



HOUSING AND LAND RIGHTS NETWORK

Habitat International Coalition

The Human Right to Adequate Housing in the case of *al-Akhdam* (Yemen)

Report to the Committee on the Elimination of Racial Discrimination parallel the Government of Yemen Sixteenth Periodic Report under Article 9 of the Convention on the Elimination of All Forms of Racial Discrimination, 3 August 2006

On pages 53 through 56, the Yemeni government's sixth periodic report to CERD mentions the "marginalized" as synonymous with the "servant class" of Yemenis.¹ Elaboration as to their history or origins is not to be found in that source, except to say that "ethnographic and historical studies have not yet identified the origins of this social group." the report claims that their marginalization is a function of their landlessness. The report also claims that "members of the servant class were not marginalised because of their physical characteristics (such as dark skin) or on grounds of descent."²

The *Akhdam*, Yemeni citizens of allegedly African descent, are variously estimated to number 200,000 to 500,000 individuals, and presumed to number roughly 300,000. Inhabiting nearly every Yemeni governorate, they are severely marginalized social status as society's outcastes, having a severely impoverished economic status as scavengers who live in continuous isolation from the rest of Yemeni society, inhabiting both urban and rural areas, they are relegated to carrying out the most menial of tasks. Yemen, their context, counts as one of the world's least-developed countries, characterized by a depressed economy and high levels of corruption and nepotism. Researchers on *al-Akhdam's* conditions note that Yemeni government and nongovernmental organizations operating in Yemen largely omit *al-Akhdam* from their service and advocacy programs. Notably, only three NGOs in the country relate to *al-Akhdam* in any programmatic way.

In fact, *al-Akhdam* effectively occupies a caste within Yemeni society, enduring particularly degrading conditions and treatment. Nonetheless, the government report refers to no government affirmative-action programme for this group, except within the context of more-general poverty alleviation and development schemes in the country. In fact, *al-Akhdam* does not benefit proportionately from such programmes, owing to their extreme isolation and the pervasive social discrimination practiced against them.

The expression "marginalized" has been introduced in recent years in Yemen as a substitute term with reference to *al-Akhdam*; however, this term is so broad as to encompass other impoverished communities and groups, and obfuscates the special treatment and circumstances as if their plight were only one of common economic

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disadvantage. According to Yemen's *National Human Rights Report 2004*,

the implication of marginalization and the marginalized is much wider, because marginalization means the nonparticipation of a certain group of citizens in the management of resources and depriving them of taking part in the decision-making process concerning public life of the local community or society in general. Yemeni society has known throughout its history a number of marginalized groups that fit this definition.³

There has been a relative improvement in the conditions of some members of marginalized groups, with the exception of Al Akhdam, whose great majority lives in extremely bad conditions.⁴

Many *Akhdam* hail from Yemeni origins, in the Zabeed region. According to legend, other *Akhdam* originally came to Yemen with the Abyssinian conquest of the country in 525 C.E. and were cast into slavery by the Ziyadi (Zaydi) State that arose from its center at Zabid. At that time, *al-Akhdam's* leader was a man named Najah al-Habashi ["the Abyssinian"], who seized the opportunity to found the "Najahi" State out of the collapse of the Ziyadi State, and ruled from 407 to 554 A.H. (1016–1159 C.E.). The Najahi State extended from Zabid to the Tihama Coast, where they summoned their Abyssinian allies, plundering and enslaving the Arab population.

The revolutionary Ali Bin Mahdi al-Hamiri al-Zabidi rose against the Najahi State by rallying the Yemeni Arabs in Tihama and the mountainous regions of the country. After a protracted four-year war, the Najahi State fell. The Yemeni Arab victors condemned the Najahi population to slavery and banished them to the outskirts of the towns and villages. Thus, their name *al-Akhdam* (in Arabic: "the servants") was coined, thus rendering the remnants of the Najahi community the perpetual slaves of Yemeni society.⁵



Contrary to the State report, the extreme economic marginality of *al-Akhdam* is not a vestige of Yemen's feudal rural society or a function of mere landlessness and, thus, analogous to other landless Yemenis. Although *al-Akhdam* are categorically denied any property rights, the particular practices of discrimination, marginalization and

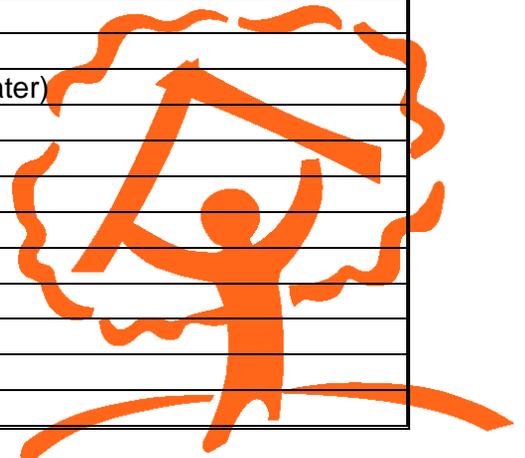
caste-like exclusion of *al-Akhdam* from mainstream society set them apart from the landless peasants in Yemen's semifeudal rural areas. In distinct ways, their enslavement and untouchability arose as a product of a long history of practices of ethnic, descent-based and racially motivated persecutions and discrimination.⁶

The housing improvements referred to in the government report (p. 54) are actually the outcome of European development assistance (referred to in more detail below), and cannot be attributed to the initiative of the State party. It cannot be said that even this project was carried out in accordance with the elements and criteria of the human right to housing, as enshrined in ICERD Article 5. That project reportedly followed a charity model, without satisfying the necessary participation, capacity-building and location requirements. As the State party delegation reported orally in its closing remarks to CERD, 4 August 2006, intended beneficiaries of this project abandoned their new homes to return to their former habitat. This begs questions that should arise from a case-specific analysis of the project itself, and not impressionistically attributed to faults of *al-Akhdam's* collective character.

