<sup>62</sup>

### Child Marriage in Yemen

Child marriage is a common practice in Yemen in both rural and urban areas. Girls may be married as early as 12 or 13, especially if the girl is wedded to a close relative. In rural areas, such as Hadhramawt and Hudaida, girls may be married as young as eight, and in

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<sup>58</sup> International Center for Research on Women (ICRW), “Too Young to Wed: The Lives, Health, and Rights of Young Married Girls,” 2003, <http://www.icrw.org/files/publications/Too-Young-to-Wed-the-Lives-Rights-and-Health-of-Young-Married-Girls.pdf> (accessed October 5, 2010), p. 1.

<sup>59</sup> Population Council, “Programs to Address Child Marriage: Framing the Problem,” *Transition to Adulthood*, Brief No. 14, updated January 2008, [http://www.popcouncil.org/pdfs/TABriefs/PGY\\_Brief14\\_ChildMarriage.pdf](http://www.popcouncil.org/pdfs/TABriefs/PGY_Brief14_ChildMarriage.pdf) (accessed January 19, 2011), p. 1.

<sup>60</sup> UNICEF, “Early Marriage, A Harmful Traditional Practice, A Statistical Exploration,” 2005, [http://www.unicef.org/publications/files/Early\\_Marriage\\_12.lo.pdf](http://www.unicef.org/publications/files/Early_Marriage_12.lo.pdf) (accessed November 11, 2011), pp. 3-4.

<sup>61</sup> *Ibid.* pp. 5-6.

<sup>62</sup> UNICEF Innocenti Digest, “Early Marriage Child Spouses,” No. 7, March 2001, <http://www.unicef-irc.org/publications/pdf/digest7e.pdf> (accessed October 5, 2010), p. 6. See also, ICRW, “Too Young to Wed,” <http://www.icrw.org/files/publications/Too-Young-to-Wed-the-Lives-Rights-and-Health-of-Young-Married-Girls.pdf>, p. 5.

Mukalla around 10. The age of marriage in urban areas is slightly higher.<sup>63</sup> Of the 31 girls and women Human Rights Watch interviewed in Sanaa, all but one were married between the ages of 12 and 17, with the majority married before age 15.

In 2005, Yemen ranked 14th (tied with Liberia) on a list of 20 worldwide “hot spots” for child marriage compiled by the International Center for Research on Women, with 48.4 percent of girls married before reaching the age of 18.<sup>64</sup> According to the Yemeni government and UNICEF 2006 Multiple Indicator Cluster Survey, a nationally representative survey of 3,586 households, almost 52 percent of Yemeni girls were married before the age of 18 and 14 percent were married before the age of 15.<sup>65</sup>

Our research and that of many other experts and organizations underscores that child marriage deprives girls of their childhood and adolescence by burdening them with marriage, childbirth, and other adult responsibilities. It curtails their personal freedom and denies them the opportunity to develop a full sense of identity. It risks harming their physical health, including their reproductive and sexual health, and increases their risk of physical and emotional abuse at the hands of husbands and in-laws. Lastly, it often denies them the opportunity to access education, leaving them economically vulnerable, unable to earn a living.<sup>66</sup> The negative consequences of child marriage are not limited to the girls’ childhood but, as this report shows, can persist throughout their adult lives too.

A 2005 study on child marriage in Yemen explained that there are four principle factors that place girls at risk of child marriage in Yemen and in similar countries where child marriage is common. First, many very poor families view young girls as a financial burden, prompting them to marry their daughters off to alleviate that burden. Second, some families also see their daughters as an economic asset because of the payment of a dowry, in the form of money or gifts offered to the bride by the groom prior to marriage.<sup>67</sup>

According to article 33 of Yemen’s Personal Status Law, a dowry is a woman’s possession

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<sup>63</sup> Adel Majid al-Shargaby, “Early Marriage in Yemen: A Baseline Study to Combat Early Marriage in Hadhrahmawt and Hudaidah Governorates,” Gender Development Research and Studies Centre, Sanaa University, 2005, pp. 4 and 7.

<sup>64</sup> ICRW, “Child Marriage Around the World,” 2006, <http://www.icrw.org/files/images/Child-Marriage-Fact-Sheet-Around-the-World.pdf> (accessed January 19, 2011). Other countries included Niger, Chad, Bangladesh, Mali, Guinea, Central African Republic, Nepal, Mozambique, Uganda, Burkina Faso, India, Ethiopia, Liberia, Cameroon, Eritrea, Malawi, Nicaragua, Nigeria, and Zambia. A 2010 updated list shows that Yemen, Liberia and Nigeria are no longer listed in the top 20, and that Tanzania has been added to the list. These figures are based on demographic health surveys in which women aged 20 to 24 were married before reaching 18. ICRW, Child Marriage Facts and Figures, <http://www.icrw.org/child-marriage-facts-and-figures> (accessed January 19, 2011).

<sup>65</sup> UNICEF, “Yemen Multiple Indicator Cluster Survey (MICS),” 2006, <http://www.childinfo.org/mics/mics3/archives/yemen/surveyo/outputInformation/reports.html> (accessed January 19, 2011), p. 4.

<sup>66</sup> UNICEF Innocenti Digest, “Early Marriage Child Spouses,” <http://www.unicef-irc.org/publications/pdf/digest7e.pdf>, p. 9.

<sup>67</sup> Adel Majid al-Shargaby, “Early Marriage in Yemen,” Gender Development Research and Studies Centre, Sanaa University, p. 8.

and she can do whatever she pleases with it.<sup>68</sup> However, article 34 notes that a woman's guardian may ask to accelerate or delay her dowry payment so long as she is in agreement.<sup>69</sup> Marrying an older man often means a higher dowry, especially if the girl is young. Some families believe that marrying their daughters is a means of providing her with a more secure future. Parents who are unable to financially provide for their children believe that by marrying them they give their daughters a chance for a better life and better prospects for the future.

Third, in traditional societies like Yemen, marriage can also be regarded by the family as a means of protecting girls from pre-marital sex, which would undermine family honor.<sup>70</sup> And lastly, sometimes girls themselves see marriage as their only option, especially those who leave school at an early age. Fifteen-year-old Sawsan from Hudaida told us:

I only went to school until I was ten years old. I used to like to read and write. My [future] husband wanted me [for marriage] and everyone agreed in the family, so I agreed. I wanted to get married because it's better than nothing.<sup>71</sup>

Girls who were not married at an early age often found it difficult to get married when they were older.<sup>72</sup> Fawzia told Human Rights Watch:

People here say that if a girl doesn't get married by 20, she loses her chance at marriage.<sup>73</sup>

## Government Failure to Protect Children from Child Marriage

The government of Yemen has failed to protect children from child marriage by not setting and enforcing a clear minimum age for marriage, and by failing to provide women and girls with protection from, forced marriages and marital abuse, or to provide them with opportunities for redress. In fact, the government made matters worse by repealing the previous legal age of 15 for marriage in 1999, making it legal for a child of any age to be married.

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<sup>68</sup> Personal Status Law, art. 33 (2).

<sup>69</sup> Ibid., art. 34.

<sup>70</sup> UNICEF Innocenti Digest, "Early Marriage Child Spouses," <http://www.unicef-irc.org/publications/pdf/digest7e.pdf>, p. 6. See also, Adel Majid al-Shargaby, "Early Marriage in Yemen," Gender Development Research and Studies Centre, Sanaa University, p. 8 and UNICEF, "Yemen Multiple Indicator Cluster Survey (MICS)," <http://www.childinfo.org/mics/mics3/archives/yemen/surveyo/outputInformation/reports.html>, p. 56.

<sup>71</sup> Human Rights Watch interview with Sawsan A., Sanaa, September 5, 2010.

<sup>72</sup> Abul Rahim al Showthabi, "Siyage Organization Vows to End Early Marriage: Nujood's Case Opens Doors for Change," *Yemen Post*, May 5, 2008, <http://www.yemenpost.net/28/Reports/20083.htm> (accessed January 18, 2011).

<sup>73</sup> Human Rights Watch interview with Fawzia M., Sanaa, September 5, 2010.

Birth and marriage registrations are essential components of combating child marriage, as they provide proof of the age of the child at the time of marriage. Registration of births and marriages in Yemen is compulsory, but rarely enforced.<sup>74</sup>

Another problem is that conflicting ages of majority in Yemen's Personal Status Law and civil law render the definition of a child in Yemen inconsistent (see below), making it difficult to legally protect children's human rights as stipulated by international human rights law.

## Minimum Age for Marriage and Current Legal Developments

Prior to unification in 1990, North Yemen's Personal Status Law set the minimum age for marriage at 15. In the south, it was 16. In 1994, 15 became the age of marriage for all of Yemen.

In 1999, further changes to the Personal Status Law occurred. A provision allowing forcibly married girls to divorce while maintaining their right to maintenance was repealed.<sup>75</sup> Another amendment ostensibly protected married girls from being forced into sex by stipulating that the husband cannot have sexual intercourse with his bride "until she has reached puberty, even if she exceeds 15 years of age."<sup>76</sup> However, the law only takes a girl's physical ability to have sex into account, rather than her physical, mental, and emotional maturity to handle a sexual relationship, childbirth, and child-rearing. In practice Yemeni girls are often married immediately after puberty, whether this occurs at 11, 12, or older. In some cases documented by Human Rights Watch, girls were married before their first menstrual period.

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<sup>74</sup> According to UNICEF's 2006 Multiple Indicator Cluster Survey for Yemen, only 22 percent of all births were registered. The most common reason cited for non-registration is that mothers are not aware of the requirement to register their babies. There is a strong correlation between the educational status of women and the registration of births. According to the survey, only 15.8 percent of births were registered by mothers with no or little education, compared to 41.4 percent of births registered by mothers who completed secondary school and higher. There is also a strong link between birth registration and social and economic status. Only 5 percent of poor households registered births while more than 50 percent of more wealthy households did so. UNICEF, "Yemen Multiple Indicator Cluster Survey (MICS)," [http://www.childinfo.org/files/MICS3\\_Yemen\\_FinalReport\\_2006\\_Eng.pdf](http://www.childinfo.org/files/MICS3_Yemen_FinalReport_2006_Eng.pdf), pp. 4, 16 and 54.

<sup>75</sup> In the late 1990s, many articles of Yemen's Personal Status Law were amended which significantly set back the status of women, including article 15. These changes were a reflection of socio-political changes that were taking place after unification of north and south Yemen, and after "conservative and traditional tribal groups became more powerful." United Nations, "Country Assessment on Violence against Women: Yemen," [http://www.un.org/womenwatch/ianwge/taskforces/vaw/Country\\_Assessment\\_on\\_Violence\\_against\\_Women\\_August\\_2\\_2010.pdf](http://www.un.org/womenwatch/ianwge/taskforces/vaw/Country_Assessment_on_Violence_against_Women_August_2_2010.pdf), p. 10. See also, Japan International Cooperation Agency, Public Policy Department, "Yemen: Country Gender Profile," [http://www.jica.go.jp/activities/issues/gender/pdf/eo8\\_yem.pdf](http://www.jica.go.jp/activities/issues/gender/pdf/eo8_yem.pdf) (accessed October 5, 2010), p. iv.

<sup>76</sup> Personal Status Law, art. 15.

Since 2000, the Women’s National Committee (WNC), a government body tasked with recommending policies and strategies for the development of women’s health and education, has sought to re-introduce a minimum age for marriage, without success.<sup>77</sup>

In 2008 Nujood Ali, who was married at the age of nine to a man in his thirties, became the youngest known divorcee in Yemen, at the age of 10.<sup>78</sup> Her husband repeatedly beat and raped her, until one day she decided to go to a courthouse to speak to a judge. With the assistance of a lawyer, Shada Nasser, Nujood was granted a divorce, but had to repay her husband US\$200. Her husband was not penalized for abusing or raping her.<sup>79</sup> Nujood’s case highlighted the sexual abuse and domestic violence some married Yemeni girls experience. After Nujood broke her silence about her marriage, more young girls came forward demanding a divorce from their husbands for similar reasons. In addition, nongovernmental organizations and local media also began to highlight cases of violence against young married girls. Nujood’s story captured international attention and prompted the WNC to present amendments to Yemen’s Supreme Council for Women’s Affairs in 2008, which is headed by the Prime Minister. The Supreme Council attempted to introduce a draft bill to set an age for marriage, but the Sharia legislative committee in parliament rejected such a proposal. The WNC advocated for amendments specifying 18 as the minimum age for marriage. According to Hooria Mashoor, former deputy director of the WNC, “extreme groups in society and in parliament that are against amending the law” prevented the amendments from being tabled for parliamentary debate.<sup>80</sup>

In February 2009, the WNC again presented draft legislation on child marriage, specifying a minimum age for marriage at 18, to the Supreme Council for Women’s Affairs, which then submitted it to the Council of Ministers. The Council of Ministers, which serves as the supreme executive and administrative authority of the state, agreed on the WNC draft legislation and submitted it to the Ministry of Justice, which then submitted it to parliament.<sup>81</sup>

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<sup>77</sup> Human Rights Watch email correspondence with Hooria Mashoor, former deputy director of the Women’s National Committee, Sanaa, December 23, 2010.