Given the pervasive stereotyping, manifesting even in CERD's constructive dialogue with delegation, it is especially fitting to consider the *Akhdam's* living conditions within the framework of descent-based—if not also race-based—discrimination. Important questions remain, however, as to the degree of official institutionalisation of bias directed toward *al-Akhdam*; however, the material and social consequences are not in doubt. Nor is the need for urgent attention to resolve the deprivation and squalor in which this human group ekes out a living. Therefore, in the interest of upholding the Convention, we focus particularly on *al-Akhdam* for CERD's review of Yemen's treaty implementation as a grave problem that begs resolution as an urgent matter of State obligation. Within the specialisation of the Housing and Land Rights Network of Habitat International Coalition, we offer the following presentation of the available information on a single human right: adequate housing.

In this parallel report, the presentation of the human right to adequate housing (HRAH), enshrined in the Convention on the Elimination of All Forms of Racial Discrimination, Article 5.3(e)(iii), follows a methodology that incorporates the HRAH criteria set out in General Comment No. 4 "the right to housing," which the Committee on Economic, Social and Cultural Rights (CESR) issued in 1991. In addition, this methodology also includes as indicators congruent rights related to housing, clustered for organizational purposes. The following table outlines these comprehensive housing rights criteria.

Comprehensive List of HRAH Elements	
1.	Security of tenure, freedom from dispossession
2.	Public goods & services
3.	Environmental natural resources (esp. land & water)
4.	Affordability
5.	Accessibility (physical)
6.	Habitability
7.	Location
8.	Cultural appropriateness
9.	Participation & self-expression
10.	Capacity and capacity building
11.	Resettlement, restitution, rehabilitation
12.	Security (physical), VaW, privacy



The public generally shares a sense of security through the attainment and tenure of permanent and adequate family housing, association to a native village and a social position from which one can choose her/his economic activities. The right to exchange one's labour and services for a reasonable wage and the attainment and maintenance of housing, understood for their indivisibility, are denied to the members of the *Akhdam* community. Subsequently, their extremely precarious conditions are characterised by eternal exile, continuous displacement, and perpetual itinerant existence in which they move from one place to another through evictions and the destruction of temporary shelters. It is a condition that unleashes unprecedented forms of systematic social exclusion, disintegration, and multiple levels of economic exploitation and marginalization as *symptoms* of structural discrimination. The magnitude of such ethnic-based socioeconomic persecution against this minority is amply captured in the following popular proverb: "*Purify [your plate] if touched by a dog. Break it if it comes into contact with one of al-Akhdam.*"⁷

■ **Security of tenure, freedom from dispossession/forced eviction**

The resident of the *Akhdam* makeshift enclaves in urban centres such as Sana'a', Ta'iz, al-Hudaida, and Ibb are considered "squatters" with no legal protection for their housing and/or land tenure. They hold no titles to their residential spaces nor have any right to own property. Consequently, they are often raided, evicted and destroyed with no compensation whenever the need for such space arises. They can be evicted at any time and without notice. Their precarious status places *al-Akhdam* outside the mainstream society and its aspiration to economic mobility within a continuously transforming Yemeni society.⁸

As UN Habitat has reaffirmed, and as is now the subject of an ESCWA-region Secure Housing and Land Tenure Campaign,⁹ legal protection of one's housing tenure, whether privately or communally held, is an essential and indispensable element of economic stability. It is also an indivisible element in the enjoyment of the human right to adequate housing.

This precarious nature is consistent with the general climate of impermanence for *al-Akhdam* in their housing sphere. In the mountainous rural area such as Ibb and Tai'z, this minority is forced to live in undignified housing by prohibiting them from constructing residential dwellings that allow minimum dignity and security. Village headmen have the full power to demolish the dwellings of anyone who does not comply with such rules.

Forced Evictions, Destruction and Dispossession by Fire, and Intentional Physical Endangerment:

The only places open to *al-Akhdam* are the outskirts of cities, towns and villages and close to communal dumpsites also located outside main neighbourhoods for sanitation purposes. These places are always the least-desirable places. However, with population explosion, economic growth, and increased government infrastructure in the Republic, often previously undesirable places where this minority erects their makeshift slums suddenly may become marketable spaces or zones for public or private investment.¹⁰

The last five years have seen an increase—or at least an increase in reporting of—government authorities conducting violent eviction of *Akhdam*. With the fast expansions of municipal borders and the increasing demands for new construction sites at the outskirts of those centres, government officials have resorted to raiding and

burning *Akhdams'* slums and settlements whenever the urban expansion makes their settlements become too close to mainstream neighbourhoods. This form of dispossession and destruction of their homes and habitat forces the marginalized communities to flee and never return and, least of all, to rebuild. Residents who resist moving from a burned site or insist on rebuilding their dwellings on the same site are intimidated by police authorities. In any case, any returning *Akhdam* would remain under constant threat of the violent pattern of arbitrary removals recurring. Where residents have begun to resist such treatment, their resistance only has exposed them to more violence.¹¹

An entire family or a whole community may find itself without shelter and deprived of their belongings in a single bulldozing operation. Otherwise, police may just raid a slum neighbourhood and order all residents to leave immediately without any explanation and simultaneously fencing the entire settlement. In such cases, the police allow *al-Akhdam* inhabitants only to exit the site, but not enter. Such evictions are carried out within four to six hours and result in several casualties.¹²

At least ten major *Akhdam* slum fires have occurred over the last two years. In response, the nongovernmental National Organization for Defending Rights and Freedom (HOOD) has demanded that the Ministry of Human Rights and that members of parliament form a commission to investigate the burning destruction of 55 *Akhdam* homes in al-Wahda, Sana'a, Yemen's capital city. The organization has expressed its conviction that these fires, including at Aser al-Kasara (6 June 2003), al-Wahdah (June 2004) and near Adhan School (28 March 2005) were caused by arson, in order to force the inhabitants to vacate the area after failed attempts to relocate them by other means.¹³

The 28 March 2005 fire injured 14 inhabitants and caused untold material losses and burned down an entire settlement near Adhan School, in Sana'a'. That was the third such fire to take place in that slum within five years. As in all other similar cases, fire fighters at the Adhan fire appeared on the scene only after the entire settlement was burnt to the ground. The inhabitants reportedly escaped, salvaging some furniture and kitchen utensils from the fire. As was the case with all other such fires affecting *al-Akhdam*, authorities carried out no investigation.¹⁴

Al-Akhdam have reported that they have access to assistance only in the aftermath of such catastrophes. Such assistance usually comes in the form of tents and some household items, but they receive no public utilities or services. As in the case of the 28 March 2005 reported above, the burned-out *Akhdam* inhabitants typically demand that the concerned parties provide them with stone and cement houses as a measure of dignity and consistency with other members of Yemeni society.¹⁵ Such public-sector assistance has not yet materialised.

The *Akhdam* status as squatters constantly puts them at risk of collective and systematic evictions that are often violent in nature, and carried out via state agents whenever the "official" society at large has a need for such squatter spaces. If the inhabitants refuse eviction, authorities use violent methods of destroying the dwellings along with whatever material possessions they owned, in order to force residents to vacate their habitat. On such occasions, brutal clashes, casualties and even deaths ensue. for which no one is held to account. In light of that pattern, the State role and function in such cases is reserved for destruction and forced eviction of residents when the dominant public or private interest in acquiring such spaces arises.¹⁶

The Yemen delegation's oral responses to the CERD country rapporteur's questions indicated high numbers and percentages of *Akhdam* home ownership: up to 60% in areas of *al-Akhdam* concentration. The spokesperson referred to "a recent study" as the source of the data. This issue requires further verification and follow-up. It is inherently contradictory that such detail about extremely high ownership ratios among a population for which the Yemeni government is not able to count. As the delegation noted, their information sets the *al-Akhdam* population count at somewhere between 200,000 and 500,000.

■ **Public goods & services**

In emergency situations, police and firemen hardly offer help except when the situation is already out of control and the settlement is unsalvageable, leaving no option but for *al-Akhdam* to abandon it. In the mentioned cases, part or all of the communities are instantly displaced and made homeless. Local officials, especially in the capital, Sana'a, where most of the fire incidents took place, never have pursued any investigation into their causes, nor have they pursued the presumed arsonists.

Unlike the rest of the society, none of the *Akhdam* slums and settlements features public services such as water and electricity, water, waste removal and sanitation. Residents of these slum settlements must walk hours to obtain water or find a place to wash. With the burning destruction of their settlement, this hardship is gravely exacerbated.

Whether victims of forced eviction or vulnerable persons generally, those *Akhdam* most in need—the children—the mainstream society and social-service sector for not consider them to require, or be entitled to social protection. Hence, orphanages throughout the Republic generally do not accept *Akhdam* children, nor do they knowingly provide them shelter.¹⁷

■ **Environmental natural resources (land & water)**

Over 75% of Yemenis live in rural areas. In rural, agrarian northern Yemen, land use for subsistence or commercial purposes remains the main source of livelihood. Village headmen from tribalist and *sayyid*¹⁸ social groups occupy the decisive economic roles, both as feudal-like landlords and by controlling communal land. In this setting, the primary and symbolic sociocultural subordination of *al-Akhdam* minority is materially effected by systematic denial of their access to, and ownership of land.¹⁹ The very few who accumulated some money via illegal short-term labour migration to neighbouring Saudi Arabia are nonetheless unable to own a piece of land because the "tradition" of social stratification does not allow such mobility.

That reality, thereby, condemns *al-Akhdam* to a status of perpetual economic exclusion and marginality. Under this absolute denial of land their subordination is ensured as they are forced into labour as seasonal and migrant labourers who wonder from village to village in search of work.²⁰

In the southern People's Democratic Republic of Yemen, before the 1991 reunification of the country, no changes in the land tenure system were introduced so as to mitigate social stratification and the subjugation of *al-Akhdam*. Whatever development benefits they realized under the relatively more-egalitarian system of PDRY have been lost in the unification of the two economies and the subsequent imposition of International Monetary Fund-motivated neoliberal structural reforms and privatization.²¹

In rural villages, economic activity and status are such that access to land remains through the limited options of ownership or sharecropping. There, abuse of *al-Akhdam* is more severe. Not only are they prohibited from owning agricultural land, but also from engaging in the widely practiced sharecropping activities.