<sup>78</sup> Nujood was represented by Supreme Court lawyer, Shada Nasser. Nasser has since assisted nine girls to get a divorce, but only three cases have been favorable.

See also, Anna Sussman, “Minoui Reveals Saga of Yemen Divorce at Age 10,” July 18, 2010, *Women’s ENews*, <http://www.womensenews.org/story/journalist-the-month/100716/minoui-reveals-saga-yemen-divorce-at-age-10> (accessed October 5, 2010).

<sup>79</sup> Paula Newton, “Child bride gets divorced after rape, beatings,” July 15, 2008, *CNN World*, [http://articles.cnn.com/2008-07-15/world/yemen.childbride\\_1\\_ali-mohammed-ahdal-nujood-ali-yemeni-girls?\\_s=PM:WORLD](http://articles.cnn.com/2008-07-15/world/yemen.childbride_1_ali-mohammed-ahdal-nujood-ali-yemeni-girls?_s=PM:WORLD) (accessed August 17, 2011).

<sup>80</sup> “Government Body Calls for End to Child Marriage,” *IRINnews*, August 3, 2008, <http://www.irinnews.org/report.aspx?ReportID=79584> (accessed November 11, 2010).

<sup>81</sup> One of the duties of the Council of Ministers is to prepare draft laws and resolutions and submit them to the House of Representatives (parliament). Constitution of Yemen, September 29, 1994, art.135 (c).



On February 11, 2009, a majority in parliament agreed to set the minimum age of marriage at 17, instead of the proposed 18.<sup>82</sup> The parliamentarians also drafted an exception allowing girls under 17 to marry if a judge deemed it to be in the best interest of the child. Any adult who violated the law would be penalized with a jail sentence of up to a year, or a fine of up to 100,000 riyals (approximately US\$469), and any person who witnessed the marriage of children, female or male, under the indicated age, would also be penalized with a jail sentence of no more than six months and a fine of no more than 50,000 riyals (approximately US\$234).<sup>83</sup>

Twenty-three parliamentarians from the powerful opposition party Islah and from the ruling General People's Congress (GPC) opposed the amended article on the grounds that setting a minimum age for marriage was against their interpretation of Islamic principles.<sup>84</sup>

A majority of parliamentarians voted in favor of setting the age of marriage at 17, but proponents failed to muster a majority for provisions dealing with the punishment of parents or guardians who give their daughters into marriage before the prescribed age. A few days after the vote, parliamentarians opposing the reform requested further review by the Sharia Legislative Committee, which reviews drafts laws to ensure agreement with Sharia law, recommending that no age for marriage should be set.<sup>85</sup>

In March 2010, parliamentarians again tabled the draft bill for debate. The same conservative members of parliament voiced sharp criticism, and the draft bill was again

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<sup>82</sup> Human Rights Watch interview with Rashida al-Hamdani, president of the Women's National Committee, Sanaa, August 28, 2010. See also, Nadia al-Sakkaf, "Parliament Revokes Minimum Age for Marriage Law," *Yemen Times*, February 23, 2009, <http://www.yementimes.com/DefaultDET.aspx?i=1236&p=report&a=2> (accessed November 11 2010).

A draft law submitted to parliament by anyone other than a member of parliament must be first sent to one of twenty permanent committees. One of the roles of the committee is to review draft laws prior to tabling them for general discussion. If any of the committees does not agree with an article in the draft law, they may make amendments that must be then reviewed by the constitutional and/or legal committees, which the entire parliament then must approve. A request by five percent of parliamentarians for further discussion of specific articles suffices to initiate further committee review. In order for a draft law to pass, it will need two-thirds majority. The president of the republic enacts draft legislation into law following approval by parliament. The president can within 30 days request parliament to reconsider the legislation, providing reasons. Parliament can make further amendments or give final approval to the law. Yemen Polling Center, Yemen Parliamentary Watch, "Bylaws of the House of Representatives," April 2010, pp. 37-40.

<sup>83</sup> Human Rights Watch email correspondence with Abdulrasheed al-Faqih, executive director of the Hewar Foundation, November 26, 2010.

<sup>84</sup> Human Rights Watch interview with Rashida al-Hamdani, August 28, 2010. See also, Nadia al-Sakkaf, "Parliament Revokes Minimum Age for Marriage Law," *Yemen Times*, <http://www.yementimes.com/DefaultDET.aspx?i=1236&p=report&a=2>.

<sup>85</sup> The parliamentarians relied on articles 124 and 125 in the parliament's bylaws that allow for further deliberation of specific articles if requested by a representative of the government or five percent of parliamentarians. The Sharia Legislative Committee is tasked with reviewing all draft laws concerned with Islamic Sharia law. Yemen Polling Center, Yemen Parliamentary Watch, "Bylaws of the House of Representatives," p. 16.

referred to the Sharia Legislative Committee.<sup>86</sup> On April 10, 2010, the Sharia Legislative Committee issued a 14 page document citing religious reasons for not setting an age of marriage. The document stated that article 15 is in contradiction to the Quran, Sunnah, the Constitution, and the interest of the child.<sup>87</sup> This maneuver effectively killed the bill for this session of parliament.

On March 21, 2010 a number of clerics issued a *fatwa* (a legal pronouncement in Islam, issued by a religious law specialist on a specific issue), which stated that defining an age for marriage is contrary to Sharia and that “God had legitimized marriage to safeguard births and their protection.”<sup>88</sup> The *fatwa* included evidence of instances where prominent women in Islam were married at a young age, specifically Aisha, one of the Prophet Muhammad’s wives. Those opposing the law on minimum age for marriage claim she married at the age of nine, but other Muslim scholars put her age at marriage closer to 20. The dispute results from different interpretations of the sayings of the Prophet Muhammad (*Hadith*) and his companions, which Islamic law takes to be normative.

Two days after the *fatwa* appeared women opposing a minimum age of marriage demonstrated in front of parliament. They were countered by demonstrators in favor of a minimum age. Many of those who opposed the bill were from al-Iman (Faith) University, financed and run by Sheikh Abdul Majidal-Zindani. Al-Zindani is one of the founding members of Islah. The Islah party was formed in 1990 by members of the GPC and by the Yemeni Muslim Brotherhood. The GPC and Islah share tribal influence and personal connections to businesses, and are both rivals of the Yemeni Socialist Party, from the former south. Today, Islah is the leading opposition group in Yemen, and its party ideology has shifted from one focusing on religious and moral issues to one much more accepting of a democratic system, and secular political parties. Rifts within the party have brought about two competing camps: one which is moderate, and another which is Salafi, or hard-line Islamist.<sup>89</sup> Al-Zindani has strong views on the exclusion of women from senior governmental positions, and other issues pertaining to women, including child marriage.<sup>90</sup>

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<sup>86</sup> Human Rights Watch telephone interview with Hooria Mashoor, July 29, 2010.

<sup>87</sup> Government of Yemen, “Full report of the Sharia legislative committee on article 15 of the law number 15 of 1992 on personal status law,” April 4, 2010. Copy on file with Human Rights Watch.

<sup>88</sup> “Press Release of Religious Scholars on Setting an Age for Marriage,” News Yemen, March 21, 2010, [http://www.news-yemen.net/view\\_news.asp?sub\\_no=1\\_2010\\_03\\_21\\_42440](http://www.news-yemen.net/view_news.asp?sub_no=1_2010_03_21_42440) (accessed November 11, 2010)

<sup>89</sup> Carnegie Endowment for International Peace, “Between Government and Opposition: The case of the Yemeni Congregation for Reform,” November 2009, <http://www.carnegie-mec.org/publications/special/multimedia/index.cfm?fa=24095-yemen&lang=en> (accessed November 11, 2010), pp. 3-7.

<sup>90</sup> *Ibid.*, pp. 17-18.

His argument against a law banning child marriage is that it is un-Islamic and a threat to the culture and society of Yemen.<sup>91</sup>

In October 2010 parliamentary proponents and opponents clashed verbally and physically over the draft law during a parliamentary session.<sup>92</sup> This time the debate was about whether or not to punish guardians who marry their daughters before puberty.<sup>93</sup>

Many countries in the Middle East and North Africa region are predominantly Muslim, and a majority of these countries recognize Sharia as a source of law. Almost all have set a minimum age for marriage for both boys and girls. For instance, in Iraq and Egypt the age is 18 for both sexes. In 2008, Egypt raised the age for girls from 16 to 18.<sup>94</sup>

## Birth and Marriage Registrations

Birth and marriage registrations are essential components of combating child marriage as they assist in proving the age of the spouses at the time of marriage. Mandatory marriage registration, which is the case in Yemen, can help prevent unlawful child marriages. In 2006 only 22 percent of births were registered, despite compulsory registration.<sup>95</sup> The Yemen Statistics Yearbook for 2009, compiled by the Central Statistical Organization, showed that for 20 governorates, 9,120 marriages were recorded in 2001, 10,934 for 2002, and only 600 marriages for 2003.<sup>96</sup> Considering that Yemen has a population of 23 million, it is obvious that the number of actual marriages far exceed those recorded.

According to the presidential decree on civil status and civil registration, amended in 2003, all births must be registered with the Ministry of Health within 60 days. Similarly, all marriage contracts must be registered at the Ministry of Justice within 15 days. The registrations are then sent to the Department of Civil Status at the Ministry of Interior.<sup>97</sup>

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<sup>91</sup> Ibid. See also, "Yemen's Child Bride Backlash," Foreign Policy, April 30, 2010, [http://www.foreignpolicy.com/articles/2010/04/30/yemens\\_child\\_bride\\_backlash?page=0,0](http://www.foreignpolicy.com/articles/2010/04/30/yemens_child_bride_backlash?page=0,0) (accessed October 25, 2011).

<sup>92</sup> "Further Delays in Minimum Age of Marriage Law," Yemen Times, October 31, 2010, [http://www.yementimes.com/defaultdet.aspx?SUB\\_ID=35026](http://www.yementimes.com/defaultdet.aspx?SUB_ID=35026) (accessed November 11, 2010).

<sup>93</sup> Ibid.

<sup>94</sup> "Egypt's Parliament Bans Female Circumcision, Marriage under 18," Monsters and Critics, June 8, 2008, [http://www.monstersandcritics.com/news/middleeast/news/article\\_1409924.php/Egypt\\_s\\_parliament\\_bans\\_female\\_circumcision\\_marriage\\_under\\_18](http://www.monstersandcritics.com/news/middleeast/news/article_1409924.php/Egypt_s_parliament_bans_female_circumcision_marriage_under_18) (accessed January 18, 2011).

<sup>95</sup> Please see footnote 74.

<sup>96</sup> Government of Yemen, Central Statistical Organization, "Yearbook 2003," [http://www.cso-yemen.org/books/stat\\_book\\_2003.pdf](http://www.cso-yemen.org/books/stat_book_2003.pdf) (accessed April 11, 2011), p. 56.

<sup>97</sup> Presidential Decree No. 23, 1991, amended law no. 23, 2003 on Civil Status and Civil Registrations (Al Ahwal al Madaniya wa al Sajil al Madani), [http://www.yemen-nic.info/contents/laws\\_ye/detail.php?ID=11296](http://www.yemen-nic.info/contents/laws_ye/detail.php?ID=11296) (accessed October 5, 2010), arts. 20 and 31.

Article 14 of the Personal Status Law also requires that the person who draws up a marriage contract, the husband, and the wife’s guardian register the marriage certificate with the specialized entity within one month. The certificate must include necessary information, such as the ages of bride and groom, their national identification numbers, if available, and the amount of dowry offered to the bride.<sup>98</sup>

But births and marriages are rarely registered, and there are no penalties imposed on those who do not comply with the law.<sup>99</sup> This inadequate enforcement of legal provisions coupled with lack of awareness about the importance of registering births and marriages has resulted in difficulties in gathering accurate data on Yemen’s population, and determining the ages of children.