In page 53, paragraph 159, the Yemeni State report to CERD avoids the particularity of the ethnic-based discrimination against *al-Akhdam* by subsuming it under the larger issue of landlessness as the root cause for social inequality and impoverishment. Unlike “*al-Akhdam*,” the *Hujour* and *Zuboud* communities are historically landless rural population, but subsist by providing the bulk of agricultural labour through their sharecropping activities in Yemen’s semifeudal society. By collapsing the *Akhdam* case into larger land scarcity issues, the Government of Yemen report not only fails to acknowledge the human rights dimensions such as land access as it is inexorably linked to the rights to housing, food and an adequate standard of living, but it also dismisses the need for intervention on behalf of this minority. That misleads the Committee through the simplification of Yemen’s otherwise complex hierarchical social groups, all of which are tied within a web of social relations of power.²²

▪ **Affordability: the labour link to affordable housing and living conditions**

One factor of poverty among *al-Akhdam* is unemployment, with their community enduring the highest rate in the country, exceeding 50%.²³ With the majority of *al-Akhdam* inhabiting rural areas in a largely agrarian society, they are banned from most agricultural jobs. *Al-Akhdam* are permitted only to work as itinerant labourers whose only agricultural function is to engage in thrashing during harvest. That activity is allowed only because it is considered to involve minimum bodily contacts with the agricultural produce. In exchange for this work, *al-Akhdam* are paid a measly share of the product and/or simply offered one meal a day for a day’s work.²⁴

In carrying out other demeaning tasks such as cleaning human excrement, to which the descent-based tradition relegates them, *al-Akhdam* hardly are compensated for their labour. Most of these people work as street cleaners, and their career has become prominent over the last period of time in the main cities. There are some indications, however, that some *Akhdam* are seeking and finding jobs in nontraditional sectors such as tourism and petroleum production, in addition to fishing, as is especially the case in Aden.²⁵

▪ **Accessibility (physical)**

Because of the squalid conditions, lack of infrastructure, poor housing structures and typically marginalised locations, *Akhdam* communities feature little or no facilities for those members with physical challenges to access their housing. Linked also to location of the communities housing, physical access is difficult for all those required to travel or commute regularly for work or other purposes. Most notably, too, *Akhdam* women face particular hazards in accessing to their homes and communities. As exemplified on several regrettable occasions, private citizens and authorities have harassed *Akhdam* women walking or taking public conveyances to reach their homes and communities, especially at night.

▪ **Habitability**

The marginalized *Akhdam* dwell in structures generally made of thatch and cardboard, or sheets of empty container material. The homes mostly consist of a single room. The corrugated cardboard sheets that make these makeshift dwellings are lined to provide shade from the scorching heat of the summer months, but fail to provide any protection during the rainy and cold seasons. During the annual floods, entire communities of *al-Akhdam* are often washed away.²⁶

In the local vernacular, the clusters of dwellings are referred to as *Manawa* ["hovels" or "dens"]; that is, in the linguistic sense of a dwelling place for dogs. This term is common, for example, as a reference to *al-Akhdam* slums in the rural areas around the town of Zabid.²⁷

The lack of a regular energy supply impels them to carry out their everyday life activities using dangerous methods, including open fires for cooking and for keeping warm during the cold winter months, especially in the capital, Sana'a'. Consequently, the family and community are constantly vulnerable to accidents. They also are exposed to homelessness whenever their makeshift dwellings are destroyed by the slightest storms. These unsafe dwellings, coupled with a lack of clean water, put inhabitants at extreme risk of respiratory diseases, eye infections, skin problems. Limited communal sanitation also increases chances of infant mortality from parasitic worms and infections.

Since the *al-Akhdam* are forced to live in low-lying areas and drainage zones, they are subject to malaria, the main cause for death of children from illness,²⁸ and chronic diseases, such as infectious kidney disease. However, when they need medical attention, *al-Akhdam* often are unable to access health services, because of their isolated location, in addition to social discrimination practiced against them.²⁹ This also complicates the problems arising from general malnutrition, especially of children, and the consequent high infant and maternal mortality rates.³⁰

In seeking health care, *al-Akhdam* are often mistreated by health workers or simply unable to pay the required fees. An Oxfam report cites testimonies from *Akhdam* men in Ibb, confirming how the feelings of inferiority, negative attitude on the part of the health-sector staff and inability to pay combine to impede *Akhdam* access to health services:

"I could fight to get some money to cure my child...but we are always faced by ignorance and sometimes hatred from doctors"

"The health centre is not that far...The problem is that we are very poor, we suffer because we cannot afford to pay for the treatment, and, if we would go, the nurse will keep us till the afternoon"

The report concludes that "most of them [*Akhdam!*] stay at home without treatment, waiting to recover or die."³¹

Akhdam housing clusters have appeared in San`a' and Ta`iz such that consist of one bedroom, a living room, bathroom and kitchen that together do not exceed 60m². These very modest dwellings were built with the help of international donor assistance. The Yemeni government's purpose in these efforts was to remove slums from the capital. Moreover, the government has used all means possible to conduct forced evictions of *al-Akhdam* to remove them to the outer reaches of the governorates, including by the use of firearms and imprisonment of the heads of families.³²

The parallel report to the CERD committee asserts:

The aggregate outcomes of these conditions of neglect render these settlements unfit for peaceful existence, hazardous to health especially those of infants and children, and extremely unsafe living environments that are not conducive to dignified human life and social development.³³

While the State party refers, in its report, to the construction of new housing units for this group, these constructions are woefully inadequate in number and quality. These were constructed unilaterally by a European Union project, apparently without the State party's effort, resources or initiative. These efforts represent are only symbolic in the sense that they do not begin to address either the magnitude of the need for intervention, nor can they address the structural nature of the destitution in which *al-Akhdam* community lives.