## Definition of a Child

A precise legal definition of a child is essential to ensure a coherent application of laws protecting children. In Yemeni law, there is no single legal definition of a child. Article 2 of the Law on the Rights of the Child defines a child as “every human being below the age of 18 years unless majority is attained earlier.”<sup>100</sup> According to Yemen’s Personal Status Law, the age of maturity (*sin al rushud*) for boys is set at ten, or the attainment of puberty, whichever is earlier, and for girls, at nine years, or the attainment of puberty, and in all cases, any person over 15 years is considered to have reached age of maturity.<sup>101</sup> However, Yemen’s civil law (*Qanun al-Madani*) sets the age of maturity at the age of 15 years, with no exceptions.<sup>102</sup> Without a coherent definition of a child throughout Yemeni law, children may not fully enjoy the protection of their rights under international law.

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<sup>98</sup> Personal Status Law, art. 14.

<sup>99</sup> Human Rights Watch interview with Shada Nasser, Supreme Court lawyer, Sanaa, August 29, 2010.

<sup>100</sup> Law on the Rights of the Child (Qanun Hoquq al Tufl al Yamani), no. 45, 2002, <http://docs.amanjordan.org/laws/yemen/3378.html> (accessed November 4, 2011), art. 2.

<sup>101</sup> Personal Status Law, art. 127.

<sup>102</sup> Civil Law, art. 50.

### III. Child Marriage: A Violation of Girls' and Women's Rights

Child marriages result in serious violations of the rights of girls with long-lasting consequences. Girls and women who are forced into marriage are deprived of the right to decide whether or not to marry, whom to marry, when to marry, and whether and when to have children.

Child marriages also contribute to violations of girls' and women's other rights, including the rights to health, education, employment, and the right to live free from violence and discrimination.

#### Full and Free Consent to Marriage

The right of men and women to enter into marriage only with their full and free consent is well established in international human rights law.<sup>103</sup> Articles 16 of CEDAW and the Universal Declaration for Human Rights (UDHR), article 23 of the International Covenant on Civil and Political Rights (ICCPR), and the UN Convention on Consent to Marriage recognize people's right to marry when both spouses are able to consent to a marriage.<sup>104</sup> These treaties consider children as incapable of consenting to marriage because they are unable to fully understand the concept of marriage and a sexual relationship within marriage and its consequences.<sup>105</sup> A sexual relationship within marriage can be especially dangerous in places like Yemen where the law does not recognize marital rape as a criminal offense and thus facilitates sexual abuse.

Older children have the right to participate in decisions about their lives and may have the capacity to grasp the implications of marriage.<sup>106</sup> In Yemen, however, a girl's consent to

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<sup>103</sup> Please see section IV of this report for a full discussion of consent.

<sup>104</sup> Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted December 18, 1979, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, entered into force September 3, 1981, art. 16.

Universal Declaration on Human Rights (UDHR), adopted December 10, 1948, G.A. Res. 217A(III), U.N. Doc. A/810 at 71 (1948), ratified by Yemen in 1994, art. 16.

International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, art. 23.

Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, adopted November 7, 1962, G.A. res. 1763 (XVII), entered into force December 9, 1964.

<sup>105</sup> UNICEF Innocenti Digest, "Early Marriage Child Spouses," <http://www.unicef-irc.org/publications/pdf/digest7e.pdf>, p. 4.

<sup>106</sup> Article 12 of the CRC notes that States parties shall assure a child who is capable of forming his or her views the right to freely express those views in accordance with the age and maturity of the child. CRC, art. 12.

marriage is frequently neither sought nor considered. Article 23 of the Personal Status Law provides that a previously married woman or a widow, in other words a non-virgin, must consent to marriage, however, according to the law, a virgin's silence signifies her consent.<sup>107</sup> Yemen's Personal Status Law allows girls to be married at any age and further discriminates against girls and women by not requiring their full and free consent for marriage. The decision to marry is often made by the girl's or woman's guardian, as some of the cases described below indicate.

In cases when girls do agree to marry, they may not be aware of the implications of marriage or able to make an informed decision. Eighteen-year-old Su'ad was married when she was 14. She told Human Rights Watch:

I only finished second grade. I didn't like school and quit, so my mother told me to sit in the kitchen. My uncle asked me if I want to marry this person and I said 'yes,' but I didn't know what marriage was. I met my husband for the first time on our wedding night.<sup>108</sup>

Reflecting back on her marriage at age 13 or 14 shortly after her first menstrual period, Bushra, who is now 26 years old, told Human Rights Watch:

I was young to get married... I wanted to get married then... [but] my mind was too little.<sup>109</sup>

The question of whether a girl is capable of providing her full and free consent to marriage becomes more complex as she grows older. However, even older girls are not always able to make an informed decision about marriage. Salma was 17 years old with only one year of secondary school left when she decided to marry a man she did not know. When we asked her why she decided to marry when she was so close to finishing school, she told Human Rights Watch: "I didn't know my husband beforehand. He came and I said 'yes'." Her mother who was present during Salma's interview told us, "She wasn't really prepared [to get married], and now she's one month pregnant."<sup>110</sup>

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See also, Committee on the Rights of the Child, General Comment No. 12, The Right of the Child to Be Heard, U.N. Doc.CRC/C/GC/12(2009).

<sup>107</sup> Personal Status Law, art. 23.

<sup>108</sup> Human Rights Watch interview with Su'ad B., Sanaa, September 2, 2010.

<sup>109</sup> Human Rights Watch interview with Bushra L., Sanaa, September 5, 2010.

<sup>110</sup> Human Rights Watch interview with Salma D., Sanaa, September 2, 2010.

Even when girls are mature enough to understand and consent to marriage, they are not always asked whether they want to get married, and they may have no say in choosing their future spouse. They may not even know the person they are to marry, and only meet their spouse for the first time on their wedding night. Their families—fathers or other male relatives—choose their future husbands for them. Arwa was married when she was 15 years old. Now 21, she told Human Rights Watch:

I didn't want to get married because I loved someone else.<sup>111</sup>

More than half of the women and girls interviewed by Human Rights Watch said they had no choice in choosing their spouse.<sup>112</sup> Sultana was married at 16, in 2009. She told us:

I finished seventh grade, and left [school] because of marriage....I didn't want to get married, but my father forced me to. He told me that education won't do anything for me. He said 'get married and live in splendor'....I didn't know my husband beforehand. My father told me that I have to agree [to get married]... I had no choice.<sup>113</sup>

Similarly, 25-year-old Amal, who was married when she was 15, explained:

The girl is put under an imposition, and there's no benefit in making trouble.<sup>114</sup>

Sometimes, the girl's marriage contract is concluded without her knowledge. Another woman, Kawkab, told Human Rights Watch that she was married at 16, explaining:

I didn't want to get married...but the decision was stringent....My father and father-in-law went to court, and my father came back to the house and told me "You're married." I was surprised, I knew that I would be married one day, but I didn't know that this would be the day.<sup>115</sup>

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<sup>111</sup> Human Rights Watch interview with Arwa K., September 2, 2010.

<sup>112</sup> Robert F. Worth, "Tiny Voices Defy Child Marriage in Yemen," *New York Times*, June 28, 2009, <http://www.nytimes.com/2008/06/29/world/africa/29iht-29marriage.14067507.html> (accessed January 19, 2011).

<sup>113</sup> Human Rights Watch interview with Sultana H., Sanaa, September 2, 2010.

<sup>114</sup> Human Rights Watch interview with Amal J., Sanaa, September 2, 2010.

<sup>115</sup> Human Rights Watch interview with Kawkab M., September 2, 2010.

## Sexual and Reproductive Health, Maternal and Child Mortality

In traditional societies where child marriage is common, including Yemen, girls and women are expected to become pregnant soon after marriage. There are serious risks to the health and lives of young mothers and their children associated with early pregnancy and childbirth. These increased risks are not only related to age, but also to girls' low levels of education, low social status, lack of access to health related information, and health services.<sup>116</sup>

Worldwide, it is estimated that complications from pregnancy are the leading cause of death for young women between 15 and 19. Studies show that girls in their teens are twice as likely to die from pregnancy and childbirth related causes,<sup>117</sup> Young girls between the ages of 10 and 14 are five times more likely to die during delivery than mothers who are between 20 and 24.<sup>118</sup>

Yemen has one of the highest rates of maternal mortality in the Middle East and North Africa region, estimated at 210 deaths per 100,000 live births.<sup>119</sup> Maternal mortality in Yemen is the cause of approximately 39 percent of all deaths for women of reproductive age, and child marriage is an important factor.<sup>120</sup> Government data indicate that 74.2 percent of all maternal deaths occur in cases of girls or women who were married before they reached 20 years old.<sup>121</sup> Most deaths occur in rural areas, where girls are more likely to be married at a younger age and where 80 percent of Yemen's population lives.<sup>122</sup> It is estimated that 18 percent of maternal deaths in Yemen occur during pregnancy and 82 percent during delivery.<sup>123</sup> Sixty four percent of maternal deaths occur at home, and without the presence of a skilled birth attendant.<sup>124</sup> The majority of pregnant women in

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<sup>116</sup> WHO, UNFPA, "Married Adolescents: No Place of Safety," 2007,

[http://whqlibdoc.who.int/publications/2006/9241593776\\_eng.pdf](http://whqlibdoc.who.int/publications/2006/9241593776_eng.pdf) (accessed February 11, 2011), p.22.

<sup>117</sup> Save the Children, "State of the World's Mothers: Children Having Children, 2004" May 2004,

[http://www.ungei.org/resources/files/SaveTheChildren\\_SOWM\\_2004\\_final.pdf](http://www.ungei.org/resources/files/SaveTheChildren_SOWM_2004_final.pdf), p. 4.

<sup>118</sup> Ibid.

<sup>119</sup> WHO, UNICEF, UNFPA, and the World Bank, "Trends in Maternal Mortality: 1990 to 2008," World Health Organization, 2010, [http://whqlibdoc.who.int/publications/2010/9789241500265\\_eng.pdf](http://whqlibdoc.who.int/publications/2010/9789241500265_eng.pdf) (accessed October 25, 2011), p. 26.

<sup>120</sup> Yemen-German Reproductive Health Program, "Situational Analysis on Emergency Obstetric Care in Public Hospitals," February 2006, <http://www.yg-rhp.org/oc/EmOC%20Situation%20Yemen%202006%20YG-RHP.pdf>, p. 10.

<sup>121</sup> Republic of Yemen, Ministry of Health and Population, "Family Health Survey,"

[http://www.mophp-ye.org/arabic/docs/Familyhealth\\_english.pdf](http://www.mophp-ye.org/arabic/docs/Familyhealth_english.pdf), p. 147.

<sup>122</sup> Yemen-German Reproductive Health Program, "Situational Analysis on Emergency Obstetric Care in Public Hospitals," <http://www.yg-rhp.org/oc/EmOC%20Situation%20Yemen%202006%20YG-RHP.pdf>, p. 10.

<sup>123</sup> Abdul Wahed Al Serouri et al., "Reducing Maternal Mortality in Yemen: Challenges and Lessons Learned from Baseline Assessment," *International Journal of Obstetrics and Gynecology*, February 12, 2009, vol.105, Issue. 1, pp. 86-91.

<sup>124</sup> WHO, Department of Making Pregnancy Safer, "Yemen Country Assessment," [undated]

[http://www.who.int/making\\_pregnancy\\_safer/countries/yem.pdf](http://www.who.int/making_pregnancy_safer/countries/yem.pdf) (accessed December 6, 2010), p. 3.

See also, Abdul Wahed Al Serouri et al., "Reducing Maternal Mortality in Yemen," *International Journal of Obstetrics and Gynecology*, pp. 86-91, and World Bank, "Yemen: Inequalities in Health, Nutrition and Population," 2003, <http://siteresources.worldbank.org/INTPRH/Resources/YemenPROF.pdf> (accessed October 15, 2010), p. 14.



Yemen (almost 80 percent) deliver at home.<sup>125</sup> Home deliveries in rural areas are especially risky, where long distances between homes and health facilities make it difficult for women to access emergency obstetric care. Even when emergency care is available, it is often not timely or adequate as most health facilities have a shortage of staff and supplies.<sup>126</sup> Nine percent of maternal deaths occur en route to a hospital, and 24 percent occur at a health facility. It is estimated that 38 percent of women in labor arrive at a hospital in critical or morbid condition.<sup>127</sup>

Studies on other countries show that women who marry early have the highest proportion of unfavorable pregnancy outcomes at all stages throughout their childbearing years.<sup>128</sup> One study indicated women who married before age 16 carried twice the risk of spontaneous abortion (miscarriage) and approximately four times the combined risk of fetal death and infant mortality.<sup>129</sup>

Amal, who is 25 years old and from Haima, was married when she was 15 and had her only daughter when she was 17. She told Human Rights Watch that she's been pregnant six times. She miscarried three times, and had two abortions. "One baby died inside of me when it was six months old," she said. "The other baby ... they took him out of my stomach and he was already dead."<sup>130</sup>

Seventeen-year-old Sultana was married at 16 and was pregnant when we met her. She said:

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<sup>125</sup> 69.3 percent of girls between 15 and 19 give birth at home. Republic of Yemen, Ministry of Planning and International Cooperation, "Yemen, Statistical Portrait, 2007," [http://www.oxfam.org.uk/resources/poicy/gender/downloads/women\\_men\\_yemen\\_book.pdf](http://www.oxfam.org.uk/resources/poicy/gender/downloads/women_men_yemen_book.pdf) (accessed February 11, 2011), p. 95.

<sup>126</sup> There are only 2,375 trained, professional midwives in Yemen. That is a ratio of 0.6 midwives for every 52,000 persons. In Sanaa, the ratio of doctors is 5.2 for every 10,000 persons, while in rural areas such as Amran, the ratio is 0.5 to 10,000. Maternal deaths in Yemen can be explained by the three delay model, which includes delay in seeking emergency obstetric care due to a lack of danger signs, delay in reaching health facilities due to poverty, lack of ambulances or other transportation, and geographical obstacles, and delay when arriving to health facilities that do not have enough personnel, or adequate supplies to treat emergency obstetric cases. Furthermore, Yemen is divided into four physical regions; the coastal plain of Tihama, the mountain foothills, the central highlands and the eastern semi-desert plateau. Many of extremely rugged areas are without roads, and houses are linked with steep mountainous paths. The network of paved road mainly connects the cities, the other are still rudimentary. These natural barriers of topography have limited access to health services.

Yemen-German Reproductive Health Program, "Situational Analysis on Emergency Obstetric Care in Public Hospitals," <http://www.yg-rhp.org/oc/EmOC%20Situation%20Yemen%202006%20YG-RHP.pdf>, pp. 8, 6 and 11.

<sup>127</sup> *Ibid.*, p. 19.

<sup>128</sup> S.Shawky and W. Millat, "Early Teenage Marriage and Pregnancy Outcome," *Eastern Mediterranean Health Journal*, 2000, vol. 6, issue 1, <http://www.emro.who.int/publications/emhj/0601/06.htm> (accessed January, 2011), pp. 46-54.

<sup>129</sup> *Ibid.*

<sup>130</sup> Human Rights Watch interview with Amal J., September 2, 2010. The interviewee noted that they [doctors] had to take the fetus out on two occasions, which is why we have used the term "abort."

I miscarried once when I was two months pregnant, then I got pregnant again after four months, and I miscarried when I was five months. This is my third pregnancy... A woman here is only for reproduction.<sup>131</sup>

According to the organization Save the Children young girls who marry early are more likely to have frequent, and often closely spaced, pregnancies. Household responsibilities, and other factors that may cause stress and anxiety, may further aggravate the negative outcome of pregnancies.<sup>132</sup>

Girls who are undernourished may be at an increased risk of anemia resulting from deficiencies of vital nutrients such as iron, vitamin A, or folic acid.<sup>133</sup> It is often difficult for young girls whose lives are to a large extent controlled by their husbands and unsympathetic in-laws to advocate for adequate food and nutrition for themselves. If they become pregnant while still in their adolescence, lack of adequate nutrition places babies at risk of low birth weight.<sup>134</sup> The low status of young mothers, gender-based violence, and discrimination against them in the home may limit their access to reproductive and sexual health services and information, even in cases of emergency.<sup>135</sup>

The low social status of young married girls and their lack of empowerment in the household severely limit their ability to make decisions about their own health and the health of their children.<sup>136</sup> Najla did not know exactly how old she is, but she said that she was married soon after completing her second year in secondary school, which would have made her about 15 or 16 at the time of her marriage. She has been married for seven years and has two children who were likely born before she was 18 years old. She explained how she was denied medical treatment by her in-laws.

I was pregnant with the second child when my firstborn was only five months old. For five days, I bled severely and I thought it was just my period. My mother-in-law knew what was happening to me, but she wouldn't tell

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<sup>131</sup> Human Rights Watch interview with Sultana H., September 2, 2010.

<sup>132</sup> Save the Children, "State of the World's Mothers," [http://www.ungei.org/resources/files/SaveTheChildren\\_SOWM\\_2004\\_final.pdf](http://www.ungei.org/resources/files/SaveTheChildren_SOWM_2004_final.pdf), p. 14.

<sup>133</sup> Anemia is a co-factor leading to maternal or child death. Yemen-German Reproductive Health Program, "Situational Analysis on Emergency Obstetric Care in Public Hospitals," <http://www.yg-rhp.org/oc/EmOC%20Situation%20Yemen%202006%20YG-RHP.pdf>, p. 23.

<sup>134</sup> Anita Raj et al. "The Effect of Maternal Child Marriage on Morbidity and Mortality of Children Under 5 in India: Cross Sectional Study of a Nationally Representative Sample," *BMJ*, 2010, p.6.

<sup>135</sup> Yemen-German Reproductive Health Program, "Situational Analysis on Emergency Obstetric Care in Public Hospitals," <http://www.yg-rhp.org/oc/EmOC%20Situation%20Yemen%202006%20YG-RHP.pdf>, p. 26.

<sup>136</sup> Anita Raj et al. "The Effect of Maternal Child Marriage on Morbidity and Mortality of Children Under 5 in India," *BMJ*, p. 6.

me anything. They [my in-laws] wouldn't let me go to the hospital and wouldn't tell my husband what was going on with me. When I became very dizzy, they finally took me to the hospital, but at the hospital they didn't stop the bleeding and didn't give me any treatment. I had to lie on my back for six months during my [second] pregnancy and I needed 500 cc of blood. The doctor told me it's because I married early.<sup>137</sup>

Women requiring emergency obstetric care may be denied admission to the hospital if they lack the authorization of their male guardians, most often their husbands. Yemen's Ministry of Health has found that advance permission from the husband to access health care at a medical center is one of the major obstacles to treatment, including emergency treatment.<sup>138</sup> These authorizations are a common practice although not a legal requirement in Yemen.<sup>139</sup>

Early pregnancy and childbirth also have adverse consequences for infants. Babies born to young mothers run a 30-percent increased risk of dying during their first year of life.<sup>140</sup> Babies may have a low birth weight as a consequence of their mother's poor nutritional status while pregnant, and babies with low birth weight are 5 to 30 times more likely to die than babies of normal weight. Young mothers are less likely to get prenatal care and often do not have enough information about proper nutrition while pregnant to nurture themselves and babies.<sup>141</sup>

Many girls interviewed by Human Rights Watch, especially younger ones, had little or no knowledge about sexual intercourse before they were married. Neither their mothers, older sisters, nor other female relatives told them what to expect on their wedding night. Sultana, who was married at 16, said, "My brother and sister told me some things about the wedding night, but not everything."<sup>142</sup> Husnia, married at 16, told Human Rights Watch:

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<sup>137</sup> Human Rights Watch interview with Najla R., Sanaa, September 5, 2010.

<sup>138</sup> A Ministry of Health survey found that 29.6 percent of women in urban areas, and 53.7 percent of women in rural areas noted that getting permission to access treatment was an obstacle. Other obstacles to receiving treatment include not knowing where to go to access healthcare, not having enough money, distance, lack of transportation, and unavailability of female provider. These obstacles were particularly high for women living in rural areas. Republic of Yemen, Ministry of Health and Population, "Family Health Survey," [http://www.mophp-ye.org/arabic/docs/Familyhealth\\_english.pdf](http://www.mophp-ye.org/arabic/docs/Familyhealth_english.pdf), p. 114.

<sup>139</sup> According to Dr. Arwa Al-Rabi'i, the authorization forms are printed forms in the name of the hospital or medical center that state that the hospital will not be responsible for any incident that may occur due to the procedure that will be performed. It will explain the procedure and reason for admission and require the woman's guardian's signature. Human Rights Watch telephone conversation with Dr. Arwa Al-Rabi'i, gynecologist, January 27, 2011.

<sup>140</sup> Population Action International, "How Family Planning Protects the Health of Women and Children," May 1, 2006, [http://www.populationaction.org/Publications/Fact\\_Sheets/FS2/How\\_Family\\_Planning\\_Protects\\_the\\_Health\\_of\\_Women\\_and\\_Children.pdf](http://www.populationaction.org/Publications/Fact_Sheets/FS2/How_Family_Planning_Protects_the_Health_of_Women_and_Children.pdf) (accessed November 11, 2010), pp. 1-2.

<sup>141</sup> Ibid.

<sup>142</sup> Human Rights Watch interview with Sultana H., September 2, 2010.

I didn't know anything about marriage or pregnancy.<sup>143</sup>

In Yemen, like in many societies around the world where family honor is predicated on the “honor” of daughters, girls are expected to be virgins when they marry. Often, therefore, discussions about sex are taboo, and girls have limited or no knowledge about family planning, including the use of contraceptives.<sup>144</sup>

Human Rights Watch asked Fatima, who was married at 12, about her use of contraceptives, and she replied:

I slept with my husband, but I don't take birth control pills. I don't know what they are.”<sup>145</sup>

In Yemen only 28 percent of married women between the ages of 15 and 49 stated that they use some form of contraception, making this rate one of the lowest in the Middle East and North Africa.<sup>146</sup> In 2003, the most recent year for which such information is available, 39 percent of Yemeni women who did not wish to become pregnant did not use any form of contraception.<sup>147</sup> In some cases, women may be prevented by their husbands from using any form of contraception, and from obtaining information on contraception, the spacing of children, or other reproductive health issues.<sup>148</sup>

## Sexual Violence, Domestic Abuse, and Abandonment

The World Health Organization (WHO) found in a multi-country survey on violence against women that married girls between 15 and 19 are more likely to experience domestic violence than older married women.<sup>149</sup>

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<sup>143</sup> Human Rights Watch interview with Husnia F., Sanaa, September 5, 2010.

<sup>144</sup> Jocelyn Dejong, Golda El-Khoury, “Reproductive Health of Arab Young People,” *BMJ*, October 21, 2006, vol. 333, [http://www.bmj.com/highwire/filestream/389549/field\\_highwire\\_article\\_pdf/o.pdf](http://www.bmj.com/highwire/filestream/389549/field_highwire_article_pdf/o.pdf) (accessed November 11, 2011), pp. 849-851.

<sup>145</sup> Human Rights Watch interview with Fatima S., Sanaa, September 2, 2010.

<sup>146</sup> The rate of contraceptive use for women aged 15-49 in Yemen and the United Arab Emirates is 28 percent, equal to the rate in the United Arab Emirates. Saudi Arabia has the lowest contraceptive use for women in the region (24 percent) and Iran has the highest prevalence of contraceptive use (73 percent). UNFPA, “State of World Population 2011, People and Possibilities in a World of 7 Billion,” 2011, <http://foweb.unfpa.org/SWP2011/reports/EN-SWOP2011-FINAL.pdf> (accessed October 27, 2011), p. 114.

<sup>147</sup> Population Reference Bureau, “Women’s Reproductive Health in the Middle East and North Africa,” *MENA Policy Brief*, February 2003, [http://www.prb.org/pdf/WomensReproHealth\\_Eng.pdf](http://www.prb.org/pdf/WomensReproHealth_Eng.pdf) (accessed November 11, 2010), p. 6.

<sup>148</sup> According to the Yemen Family Health Survey, the percentage of married girls and women between 15 and 19 who discussed family planning with their husbands was only 39.3 percent. Married girls whose needs were unmet with regard to birth spacing was 46.1 percent. Republic of Yemen, Ministry of Health and Population, “Family Health Survey,” [http://www.mophp-ye.org/arabic/docs/Familyhealth\\_english.pdf](http://www.mophp-ye.org/arabic/docs/Familyhealth_english.pdf), pp. 166-167.