■ **Location : spatial segregation**

Because of their abject poverty and untouchable status, this minority has neither the means nor the right to choose or purchase their place of residence anywhere in the country. The only places open to them as squatter zones are the outskirts of cities, towns and villages and close to communal dumpsites also located outside main neighbourhoods for sanitation purposes. These places are always the least desired places.

The concentrations of *al-Akhdam* in Yemen's capital, San`a', are found in the Asr, Bab al-Yemen and Tahrir quarters. In Aden, the *Akhdam*'s "den" in Dar al-Sa`d counts as one of the oldest *Akhdam* communities. In Hudaida, several *Akhdam* areas are found in Wadi Mur, as well as in the town of Zabid. In the Hadhramawt region (southeast Yemen), most of *al-Akhdam* live in Hay al-Harshiyat ("Neighbourhood of the Scabrous Ones").³⁴

The link among the HRAH elements of location, habitability and access to goods and services is particularly striking in the *Akhdam* case, where environmental conditions, poor building materials and spatial isolation from services leads to life-threatening health conditions in their place of residence.

These enclaves, which represent undesirable locations and lowland plains and *wadis* that are annually inundated by floods, comprise the only plots of land where this minority can erect their makeshift (typically cardboard) dwellings. During the annual flood season, entire communities of *al-Akhdam* are often swept away.³⁵

In major cities and towns such as Sana'a, Aden, Ta'iz, Ibb, and Zabid, collectivities of this minority group are not allowed to live with mainstream society. Nor would they be allowed (even though they are unable to afford) to rent or buy properties in neighbourhoods. Rather they are forced to exist only as squatters at the outskirts of main neighbourhoods and around communal dumpsites or market places where they subsidize their existence through scavenging and recycling refuse.³⁶

As is the case in rural setting, this minority is prohibited from inhabiting in close proximity with the larger society. So their makeshift dwellings are aggregated in settlements outside towns and cities. (Citation)

Over the past four decades, some *Akhdam* have migrated from rural villages to the major cities of Aden and San`a'. They have come from Zabid, al-Jarahi, Hays, and some villages in the Tai'z Governorate. Typically, these urban migrants return to their original villages on special occasions and religious feasts.³⁷

As mentioned under the HRAH element of “secure tenure,” the last five years have seen violent modes of eviction by government authorities. With the fast expansions of urban boundaries and the increasing demand for new construction sites on the outskirts, government officials have resorted to raiding and burning slums and settlements whenever these settlements become too close to the expanding mainstream neighbourhoods, forcing the marginalized communities to flee from their dwellings. With this growing pattern, *Akhdam* residents have become conscious of such criminal schemes and have mounted resistance that, in turn, only exposed them to more State violence.³⁸

■ **Cultural appropriateness**

Al-Akhdam families or groups of families are forced to live in communal formations, in flat and open dwellings where the exposed interiors do not allow for family privacy. This contrasts dramatically with the historically distinct multistory adobe architecture, unique to Yemeni towns, and providing Yemeni family the security of an enclosed distance from the street.³⁹

In the mountainous rural area such as Ibb and Tai'z, this minority is forced to live in undignified housing by prohibiting them from constructing residential dwellings that allow minimum dignity and privacy, values that are inviolable in general Yemeni society. Village headmen locally exercise the power to demolish the dwellings of anyone who does not comply with such customary norms. Breaching social rules can lead to retribution in the form of expulsion from one's own home village or threatened homicide.⁴⁰

Whereas the body of a woman from this minority is not considered “private” in a way that commands respect and privacy. Hence, an *Akhdam* woman is publicly exposed to all forms of abuses and violations. The imposed restriction on *Akhdam* house size, placement, single-story limits and lack of infrastructure and services particularly affect security in the community's built-up areas and aggravate the individual and collective vulnerability of *Akhdam* women.

Due to the precarious and unpredictable circumstances of their living conditions and because of their social vulnerability vis-à-vis village and urban authorities, *al-Akhdam* families tend to be dispersed and disintegrated. In such cases, emotional and social support for individuals can often be provided only by the surrounding community of squatters and not through family or lineage connections, as is the case is in the larger society. For this reason, among others, shared experiences of exclusion, marginality, and maltreatment provide the core of communal cohesion and affinity and provide an identity of belonging for *al-Akhdam* individuals.⁴¹

■ **Participation, association, peaceful assembly & self-expression**

In moments of severe humiliation or aggression, it often happens that *al-Akhdam* community organizes itself to seek justice through public demonstration. Police and judiciary authorities prohibit these forms of peaceful assembly as “public safety disturbances.” Dominant social groups tend to interpret such communal outcries, lamentations, and organized calls to justice as negative cultural traits and behaviours that attest to *al-Akhdam* community's non-Arab—and, consequently primitive—nature. In other words, the dominant discourse reacts to the *Akhdam*'s survival mechanisms and social responses to structural violence, portraying these natural responses as an

attestation to *al-Akhdam's* immorality. Often, when the sense of communal exclusion and experiences of humiliation are particularly harsh, *al-Akhdam* communities surrender into resignation and despair.⁴²

It appears that some *Akhdam* have begun to participate in elections to political office, including parliament, the executive and local authorities. However, the indicators show this participation to be very limited. Some very few examples have arisen recently, whereby *al-Akhdam* have established associations, such as the Sada Society (San`a') and the Uqba Bin Amer Society to promote their participation in the public sphere.⁴³

- **Education, information, capability and capacity building**

Their inferior educational levels, especially their high level of illiteracy, impede *al-Akhdam's* access to information about physical development and housing options available to them, if any. While this is a matter of logic, more information is needed as to particular cases and ways that this nexus between the HRAH entitlement to education and information rights, capability and capacity building, on the one hand, and the foregone options to access adequate housing, on the other.

- **Movement, resettlement, restitution, rehabilitation, return, compensation**

In the case of eviction by any means of pretext, this element of HRAH means that the evicted person is entitled to adequate alternative accommodation arrangements *before* the eviction, in addition to the other precautions and safeguards provided in human rights law.⁴⁴ Communities are entitled to resettlement in conditions of adequate housing, including the right to access services of rehabilitation and receive compensation for values lost and costs incurred as a consequence of the eviction or resettlement.⁴⁵

As *al-Akhdam* generally hold no titles to their residential spaces nor have any right to own property, the raids, evictions and destruction they face by official or private parties is not subject to any form of compensation, nor the necessary services required for resettlement or any other form of reparation. In the rural areas, if a *Khadim* is expelled, s/he loses not only the right to live in one's birth village, but also can lose one's entire civil status, identity and history. In Yemen, where state bureaucratic penetration into rural social life remains minimal, an expulsion from one's birth village not only amounts to the loss of access to one's birth place but also carries with it the possibility of one becoming a nonexistent in the civil/social sense.⁴⁶

- **Security (physical), VAW, privacy**

Given the *Akhdam* communities' locations, spatial isolation and low-rise housing construction, their openness and, hence, vulnerability, housing conditions compromise family privacy. This for of inadequacy subsequently consigns them, especially the female members, to a state of "accessibility," fostering perceptions of "shamelessness" and "immorality." In the view of the general public, this image forecloses any *Akhdam* claims to respectability and safety from subordination and humiliation.⁴⁷

Consequently, family privacy is virtually impossible to achieve under these circumstance, whereby *al-Akhdam* are *structurally* prohibited from even aspiring to uphold the dominant moral codes of gender segregation and modesty. For women, this means that they do not have the right to demand safety from common sexual harassment and abuses. Similarly, failing to demonstrate self-effacing humility (such

as by crawling or walking backward with head down) as required when a member of *al-Akhdam* passes in front of a member of higher social group, is met with severe physical punishment and/or verbal abuse.⁴⁸

In the rural highlands, where local architecture reflects a cultural regard for female modesty through the practice of gender segregation and female seclusion, *al-Akhdam* are forced to live in dwellings where the residents can not aspire to achieve these sociocultural values. There, *Akhdam* dwellings cannot be more than ground level, nor have an enclosure that would permit family privacy or female seclusion. The very form of permissible housing structurally denies *al-Akhdam* families, and especially female members, the opportunity to maintain the moral codes of modesty and respect that the larger society acclaims to itself.⁴⁹

Breaching the socially prescribed and strictly enforced architectural codes, or expected self-effacing social/physical humility often fosters severe retribution and retaliatory punishment, amounting to permanent expulsion from one's birth village or homicide in extreme cases.⁵⁰

Physical endangerment through burning of *Akhdam* settlements, forced evictions, destruction by burning and other use of force of residential areas only deepening poverty and aggravate isolation, displacement and lack of personal, family and communal security. These conditions sometimes also force families to be separated in search of subsistence. Men often travel in search of food, causing families to disintegrate and women and children to beg in the streets. These conditions are recipes for generating cyclical vulnerability of women and children who became further exposed to abuses and violence, ensuring that succeeding generations face a life of fear and destitution.

Practical Recommendations:

The Yemeni Ministry of Human Rights has admitted that "There has been a relative improvement in the conditions of some members of marginalized groups, with the exception of *al-Akhdam* whose great majority lives in extremely bad conditions."⁵¹

The basic educational, health, capacitation, training and financial credit needs of this group are subjects of voluntary and multilateral agencies. It has been argued that this approach is neither sustainable nor cost effective, nor is it particularly Yemeni. Only local and governmental remedial and preventive initiatives will suffice to reflect compliance with ICERD. There is no substitute for an integrated Yemeni approach, wherein the needs of these groups are incorporated into the development process, leading to Yemeni actors carrying out affirmative policies and practices, equal and fair treatment in all spheres, and Yemen affirmation of the basic human rights and equal dignity of *al-Akhdam* as full citizens and members of Yemeni society.

In light of the above findings, we recommend further that the State party apply the binding treaty obligations under ICERD and other international instruments elaborating HRAH and the elements that constitute that right. The State party bears an obligation to apply these indivisible criteria in order to respect, protect and fulfil HRAH and the human right to an adequate standard of living. Therefore also, the State has the obligation to ensure that any local or international party that augments the State's efforts to meet these obligations through development assistance likewise apply these indivisible criteria. In doing so, it is essential that the State apply special efforts to raise the material and social condition of *al-Akhdam* as a unique case of combined

marginalization *and* structured, caste-like discrimination. In doing so, we proffer the following specific recommendations:

1. Apply the full and indivisible criteria of HRAH in assessing progress and guiding projects by all parties in the provision of housing, land and services to *Akhdam* families and communities;
2. Evaluate foregoing such projects to determine whether these elements were and are present, in order to benefit from lessons arising from substandard actions and omissions, rather than attributing project failure to stereotypic presumptions of character flaws among the target population;
3. Conduct a comprehensive policy and budget review to determine areas of need where corrections would institutionalize affirmative actions for *al-Akhdam*;
4. Demonstrate moral and political leadership to ensure that all Yemeni citizens understand the need for, and the need for their compliance with affirmative action policies and behaviours that will remedy the *Akhdam* deprivations;
5. Prosecute crimes committed against *al-Akhdam*, including violations of persons and property, to the full extent of the law;
6. Adopt and enforce comprehensive antidiscrimination legislation that would address the informal and entrenched socially institutionalized discrimination against *al-Akhdam* in the urban and rural areas;
7. Ensure that planning and construction criteria apply to all citizens and residents equally, eliminating the practice of setting separate and distinct structural and other criteria that is practiced on either a formal or informal basis;
8. Train public personnel, including administration and law-enforcement officials, of their obligations to apply the ICERD and more-specific provisions against discrimination on any arbitrary basis;
9. Take advantage of the current “Secure Housing and Land Tenure” and “Good Urban Governance” campaigns of the ESCWA region to institute reforms and place special remedial attention to development of *al-Akhdam* communities;
10. In extending legally secure tenure, ensure the option of collective tenure to encourage social solidarity and shared planning and problem solving within *al-Akhdam* communities;
11. Take advantage of the current efforts to meet the Millennium Development Goal (MDG) No. 7 and its targets 9–11 as a measure of progress in correcting the anomalies of *al-Akhdam* deprivation in Yemeni society;
12. Consider the guidelines developed by UN Habitat on the potential management and prospects for financing needed improvements to reach MDG 7 (see Annex);
13. As Yemen tries to improve economic performance and provide services and programmes for citizens while attempting to meet the MDGs, the IMF has imposed restrictions on the economic performance and service provision by conditions, including privatisation requirements, of its 1995 loan. The Government of Yemen should consider international support, including nongovernmental support, to devise measures to relieve or rescind these conditionalities in light of its prior treaty obligations to respect, protect and fulfil economic, social and cultural rights without discrimination.
14. Actively seek international assistance for the development of *al-Akhdam* communities, thereby insisting on implementation of the HRAH with all of its indivisible elements and entitlements as criteria for project success.

ANNEX I

Some scenarios for meeting MDG 7:

The UN estimates that, for countries in Yemen's region, meeting the MDG 7, Target 11 would require about \$42 a year per beneficiary globally for land purchase and transfer, housing, network infrastructure (roads, internal paths, curbs, water and sanitation, power and electricity), community facilities, and planning and oversight.

If 30% of the investment for slum upgrading could be recovered through small loans and 10% were contributed by residents themselves, about \$39.9 billion, or \$400 per person, would have to be provided in the form of subsidies over the period 2005–20. (See table.)

Costs of Meeting MDG 7, Target 11	
Component	Arab states, Turkey, and Iran
Construction of basic housing	472
Purchase of land or transfer	80
Relocation	55
Provision of networked infrastructure	235
Provision of bulk infrastructure	71
Construction of schools and clinics	12
Construction of community facilities	15
Planning and oversight	268
Capacity building	121
Total cost per person	1,328
Number of people (millions)	4
Total cost (\$ billions)	5.3
<i>Source: Flood (2004), World Bank (2003), FISE (2004).⁵²</i>	

Projected types of funding for upgrading slums, by region, 2005–20

Source	Arab states, Turkey, and Iran
Subsidies	3.2
Loans	1.6
Savings and self-help	0.5
Total cost (\$billions)	5.3
<i>Source: Task force estimates based on data from Flood 2004; World Bank 2003a; and FISE 2004.</i>	

ANNEX II

Unanswered Questions for Future Inquiry

1. Do the *Akhdam* squat primarily on State lands?
2. Does the State maintain statistics on the numbers of *Akhdam* legal tenure holders or percentages as compared with the general/non-*Khadim* population? Or are *al-Akhdam* universally squatters?
3. Is it possible to assess the number of *Akhdam* forced-eviction cases in the past five years (with statistics as to number of persons/families/household affected and/or values lost? Cases could be presented in a table form with basic data on each case. (See HLRN Violations Database at: http://www.hlrn.org/violation_add_form.php and <http://www.hlrn.org/violation.php>.)
4. Are there any cases of *Akhdam* opposing their eviction by legal or administrative means? Are there any NGOs or legal services to defend *al-Akhdam*'s right to remain/freedom from dispossession and forced eviction?
5. How has the privatization of public services affected *al-Akhdam*?
6. Is there any direct or indirect statutory prohibition barring *al-Akhdam*'s access to services, either by zoning or other restrictions?
7. In practice, do other Yemeni squatters fare better in accessing public goods and services?
8. Has the Yemeni government applied land-privatization schemes that would offer individual (or collective) land titles to slum dwellers (whether or not applied to *al-Akhdam*)?
9. Are public or private financial services available for Yemenis to build or improve housing, but formally or informally bar *al-Akhdam* for reasons of race or economic status?
10. According to UN estimates, meeting the MDG 7, Target 11 would require about \$42 a year per beneficiary globally for land purchase and transfer, housing, network infrastructure (roads, internal paths, curbs, water and sanitation, power and electricity), community facilities, and planning and oversight. Has the Yemeni government begun to budget and program the improved living conditions and, if so, how is government ensuring that the process follows the HRAH framework?
11. How has Yemen already implemented the ESCWA Regional Secure Tenure Campaign to the benefit of *al-Akhdam*?
12. Accessibility as an element of the human right to housing usually pertains to those persons with special needs, due to disability, age, or other physical condition. However, physical accessibility could also be impaired by some other material obstacle (different from poor location). Do *al-Akhdam* face such formal obstacles, including curfew or other restriction against their accessing their homes (at night)?
13. Are *al-Akhdam* directly or indirectly, formally or informally prevented from participation in local decision making? Have they formed any tenants' unions or similar formations? Have local NGOs or the international charity or development agencies included a component promoting participation?
14. Are statistics on violent crimes, including domestic violence, available for the *Akhdam* communities? If not, are statistics available on other segments of society, but lacking for *al-Akhdam*? In the absence of quantifiable data, are anecdotal testimonies available that give a sense of the scale of the problem?
15. Is religious fundamentalism a phenomenon in the *Akhdam* slums, like in most other slums in the region?