<sup>149</sup> WHO, “Multi-country Study on Women’s Health and Domestic Violence against Women: Initial Results on Prevalence, Health Outcomes and Women’s Responses: Summary Report,” 2005, p. 8.

Some of the girls and women interviewed by Human Rights Watch said that they were verbally or physically assaulted by their husbands, in-laws, and other members of the husband's household. Married girls and women in Yemen often live with their husband, his parents, male siblings and their wives, children, and unwed sisters. Power and authority in the household is usually held by men and older women, and this can place new brides, especially if they are young, at greater risk of abuse and violence.<sup>150</sup>

Rhadia was married at 16, and has lived with her husband and in-laws for over eight years. She told Human Rights Watch that only her children keep her in a marriage that has made her life "full of sadness and bitterness." She told us that she is abused by her husband and in-laws:

He upsets me a lot, and he beats me. One day he beat me because of his mother. She tells him that I don't do anything at home. I had problems [with my husband and in-laws] when I first had my son, but I can't leave now because of my children...They [my family and in-laws] ruined me. They ruined my life.<sup>151</sup>

Twenty-three year-old Huda, from Ma'reb, was married when she was 14. She said:

I refused to get married ... I used to escape from the house and return to my family. I didn't want to stay there [at her husband's home]. They [her in-laws] used to give me a hard time. I would do all the housework.<sup>152</sup>

Su'ad, who is 18 and lives with her in-laws, said:

I was young and went to a big house. I didn't know how to cook or do anything. They [husband's family] would yell at me....One day my sister-in-law hit me because I was yelling at her children to get up.<sup>153</sup>

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The multi-country study found that girls in this age bracket were more vulnerable to physical and sexual abuse by a partner, non-partner, or both, than older women.

<sup>150</sup> ICRW, "Too Young to Wed," <http://www.icrw.org/files/publications/Too-Young-to-Wed-the-Lives-Rights-and-Health-of-Young-Married-Girls.pdf>, p. 11. See also, Robert Jensen and Rebecca Thornton, "Early Female Marriage in the Developing World," *Gender and Development*, July 2003, vol. 11, no. 2, pp. 9-19.

<sup>151</sup> Human Rights Watch interview with Rhadia N., Sanaa, September 2, 2010.

<sup>152</sup> Human Rights Watch interview with Huda A., Sanaa, September 2, 2010.

<sup>153</sup> Human rights Watch interview with Su'ad B., September 2, 2010.

Afrah is 16 years old and had been married for five months when she spoke to Human Rights Watch. Her husband is 18 years old. She said:

My mother-in-law gives us problems. From the first day, there were problems. She says that I took her son away from her. His mother chose me ... and now she doesn't want me anymore. She wants us to divorce. I'm three months pregnant. I don't know if they [my husband and in-laws] will take him [the baby] from me.... His mother encouraged him to leave me and to marry again. He's fine with it. It's normal for him because he's young and has a lot of time. He doesn't know the difference between right and wrong. They want us to get a divorce and I don't know how I will live later with my baby.<sup>154</sup>

Fourteen-year-old Fatima was married to a man in his late twenties who lived in the same house with her husband's mother, brothers, and sister. She told us:

I used to argue with my mother-in-law because she says I can't do anything. He [her husband] hit me once with his hand on the left side of my face and on the right side of my face and ruptured my ear. He used to hit me all over my body, he used to kick me with his feet and call me all sorts of names. I used to remain silent, but would complain to my mother. She would tell me to remain tolerant, all girls go through the same, this is nothing new. Since he hit me, I want to divorce him.<sup>155</sup>

The lack of a support system may exacerbate the vulnerability of married girls. Sometimes girls who are married young, and those who are forced into marriage, cannot find support and assistance in their own families. Girls may run away from their husbands and attempt to go back to their own families' homes, expecting to receive help, but are often told to endure their tribulations because all married women must tolerate their husbands, their in-laws, and their children.

Thuraya is 27 years old. She was married when she was about 16 or 17 years old. She told Human Rights Watch:

I would go back to my father's house and my family would tell me that these are normal problems. They would say that a woman has to have patience and

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<sup>154</sup> Human Rights Watch interview with Afrah Q., Sanaa, September 4, 2010.

<sup>155</sup> Human Rights Watch interview with Fatima S., September 2, 2010.

would return me to my husband's home as if I was wrong, and I would think that maybe I was wrong after all. I would be quiet ... just to avoid problems.<sup>156</sup>

WHO also found that married girls and young women with low levels of education are at a greater risk of physical and sexual violence from their spouses than older and more educated women.<sup>157</sup> Research suggests that spousal age difference also contributes to risk factors associated with violence and abuse, including marital rape.<sup>158</sup>

Reem, 14, was married at age 11 to a man 21 years her senior, had not had her first menstrual period when she was married. Reem did not want to have sex with her husband, but he raped her. She said, "He wanted to sleep with me by force."<sup>159</sup>

As in most countries in the Middle East and North Africa, rape within marriage is not legally recognized as a crime in Yemen.<sup>160</sup> Coerced or non-consensual sex can have particularly long-lasting physical and mental health consequences for young girls because they are still at a formative stage of social and psychological development, shaping their identities and perspectives. Mental health implications may include a sense of worthlessness, depression, and suicidal thoughts.<sup>161</sup>

Reem slit her wrists in an attempt to commit suicide. She said:

They [her husband and in-laws] used to beat me. I took a *mousse* [razor] and cut my wrists. I bled and became weak, and then fell to the floor.<sup>162</sup>

Marital rape may result in unintended and unwanted pregnancy, sexually-transmitted infections, injuries, and even death. In March 2010, Elham Mahdi Al-Assi, aged 12, died of internal bleeding three days after she was married. Elham was married to a man twice her age. Medical reports indicate that Elham died from severe bleeding caused by tears to her genital and anal area from sexual activity. According to the Associated Press, Elham's

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<sup>156</sup> Human Rights Watch interview with Thuraya H., Sanaa, September 5, 2010.

<sup>157</sup> WHO, "Multi-country Study on Women's Health and Domestic Violence against Women: Initial Results on Prevalence, Health Outcomes and Women's Responses" (Chapters 3 and 4), 2005  
[http://www.who.int/gender/violence/who\\_multicountry\\_study/Chapter3-Chapter4.pdf](http://www.who.int/gender/violence/who_multicountry_study/Chapter3-Chapter4.pdf), pp. 32-33.

<sup>158</sup> Robert Jensen and Rebecca Thornton, "Early Female Marriage in the Developing World," *Gender and Development*, pp. 9-19.

<sup>159</sup> Human Rights Watch interview with Reem al-Numeri, Sanaa, September 2, 2010.

<sup>160</sup> Sherifa Zuhur, "Gender, Sexuality and the Criminal Laws in the Middle East and North Africa: A Comparative Study," February 2005, <http://www.wwhr.org/files/GenderSexualityandCriminalLaws.pdf> (accessed May 24, 2011), pp. 44-45.

<sup>161</sup> Population Council, "Understanding Sex Without consent Among Young People: A Neglected Priority," Brief no. 7, July 2007, [http://www.popcouncil.org/pdfs/TABriefs/PGY\\_Brief07\\_NonconsensualSex.pdf](http://www.popcouncil.org/pdfs/TABriefs/PGY_Brief07_NonconsensualSex.pdf) (accessed November 11, 2010), p. 3.

<sup>162</sup> Human Rights Watch interview with Reem al-Numeri, September 2, 2010.

mother said that her daughter complained to her that her husband tied her up and raped her.<sup>163</sup> According to a United Nations 2010 assessment on violence against women in Yemen, hospitals receive many girls who have been subjected to severe injuries resulting from forced sex, but hospitals rarely report these incidents to local authorities.<sup>164</sup>

## Other Physical and Psychological Health Consequences

Everything in my body aches, everything from head to toe. I have headaches, my stomach hurts, my back, and my knees, and I have infections.

—Zahra, 26 and a mother of five; married when she was 13 or 14, Sanaa, September 6, 2010<sup>165</sup>

Child marriage can have severe consequences for the physical and psychological health of girls, particularly younger girls, and these consequences may impact women throughout their life. Girls and women are often confined to the home and are expected to take on household work and care for their families, including their in-laws. Girls may be isolated from friends and family, may rarely have anyone to share their concerns with, and may find themselves regularly surrounded by people who ignore or condone their suffering.<sup>166</sup>

Ramzia, 39, and originally from Ma'reb, was married when she was 15 years old. She has eight sons aged between two to 22. She told Human Rights Watch:

My life has been about raising [children], pregnancies, cooking and cleaning. When night time comes, it's almost like I'm dead.<sup>167</sup>

Fathiya is 30 years old and the mother of seven children. She told Human Rights Watch:

I was 12 years old when I got married. I was a child. They oppressed me by marrying me. All that I'm good for is to be a mother and a home maker.... I'm illiterate. They didn't teach us anything. If they did, at least I would have

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<sup>163</sup> Arthur Weinreb, "Child Bride in Yemen Dies of Internal Bleeding Days After Wedding," *Middle Eastern Affairs*, April 10, 2010, <http://news.suite101.com/article.cfm/child-bride-in-yemen-dies-of-internal-bleeding-days-after-wedding-a223789#ixzzokiWNYoov> (accessed November 11, 2010).

<sup>164</sup> United Nations, "Country Assessment on Violence against women: Yemen," [http://www.un.org/womenwatch/ianwge/taskforces/vaw/Country\\_Assessment\\_on\\_Violence\\_against\\_Women\\_August\\_2\\_2010.pdf](http://www.un.org/womenwatch/ianwge/taskforces/vaw/Country_Assessment_on_Violence_against_Women_August_2_2010.pdf), p. 11.

<sup>165</sup> Human Rights Watch interview with Zahra R., Sanaa, September 6, 2010.

<sup>166</sup> UNICEF Innocenti Digest, "Early Marriage Child Spouses," <http://www.unicef-irc.org/publications/pdf/digest7e.pdf>, pp. 4 and 9. See also, Nawal M. Nour, "Child Marriage: A Silent Health and Human Rights Issue," *Reviews in Obstetrics and Gynaecology*, 2009, vol. 2, no. 1, pp. 51-56.

<sup>167</sup> Human Rights Watch interview with Ramziya B., Sanaa, September 6, 2010.



benefitted from something. I didn't know anything about marriage, how to be a mother...I wasn't thinking about anything. I get upset at myself. I get upset at my father. I get upset from my husband. I have constant headaches and I don't feel like even speaking. I feel like someone is choking me. There's so much heaviness on my chest.<sup>168</sup>

## Access to Education

The majority of the women we interviewed could not read or write. Some had never attended school while others left school after two or three years of basic education. Almost all of those who had attended school were forced to leave their education to get married. Radhia, who was married at 16, told Human Rights Watch:

My family took me out of school, and my husband said that he doesn't need me in school.<sup>169</sup>

It is rare for girls who marry to return to school.<sup>170</sup> Afrah was 16 years old and had been married for five months when she spoke to Human Rights Watch. She said:

I completed the first year of intermediate school, and I left to get married. I wanted to continue school, so I wanted to get engaged for three years. But I was only engaged for eight months and my father insisted that I get married. I wanted to go to college, to become a lawyer, but there's no chance now because I'm going to have a baby.<sup>171</sup>

Most of those women and girls interviewed by Human Rights Watch who attended school enjoyed learning and expressed regrets for missing the opportunity to complete their education. Research also shows that the removal of girls from school often denies them the opportunity to develop their intellect and their own independent identities.<sup>172</sup> Magda, 21, was married when she was 14. She said:

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<sup>168</sup> Human Rights Watch interview with Fathiya L., Sanaa, September 5, 2010.

<sup>169</sup> Human Rights Watch interview with Radhia N., September 2, 2010.

<sup>170</sup> UNICEF Division of Policy and Planning, "Child Marriage and the Law," January 2008, [http://www.unicef.org/siteguide/files/Child\\_Marriage\\_and\\_the\\_Law.pdf](http://www.unicef.org/siteguide/files/Child_Marriage_and_the_Law.pdf) (accessed October 5, 2010), p. 20.

See also, Yemen Ministry of Education, UNICEF, Adventist Development and Relief Agency (ADRA), *The Learning Conditions for Girls in Yemen* (Sanaa: Ibn al Yemen Press, August 2005), pp. 49-51.

<sup>171</sup> Human Rights Watch interview with Afrah Q., September 4, 2010.

<sup>172</sup> UNICEF Innocenti Digest, "Early Marriage Child Spouses," <http://www.unicef-irc.org/publications/pdf/digest7e.pdf>, p. 12.

I reached sixth grade, and left school to get married. Now, when I see my daughter, I say to myself who's going to teach her because I can't. I understood it now when I got older [the value of education].<sup>173</sup>

Demographic and fertility studies have shown that the number of years a girl attends school is directly linked to the postponement of marriage, and therefore the postponement of childbearing.<sup>174</sup> Education enables girls to acquire better skills and enter the labour force. They become more financially independent and better able to choose to delay marriage. Additionally, postponing marriage increases the likelihood that women have children later when they have a better chance of surviving pregnancy and are able to better care for children. Studies have also shown that girls who continue their education are more likely to invest in the education of their children.<sup>175</sup> The organization Save the Children has found that higher levels of education also contribute to an increased use of contraception and reduced rate of infant mortality.<sup>176</sup>

Maha, who is originally from Taizz, is in her twenties. All of her siblings, including four sisters and two brothers, went to school. She got married when she was 16, but waited to have her first child until she completed secondary school. Her husband encouraged her to continue with her education after childbirth and she still hopes to finish her studies and become a pharmacist. She said her education put her in a much better position to understand her reproductive health and nutrition for her infant. When we asked about her access to healthcare information when she was pregnant, she told us, “The nurse told me about breastfeeding and nutrition, and I used to read a lot.”<sup>177</sup>

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<sup>173</sup> Human Rights Watch interview with Magda T., Sanaa, September 5, 2010.

<sup>174</sup> UNICEF Innocenti Digest, “Early Marriage Child Spouses,” <http://www.unicef-irc.org/publications/pdf/digest7e.pdf>, p. 16.

<sup>175</sup> Ibid.

<sup>176</sup> Save the Children, “Women on the Front Lines of Healthcare: State of the World’s Mothers, 2010,” <http://www.savethechildren.org/atf/cf/%7B9def2ebe-10ae-432c-9bdo-df91d2eba74a%7D/SOWM-2010-Women-on-the-Front-Lines-of-Health-Care.pdf> (accessed April 11, 2011), p. 32.

<sup>177</sup> Human Rights Watch interview with Maha R., Sanaa, September 2, 2010. Maha was the only interviewee who had completed her secondary education. She plans to go to college to become a pharmacist.

## IV. International Legal Obligations on Child Marriage

Yemen is a party to the key international treaties that protect women's and girls' human rights. In 1984 Yemen ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)<sup>178</sup> and in 1987 the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriage,<sup>179</sup> the International Covenant on Civil and Political Rights (ICCPR),<sup>180</sup> and the International Covenant on Economic, Social and Cultural Rights (ICESCR).<sup>181</sup> In 1991, Yemen ratified the Convention on the Rights of the Child (CRC).<sup>182</sup>

### Child Marriage as Harmful and Discriminatory

Child marriage is recognized under international law as a human rights violation. Since the vast majority of those subjected to child marriage are girls, it is considered a form of gender-based discrimination, and it violates other human rights principles.

The Convention on the Rights of the Child does not explicitly address child marriage. However, child marriage is viewed as incompatible with a number of the articles in the convention. These include the age at which a person is considered a child, the right to non-discrimination, the protection of best interest of the child, the rights to life, survival, and development, the right to be protected from all forms of violence and sexual abuse, the rights to health, education, and the right of the child to express his or her views.<sup>183</sup> CEDAW states explicitly in article 16 that the marriage or betrothal of child should have no legal effect.<sup>184</sup> On a regional level, the African Union has included a prohibition on child marriage in its human rights instruments.<sup>185</sup>

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<sup>178</sup> Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted December 18, 1979, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc.A/34/46, entered into force September 3, 1981. The Convention was adopted by Yemen in 1984 with reservations to article 29, para. 1., on the interpretation of the Convention.

<sup>179</sup> Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, adopted November 7, 1962, G.A. res. 1763 (XVII), entered into force December 9, 1964. The Convention on Consent to Marriage was ratified by Yemen in 1987 with no reservations.

<sup>180</sup> International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976. Yemen ratified the ICCPR in 1987 with no reservations.

<sup>181</sup> International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted December 16, 1966, G.A. Res. 2200 A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1996), 993 U.N.T.S. 3, entered into force January 3 1976. Yemen ratified the ICESCR in 1987 with no reservations.

<sup>182</sup> Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990. Yemen ratified the CRC with no reservations.

<sup>183</sup> CRC, arts.1, 2, 3, 6, 12, 19, 24, 28 and 29.

<sup>184</sup> CEDAW, art. 16 (2).

<sup>185</sup> African Charter on the Rights and Welfare of the Child (ACRWC) OAU Doc. CAB/LEG/24.9/49 (1990), entered into force November, 29, 1999, art. 21(2) - Child marriage and the betrothal of girls and boys shall be prohibited ....; and Protocol to the

The Committee on the Rights of the Child, or CRC committee, the treaty body tasked with monitoring the implementation of the CRC, has commented frequently on child marriage and has expressed its concern about the persistence of child marriages around the world, including Yemen.<sup>186</sup> The CRC committee and the CEDAW committee have urged governments, including Yemen, to take immediate steps to eradicate the practice.<sup>187</sup> In July 2008, the CEDAW committee expressed its “extreme” concern about the 1999 amendment to article 15 of Yemen’s Personal Status Law, abolishing the minimum age of 15 for marriage, and noted that this represents a “clear setback for women’s rights ... and a serious violation of the State party’s obligations under the Convention.”<sup>188</sup> It continued:

...the Committee remains deeply concerned at the ‘legality’ of such early marriages of girl children, some as young as eight years of age, which amounts to violence against them, creates a serious health risk for those girls and also prevents them from completing their education.<sup>189</sup>

## The Right to Full and Free Consent into Marriage

The Universal Declaration of Human Rights stipulates that marriage shall be entered into only with the free and full consent of the intending parties. The ICCPR and the ICESCR also recognize the right to marriage based on “full and free consent” of the spouses.<sup>190</sup> Article 16 of CEDAW includes the equal right of men and women to enter into marriage, and the Convention on the Consent to Marriage further specifies that each spouse must give his or her consent “in person...as prescribed by law.”<sup>191</sup>

The UN Human Rights Committee, which monitors the implementation of the ICCPR, clarified in general comment no. 19 that the marriageable age for both men and women

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African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (the Maputo Protocol), adopted by the 2nd Ordinary Session of the Assembly of the Union, Maputo, September 13, 2000, CAB/LEG/66.6, entered into force November 25, 2005, art. 6 (calling for laws to establish 18 as the minimum age of marriage).

<sup>186</sup> Committee on the Rights of the Child, “Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Concluding Observations, Yemen,” CRC/C/15/Add.267, September 25, 2005, <http://www.unhcr.org/refworld/pdfid/45377ea9o.pdf>(accessed November 16, 2010), para. 59.

<sup>187</sup> Ibid. See also, CEDAW Committee, “Concluding Observation of the Committee on the Elimination of All Forms of Discrimination against Women, Yemen,” July 2, 2008, CEDAW/C/YEM/CO/6, <http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-YEM-CO-6.pdf> (accessed October 5, 2010), art. 379.

<sup>188</sup> Ibid.

<sup>189</sup> Ibid.

<sup>190</sup> Universal Declaration on Human Rights (UDHR), adopted December 10, 1948, G.A. Res. 217A(III), U.N. Doc. A/810 at 71 (1948), ratified by Yemen in 1994, art. 16, ICCPR, art. 3, and ICESCR, art. 10.

<sup>191</sup> CEDAW, art.16, and Convention on Consent to Marriage, art. 2.

shall be based on the ability of both spouses to give their full and free consent.<sup>192</sup>In its General Comment no. 28 it affirms states' obligation to treat men and women equally with regard to marriage.<sup>193</sup>CEDAW General Comment no. 21 on the right to marriage reiterates men and women's equal right to enter into marriage, conditioned on their free and full consent.<sup>194</sup>

## The Right to Choose a Spouse

Article 16(b) of CEDAW notes the right of men and women to freely choose a spouse.<sup>195</sup>The CEDAW committee's General Recommendation no. 21 requires states parties to take "all appropriate measures" to guarantee that men and women can freely choose a spouse.<sup>196</sup>Similarly, General Comment no. 16 of the Committee on Economic, Social and Cultural Rights, which oversees implementation of the ICESCR, sets out states parties obligations to "ensure that men and women have an equal right to choose if, whom and when to marry."<sup>197</sup>The UN Declaration on the Elimination of Violence against Women also notes the importance of free choice of spouse.<sup>198</sup>

## Establishing a Consistent Definition of a Child

The CRC defines a child as anyone below the age of 18 years.<sup>199</sup> The CRC committee has repeatedly addressed the need for countries to establish a definition of a child in all domestic legislation that is consistent with the provisions of the CRC.<sup>200</sup>For example, in 2009, the CRC committee recommended that Pakistan harmonize its legislation with

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<sup>192</sup> UN Human Rights Committee, General Comment No. 19 (The Family), Protection of the Family, the Right to Marriage and Equality of the Spouses, (Article 23), (Thirty-night session, 1990), Compilation of General Comments and General recommendations Adopted by Human Rights Treaty bodies, UN Doc.HRI/Gen/1/Rev.7 (2004), p. 149, para. 4.

<sup>193</sup> UN Human Rights Committee, General Comment No. 28, Equality of Rights Between Men and Women (Article 3), (Sixty-eight session, 2000), Compilation of General Comments and Recommendations Adopted by Human Rights Treaty Bodies, UN Doc.HRI/GEN/1/Rev.7 (2004), p. 178, para. 27.

<sup>194</sup> CEDAW Committee, General Recommendation No. 21, Equality in Marriage and Family Relations, (Thirteenth Session, 1994), Compilation of General comments and General Recommendations Adopted by Human Rights Treaty Bodies, UN Doc.HRI/GEN/1/Rev.1(2004), paras. 16, 1 (a) and (b).

<sup>195</sup> CEDAW, art. 16 (b).

<sup>196</sup> CEDAW Committee, General Recommendation No. 21, Equality in Marriage and Family Relations, (Thirteenth session, 1994), paras.16, 1 (a) and (b).

<sup>197</sup> UN Committee on Economic, Social and Cultural Rights, General Comment No. 16, The equal right of men and women to the enjoyment of all economic, social and cultural rights (Article 3), (thirty-fourth session, 2005), para. 27.

<sup>198</sup> United Nations Declaration on the Elimination of Violence against Women (DEVAW), December 20, 1993, G.A. res. 48/104, 48 U.N. GAIR Supp. (No. 49) at 217, U.N. Doc.A/48/49 (1993), art.2(a).

<sup>199</sup> CRC, art. 1.

<sup>200</sup> See for example CRC, "Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Concluding Observations, Angola," October 11, 2010, <http://www2.ohchr.org/english/bodies/crc/crcs55.htm>, paras.26 and 27.

regards to the definition of a child and raise age of marriage for girls to 18.<sup>201</sup>The CRC, most recently in 2005, expressed concerns about the lack of a consistent definition of a child in Yemen, especially between the age of majority and the age of maturity.<sup>202</sup>

## The Obligation to Set a Minimum Age for Marriage and Enforce Registration

Several international and regional conventions have addressed the need for countries to set a minimum age for marriage. The 1962 Convention on Consent to Marriage, Minimum Age for Marriage and Registrations of Marriage obliges states to set a minimum age for marriage in national legislation and to ensure that no marriage can be legally entered into by persons below that age, unless an exception is made by a competent authority in accordance with national laws.<sup>203</sup> The convention does not specify a minimum age, but in the non-binding recommendation accompanying the convention it is recommended that the minimum age be no less than 15. The Convention reaffirms that states should take all appropriate measures to eliminate child marriage and the betrothal of girls below puberty.<sup>204</sup>

Many of the other standards also do not specify a minimum age, but there is an evolving consensus in international law that 18 should be the minimum age for marriage. Notably, both the CRC and CEDAW committees have taken a clear position on 18 as the minimum age. In 1994 the CEDAW committee adopted a general recommendation on equality in marriage and family relations that explicitly endorses 18 as the minimum age for marriage for both boys and girls in accordance with the CRC's definition of a child.<sup>205</sup> The CRC's 2003 General Comment on adolescent health and development also urges increasing the minimum age for marriage with or without parental consent to 18 for both boys and girls.<sup>206</sup> These committees have pointed to the importance of delaying marriage to protect young girls from the negative health implications of early marriage such as early pregnancy and childbirth and to ensure that girls complete their education.

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<sup>201</sup> CRC, "Consideration of Reports Submitted by States Parties under Article 44 of the Convention: Concluding Observations, Pakistan," CRC/C/PAK/CO/4, October 15, 2009, <http://www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-PAK-CO4.doc> (accessed November 16, 2010), paras.26 and 27.

<sup>202</sup> CRC, "Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Concluding Observations, Yemen," CRC/C/15/Add.267, September 21, 2005, [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/CRC.C.15.Add.267.En?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/CRC.C.15.Add.267.En?Opendocument) (accessed April 27, 2011), para. 30

<sup>203</sup> Convention on Consent to Marriage, art. 2.

<sup>204</sup> *Ibid.*, preamble.

<sup>205</sup> CEDAW Committee, General Recommendation No. 21, Equality in Marriage and Family Relations, (Thirteenth Session, 1994), para. 36.

<sup>206</sup> UN Committee on the Rights of the Child, General Comment No. 4, Adolescent Health and Development in the Context of the Convention on the Rights of the Child, (Thirty-third session, 2003), para. 20.

On a regional level the African Charter on the Rights and Welfare of the Child explicitly requires states to take effective action, including legislation, to specify the minimum age of marriage as 18 years.<sup>207</sup> The Maputo Protocol (Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa) on women's rights also specifies that states are to “enact appropriate national legislative measures to guarantee that the minimum age of marriage for women shall be 18 years.”<sup>208</sup> In Europe, the Parliamentary Assembly of the Council of Europe adopted a recommendation that the minimum age for marriage be set at 18, in response to which the Committee of Ministers recognized the clear tendency to fix the minimum age for both men and women at 18 years.<sup>209</sup>

The Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages states that all marriages should be registered by a competent authority.<sup>210</sup> The CEDAW and CRC committees have also addressed in general, and the CRC committee has addressed to Yemen in particular, the obligation of states parties to make the registration of all births and marriages compulsory and to put in place measures to enforce implementation.<sup>211</sup>

The CEDAW committee has argued that “the persistence of the practice of early marriage [...] may be perpetuated further by the non-registration of births.”<sup>212</sup> It has also set out states parties' obligations with regard to the compulsory registration of births as follows:

The Committee recommends that the State party take measures to achieve free and timely registration of all births and undertake awareness-raising measures, throughout the country, particularly in rural areas, on the importance of registering births and the negative effects of early marriage on women's enjoyment of human rights, especially the rights to health and education.<sup>213</sup>

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<sup>207</sup> ACRWC, art.21 (2).

<sup>208</sup> Maputo Protocol, art.6 (a).

<sup>209</sup> Parliamentary Assembly of the Council of Europe, “Forced Marriages and Child Marriages,” Resolution 1468 (2005), <http://assembly.coe.int/main.asp?Link=/documents/adoptedtext/tao5/eres1468.htm> (accessed November 11, 2010), and Council of Europe, Committee of Ministers, “Forced Marriages and Child Marriages,” Parliamentary Assembly Recommendation 1723 (2005), [https://wcd.coe.int/wcd/ViewDoc.jsp?Ref=CM/AS\(2006\)Rec1723&Language=lanEnglish&Ver=final](https://wcd.coe.int/wcd/ViewDoc.jsp?Ref=CM/AS(2006)Rec1723&Language=lanEnglish&Ver=final) (accessed July 20, 2011), para. 6.

<sup>210</sup> Convention on Consent to Marriage, art. 3.

<sup>211</sup> For the specific recommendation to Yemen, see: CRC “Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Concluding Observations, Yemen,” May 10, 1999, para. 20.

For other countries, see for example: CEDAW Committee, “Concluding Observations of the Committee to End All Forms of Discrimination against Women, Papua New Guinea,” July 30, 2010, <http://www.universalhumanrightsindex.org/documents/826/1865/document/en/pdf/text.pdf>, paras. 49 and 50.

<sup>212</sup> CEDAW Committee, “Concluding Observations of the Committee on the Elimination of All Forms of Discrimination against Women, Ethiopia,” CEDAW/C/ETH/4-5, January 2004, <http://www2.ohchr.org/english/bodies/cedaw/docs/co/EthiopiaCO30.pdf>, para. 253.

<sup>213</sup> *Ibid.*, para. 254.

## The Right of Children to Express Their Views Freely

The right of children to express their views is set out in article 12 of the CRC which stipulates that they have this right in all matters affecting them, according to their age and maturity.<sup>214</sup> The 2009 CRC committee's General Comment no. 12 on the right of the child to be heard affirms this right in any judicial or administrative proceeding affecting his or her well-being.<sup>215</sup>

This comment also recognizes that violence, including the violence associated with child marriages, often goes unchallenged because children do not recognize it as a violation of their human rights. The comment notes the lack of child-friendly reporting mechanisms and the child's inability to report abuse in confidence and to be protected from retaliation.<sup>216</sup> In its comment, the committee goes on to set out states parties' obligations to establish reporting mechanisms such as telephone help lines and support mechanisms to assist children to express their views. This includes access to physicians and to teachers who can offer a safe space for children to express their views or to seek help in any matter related to their well-being.<sup>217</sup>

## The Right to Non-Discrimination

The rights to non-discrimination and equality between men and women are enshrined in numerous human rights treaties, including the ICCPR, the ICESCR, CEDAW, and the CRC. CEDAW addresses the right to non-discrimination in relation to marriage, health, education, employment, and political participation.

Article 1 of CEDAW defines "discrimination against women" as any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women.<sup>218</sup>

CEDAW also calls in article 16 for the elimination of discrimination against women in all matters related to marriage and family relations. The CRC in article 2 recognizes the right of

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<sup>214</sup> CRC, art. 12.

<sup>215</sup> Committee on the Rights of the Child, General Comment No. 12, The Right of the Child to Be Heard, U.N. Doc.CRC/C/GC/12(2009), para. 2.

<sup>216</sup> *Ibid.*, para. 120.

<sup>217</sup> *Ibid.*

<sup>218</sup> CEDAW, art. 1.



children to be free from discrimination, including on the grounds of sex and age.<sup>219</sup> Child marriages, which in the vast majority of cases occur for girls and which impact girls and women throughout their lives, are a form of gender-based discrimination.

## The Right to Health and Access to Health Information

The right to health is set out in the ICESCR, CEDAW, the CRC, and other treaties. Article 12 of the ICESCR defines the right to health as the right to the enjoyment of the highest attainable standard of physical and mental health, and requires that it be implemented without discrimination on the basis of sex, age, or other prohibited grounds.<sup>220</sup> Article 24 of the CRC recognizes children's rights to health and to access health services, and notably the right to be protected from traditional practices prejudicial to the health of the child.<sup>221</sup>

Article 12 of CEDAW places an obligation on states to eliminate discrimination against women in connection with health and their access to health care. CEDAW stresses the need to provide appropriate services in connection “with pregnancy, confinement and postnatal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.”<sup>222</sup>

In 2000, the Committee on Economic, Social and Cultural Rights recognized that the right to health includes a right to access to health-related information and education.<sup>223</sup> The 2003 General Comment of the CRC committee emphasized the importance of access to information for adolescents. The comment notes the obligations of state parties to promote “health education, as well as information campaigns, in particular with respect to ... sexual and reproductive health, traditional practices, domestic violence.”<sup>224</sup> More specifically, the comment urges governments to take “preventive, promotive and remedial action” to safeguard women from harmful traditional practices, including child marriage, that deprive girls and women their right to adequate reproductive or sexual health.<sup>225</sup>

In its general recommendation on women and health, the CEDAW committee recommended that governments ensure women's access to services related to pregnancy,

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<sup>219</sup> CRC, art. 2.

<sup>220</sup> ICESCR, art. 12.

<sup>221</sup> CRC, art. 24.

<sup>222</sup> CEDAW, art. 12.

<sup>223</sup> Committee on Economic, Social and Cultural Rights, “General comment 14: The right to the highest attainable standard of health,” E/C12?2000/4, August 11, 2000, para 12 (b).

<sup>224</sup> *Ibid.*, para. 36.

<sup>225</sup> *Ibid.*, para. 21.

including neonatal and postnatal care and adequate nutrition during pregnancy and breastfeeding.<sup>226</sup> The CEDAW committee has listed as negative factors contributing to women's poor health:

early marriage and early pregnancy, inadequate family planning services and illiteracy, which is an obstacle to obtaining and effectively using health-related information.<sup>227</sup>

To reduce maternal mortality, the CEDAW committee has also developed recommendations to ensure and improve especially rural women's access to adequate reproductive health, in particular measures "to increase knowledge of and access to contraceptive methods, bearing in mind that family planning should be the responsibility of both partners."<sup>228</sup> The CEDAW committee has noted the link between high rates of maternal mortality and child marriage in numerous countries.<sup>229</sup>

The CRC committee's general comment on adolescent health also voiced concern that early marriage and pregnancy contributed to sexual and reproductive health problems, including HIV/AIDS.<sup>230</sup> In regard to India, the CRC committee was concerned that "a very high percentage of early marriages [could] have a negative impact on [adolescent girls'] health."<sup>231</sup>

The committee urged states parties to tackle child marriage through raising awareness and changing prevailing gender stereotypes negative for women, including through legislation.<sup>232</sup> The committee also recommended that states improve women's access to sexual and reproductive health services, including family planning, adequate and comprehensive obstetric care and mental health programs for young mothers who may be

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<sup>226</sup> Ibid., para. 2.

<sup>227</sup> CEDAW Committee, "Concluding Observations of the Committee to End All Forms of Discrimination against Women, Nepal," January 13, 2004, <http://www2.ohchr.org/english/bodies/cedaw/docs/co/NepalCO30.pdf>, para. 212.

<sup>228</sup> Ibid., para. 213.

<sup>229</sup> See for example CEDAW Committee, "Concluding Observations of the Committee to End All Forms of Discrimination against Women, Nigeria," July 8, 2008, <http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-NGA-CO-6.pdf> para. 336. "The Committee is especially concerned at the very high maternal mortality rate, the second highest in the world....The Committee notes the various contributing factors such as...early and child marriages, early pregnancies, high fertility rates and inadequate family planning services, the low rates of contraceptive usage, leading to unwanted and unplanned pregnancies, and the lack of sex education, especially in rural areas. The Committee expresses concern about the lack of access by women and girls to adequate health-care services, including prenatal and postnatal care, obstetric services and family planning information, particularly in rural areas."

<sup>230</sup> Committee on the Rights of the Child, General Comment No. 4, Adolescent Health and Development in the Context of the Convention on the Rights of the Child, (Thirty-third session), para. 20.

<sup>231</sup> CRC, "Concluding Observations of the Committee on the Rights of the Child, India," February 23, 2000, CRC/C/15/Add.115, <http://www.unhcr.org/refworld/publisher,CRC,,IND,3ae6afc44,o.html> (accessed December 9, 2010), para. 50.

<sup>232</sup> Ibid., art. 24.

prone to anxiety and depression, including about their inability to care for a child.<sup>233</sup>It also called on states parties to establish centers for information and advice on the harmful effects of child marriage and early pregnancy.<sup>234</sup>

## The Right to Education

The ICESCR guarantees to everyone the right to education.<sup>235</sup> The right to equal opportunity in education is stipulated in the CRC and CEDAW.<sup>236</sup>Under these conventions, Yemen has agreed to provide free and compulsory primary education and available and accessible secondary education to every child.<sup>237</sup>

In its general recommendation on the aims of education, the CRC committee explains the purpose of education to develop a child’s “personality, talent, mental and physical abilities to full potential” and to prepare a child to assume life’s responsibilities.<sup>238</sup> The committee also notes that an education provides children with life skills and empowers them by developing their self-esteem and confidence.<sup>239</sup>

In 2005, the CRC committee noted the deficient quality of education in Yemen, characterized by low primary and secondary school enrollment and high dropout rates. The committee also noted the continued high illiteracy rates for women and negative stereotypes of girls in the school curricula. Further committee observations on education included the high disparities in education between urban and rural areas, and the very low job qualifications of children because of inadequate vocational training.<sup>240</sup> The committee recommended that Yemen devote resources to realize free and compulsory primary education for all, to quality training for teachers, and to improve vocational training, including for dropouts, bearing in mind resource allocation to decrease the disparity between girls’ and boys’ education, and between urban and rural areas.<sup>241</sup>

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<sup>233</sup> Committee on the Rights of the Child, General Comment No. 4, Adolescent Health and Development in the Context of the Convention on the Rights of the Child, (Thirty-third session), para. 28.

<sup>234</sup> *Ibid.*, para. 11.

<sup>235</sup> ICESCR, art. 13.

<sup>236</sup> CRC, art. 29, CEDAW, art. 10.

<sup>237</sup> CRC, art.28 (a) and (b).

<sup>238</sup> Committee on the Rights of the Child, General Comment No. 1, The Aims of Education (Article 29(1)), (Twenty-sixth session, 2001), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, UN Doc. HRI/gen/1/rev.7, p.294, para. 1 (a).

<sup>239</sup> *Ibid.*, para. 2.

<sup>240</sup> CRC, “Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Concluding Observations, Yemen,” September 21, 2005, <http://www.unhcr.org/refworld/pdfid/45377ea90.pdf>, para. 63.

<sup>241</sup> *Ibid.*, para. 64.

The CEDAW committee also raised concern about Yemen’s high level of illiteracy for girls and women, and the high dropout rate for girls. The committee recommended that:

Yemen take measures to: ensure access to all levels of education, including access to proper facilities, for all girls and women; increase formal and non-formal education for girls; provide training and employment of female teachers; and to raise awareness about the importance of education as a human right and as a basis for the empowerment of women, and to take steps to overcome traditional attitudes that perpetuate discrimination, such as child marriage.<sup>242</sup>

The CEDAW committee has elsewhere noted that child marriage and early pregnancy impede girls’ rights to education, and are a primary cause of school drop-out for girls.<sup>243</sup> The ESCR committee’s general comment no. 13 on the right to education stipulates that education is also an indispensable channel to realizing other human rights. The committee notes that:

as an empowerment right, education is the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities.<sup>244</sup>

Education also serves to empower women and is considered a country’s best financial investment, the committee held.<sup>245</sup> The CRC committee’s general comment links adolescent mothers’ health to the continuation of their education.<sup>246</sup>

The CEDAW committee has raised concerns with many states parties about the imperative to educate girls, described as “a key to the advancement of women” and to overcome the impediments to girls’ education, including “pregnancy and early and forced marriage” leading to girls dropping out.<sup>247</sup> The CEDAW committee also underlined the need to address

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<sup>242</sup> CEDAW Committee, “Concluding Observations of the Committee to End All Forms of Discrimination against Women, Yemen,” July 9, 2008, <http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-YEM-CO-6.pdf>, art. 374.

<sup>243</sup> See for example, CEDAW Committee, “Concluding Observations of the Committee to End All Forms of Discrimination against Women, Uganda,” October 22, 2010, <http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-UGA-CO-7.pdf>, para. 31.

<sup>244</sup> CESCR, General Comment No. 13, The Right to Education (Article 13), (Twenty-first session, 1999), *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, UN Doc.HRI/GEN/1/Rev.7, p. 71, para. 1.

<sup>245</sup> *Ibid.*

<sup>246</sup> Committee on the Rights of the Child, General Comment No. 4, Adolescent Health and Development in the context of the Convention on the Rights of the Child, (Thirty-third session, 2003), para. 31.

<sup>247</sup> CEDAW Committee, “Concluding Observations of the Committee to End All Forms of Discrimination against Women, Sierra Leone,” June 11, 2007,

early and forced marriages as factors preventing girls from enrolling in and completing their education. The committee further emphasized the need to improve girls' and women's literacy, especially in rural areas.<sup>248</sup>

## The Right to be Free from Physical, Mental, and Sexual Violence

As this report shows, girls who are subjected to child marriage may experience violence from their spouses, in-laws, and other family members. The CEDAW committee in its general recommendation no. 19 considers violence against women “a form of discrimination that inhibits their ability to enjoy their inalienable rights on par with men,”<sup>249</sup> and notes that gender-based violence impairs many of women's fundamental rights including the right to life, liberty, and security of person, the right of equality in the family, and the right to the highest attainable standard of physical and mental health.<sup>250</sup>

The CEDAW committee's general recommendation no. 19 notes that traditional attitudes and stereotypes that regard women as subordinate to men perpetuate violence, such as family violence, forced marriage, dowry deaths, acid attacks, and female circumcision. It found that such prejudices and practices may justify gender-based violence as a form of protection or control of women.<sup>251</sup>

The CRC requires that states parties protect children from physical, mental, and sexual abuse or exploitation through legislation and other social and educational measures. The obligation to protect children from violence includes protection from parents or other caregivers.<sup>252</sup> Article 34 of the CRC clearly delineates the obligation of states to protect children from sexual exploitation and abuse.<sup>253</sup>

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[http://www.un.org/womenwatch/daw/cedaw/cedaw25years/content/english/CONCLUDING\\_COMMENTS/Sierra\\_Leone/Sierra\\_Leone.pdf](http://www.un.org/womenwatch/daw/cedaw/cedaw25years/content/english/CONCLUDING_COMMENTS/Sierra_Leone/Sierra_Leone.pdf), para. 30.

<sup>248</sup> CEDAW Committee, “Concluding Observations of the Committee to End All Forms of Discrimination against Women, Niger,” June 11, 2007, <http://www.unhcr.org/refworld/publisher,CEDAW,CONCOBSERVATIONS,NER,468b5dfa2,o.html>, para. 30.

<sup>249</sup> CEDAW Committee, General Recommendation No. 19, Violence against Women, (Eleventh session, 1992), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, UN Doc. HRI/GEN/1/Rev.7 (2004), p. 246, para. 1.

<sup>250</sup> *Ibid.*, para. 7.

<sup>251</sup> *Ibid.*, para. 11.

<sup>252</sup> CRC, art. 19.

<sup>253</sup> *Ibid.*, art. 34.

## V. Recommendations

### To the Parliament of Yemen

- Enact legislation which:
  - sets the minimum age for marriage at 18 in accordance with the definition of a child in the Convention on the Rights of the Child;
  - makes those who perform, register, or assist in child marriages liable to criminal prosecution, and establishes fines for the failure to register marriages;
  - establishes the principle of full and free consent of both partners to a marriage;
  - recognizes marital rape as a criminal offense;
  - ensures that girls married prior to the enactment of the new legislation have the option of terminating their marriage and that the husband remains legally obliged to maintain the wife in accordance with prior legal obligations;
  - ensures that girls and women who are forcibly married shall have the right to press criminal charges, seek a divorce, and seek alimony;
  - ensures that children born to mothers under 18 shall have the same rights as children born in a legally recognized marriage; and
  - repeals or amends articles 15 and 23 in the Personal Status Law, which violate the rights to enter freely into marriage and to full and free consent to marriage.

### To the Ministry of Religious Endowments

- Raise awareness with religious leaders about the harmful health and other consequences of child marriage on the lives of girls and women.

### To the Ministry of Health

- Increase and improve access to reproductive health services and information for all girls and women, including access to emergency obstetric care and family planning.
- Expand reproductive health care outreach to rural communities where a large percentage of Yemenis live and where girls marry at younger ages,
- Increase and improve training for birth attendants in rural areas as most girls and women, especially in rural areas, give birth at home.
- Raise awareness that government policy does not require husbands' authorization for women to seek health care, including obstetric care, regardless of the woman or girl's age. Ensure that all health care workers are aware that such authorization is not required.

- Provide tailored health information to young mothers about proper nutrition and care for their health and the health of their babies.
- Raise awareness among health workers and the public on the importance of registering births, including home deliveries.
- Raise awareness on the imperative to register all births in the Ministry of Health.

## **The Ministry of Education**

- Develop retention strategies to ensure that girls who enroll in school are able to remain in school, such as incentives for families to keep girls in school and to subsidize the costs of uniforms and textbooks.
- Provide continuing formal education and vocational training opportunities for married girls and women. Ensure that girls who have children are able to attend school.
- Increase the number of female teachers in rural areas as a strategy to retain girls in school.
- Provide or subsidize transportation to and from school for girls living in distant rural areas where nearby schools are not accessible, and where dropout rates and rates of child marriage are high.

## **To the Ministry of Justice**

- Provide training for lawyers, public prosecutors, and judges on gender discrimination and violence against women, including child marriages.
- Raise awareness on the imperative to register all marriages in the Ministry of Justice.
- Ensure that judges report cases of child marriages when reviewing marriage registrations.

## **To the Ministry of Interior**

- Provide training to law enforcement officials on gender discrimination and violence against women, and investigate cases of violence against women and girls.
- After a law banning child marriages is in effect, conduct investigations into child marriages and establish mechanisms (such as help lines) for community members to report child marriages.
- Ensure that the Department of Civil Status within the ministry exchanges information with the Ministry of Health and the Ministry of Justice on the registration of births and marriages, in urban and rural areas.
- Raise awareness about the obligation to register births and marriages through the media.

## To Civil Society Organizations

- Develop campaigns on preventing child marriage targeted at children and parents of primary and secondary schools students. Explain the harms the practice causes and the benefits of delayed marriage and childbearing.
- Once a law banning child marriage is passed, establish mechanisms for reporting cases of child marriage, for example via help lines or through collaboration with schools, hospitals, and clinics.
- Assist married children in seeking legal remedies for abuse, financial compensation after divorce, and in continuing their education.
- Develop and maintain dialogue with religious leaders on issues pertaining to the rights of girls and women, including on child marriage.

## To International Donors

- Support programs working to address violence and discrimination against women and girls in the school curriculum.
- Advocate for programs that seek to address barriers to girls' education, such as subsidies for school-related costs and the provision of safe transportation for girls to schools in rural communities.
- Collaborate with the Ministry of Health on ensuring the availability of skilled birth attendants in rural communities and providing transportation to women and girls seeking emergency obstetric care in rural areas.
- Fund programs offering services to victims of domestic abuse and especially services tailored for young abuse victims.
- Support capacity-building initiatives for personnel at the ministries of interior, justice, and health on the registration all births, deaths, marriages, and divorce.
- Support awareness campaigns on the imperative to register births, deaths, marriages, and divorce in urban and rural areas.
- Support programs that involve dialogue with religious leaders about the harms of child marriage.



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## “How Come You Allow Little Girls to Get Married?”

### Child Marriage in Yemen

Child marriages are widespread in Yemen. Most girls marry before they reach 18, and in rural areas, some marry as young as eight. Girls are sometimes married to significantly older men. Child marriage is rare among boys.

This report documents the damage of child marriage in Yemen on girls and women, a practice that perpetuates women’s status as second-class citizens. Girls are deprived of the right to decide whether, when, and whom to marry, and whether and when to have children. Child marriage cuts short girls’ education, exposes them to increased sexual and reproductive health risks, and puts them at risk of domestic violence by husbands and extended family members. The fallout persists throughout women’s lives.

Yemeni demonstrators demanding the resignation of President Ali Abdullah Saleh in 2011 also called for the government to address persistent social problems. Ending forms of gender discrimination such as child marriage was among their demands, and should be a high priority for Yemen’s next leadership.

Yemen has no minimum age for marriage. In 2009 conservative parliamentarians thwarted a bill that would have set the minimum age at 17, calling it contrary to Sharia, Islamic law. Almost all countries that recognize Sharia have established a minimum age for marriage.

Magda T., 21, told Human Rights Watch, “I reached sixth grade, and left school to get married. Now, when I see my daughter, I say to myself who’s going to teach her because I can’t. I understood it now when I got older [the value of education].” For girls in Yemen to benefit from the education and opportunities that Magda dreams of, the law must protect them from child marriage.

Human Rights Watch calls on the Yemeni government to adopt and enforce a law setting 18 as the minimum age of marriage in accordance with the legal definition of the child in the Convention on the Rights of the Child. Along with its international donors, Yemen should also work to end the cultural acceptance of child marriage, promote education for girls and women, combat domestic and sexual violence, and ensure access to reproductive health services. There can be no genuine democracy without gender equality in Yemen.

*Three young brides 11, 12, and 13, are married to three brothers during a combined ceremony in the rural areas outside Hajjah.*

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