Endnotes

- ¹ Sixteenth periodic report of States parties due in 2005: Yemen, CERD/C/YEM/16, 21 April 2006.
- ² CERD/C/YEM/16, para. 159, p. 53.
- ³ See: Adel Mujahid Al Sharji, Educational Circumstances of Children of Marginalized Groups, an unpublished study presented to UNICEF Sana'a, December 1999, p.5. Cited in Ministry of Human Rights, *National Human Rights Report 2004*, at: http://www.mhryemen.org/archive/archive_detail_en.php?n_no=2135
- ⁴ *National Human Rights Report 2004*, op cit.
- ⁵ Social Democratic Forum, "*al-Fi'a al-Muhamisha fi al-Yaman (al-Akhdam)*" [The Marginalised Sector in Yemen (al-Akhdam)], parallel report to CERD July 2006, p. 1.
- ⁶ Huda Seif, on behalf of Alternative World/Partnership for Equitable Development and Social Justice in Association with International Dalit Solidarity Network, "Parallel Report to the joint 15th and 16th Periodic Report of the State Party, Yemen, to the Committee on the Elimination of Racial Discrimination (CERD)," (July 2006), at: <http://www.ohchr.org/english/bodies/cerd/docs/ngos/Shadowreport.pdf>.
- ⁷ Ibid.
- ⁸ Ibid.
- ⁹ The countries of the ESCWA region include all Middle Eastern (i.e., Asian) Arab States, plus Egypt, which has part of its territory (Sinai Peninsula) in Asia.
- ¹⁰ See Huda Seif (2006). This pattern of squatter investment and dispossession by eviction is typical of many countries, both developed and developing.
- ¹¹ Huda Seif (2005) and (2006).
- ¹² "War against Akhdam at Bab al-Yemen," *Yemen Times* (November 2001), cited in Huda Seif (2006), op cit.
- ¹³ "HOOD Calls for Probe into Fire at al-Akhdam Homes," *Yemen Times*, Vol. 13, Issue 745 (10–13 June 2004), cited in Huda Seif (2006), op cit.
- ¹⁴ Yasser Mohammed al-Mayyasi, "Akhdam shelter catches on fire... again," *Yemen Times*, Vol. 13, Issue 829 (31 March–3 April 2005) , cited in Huda Seif (2006), op cit.
- ¹⁵ Yasser Mohammed al-Mayyasi, op cit.
- ¹⁶ Huda Seif (2006), op cit.
- ¹⁷ Huda Seif (2006), op cit.
- ¹⁸ Those claiming genetic link to the Prophet Muhammad and his al-Quraysh clan.
- ¹⁹ Huda Seif, "The Accursed Minority: The Ethno-Cultural Persecution of Al-Akhdam in the Republic of Yemen: A Documentary & Advocacy Project," *Muslim World Journal of Human Rights*, Vol. 2, Issue 1 (2005).
- ²⁰ Huda Seif (2005), op cit.
- ²¹ As a condition for a 1995 loan from the International Monetary Fund (IMF), Yemen's government has been forced to implement an economic reform program that includes banking reform, privatization of state-run industries, major infrastructure investment, and reduction or elimination of government subsidies, including wheat, flour, diesel/gasoline, and utilities. However, progress has been slow as a result of resistance to reform, sales taxes, and cuts in subsidies. [U.S.] Energy Information Administration, "Yemen is showing economic improvement but security remains a concern for foreign investment," at: <http://www.eia.doe.gov/emeu/cabs/Yemen/Background.html>. Aziz ak-Shawafi, "The Issue of privatization in the Republic of Yemen," *al-Thawra*, issue 12337 (22 August 1998). The author writes: "As for Yemen, it has been seen clear that since the nineties, the public sector started to collapse; together with; an associated loss of its public properties, and a deeply directed move in adopting, or implementing, the proposals, recommendations and instructions of the international institutions, of which the International Monetary Fund comes in the first rank!" Yemen's privatization program has aimed to divest 70% ("in employment terms") of public-sector enterprises by 2000. The main enterprises designated for privatization include the Aden Oil Refinery, airport services, land transportation, cement production, and pharmaceuticals. Civil-service reform initiative is expected to reduce public payrolls by 20%. Already from 1995 to 1998, the Government of Yemen privatised 40% of small and medium-sized public enterprises. "Bearing the Burden of I M F and World Bank Policies: Downsizing, Privatization, Labor Flexibility, Wage Cuts," *Multinational Monitor*, Vol. 22, No. 9 (September 2001), at: <http://multinationalmonitor.org/mm2001/01september/sep01corp1s.html>. Water and electricity services have involved increased user fees and private sector interventions. Sara Grusky, "IMF Forces Water Privatization on Poor Countries," *Globalization Challenge Initiative* (February 2001), at <http://www.waternunc.com/gb/ProblemofWater.htm>. See also *Yemen: Enhanced Structural Adjustment Facility: Medium-term Economic and Policy Framework Paper, 1999–2001* (Washington: International Monetary Fund, 5 March 1999), at: <http://www.imf.org/external/NP/PFP/1999/Yemen/index.htm>; Abdulaziz M. Abdul Allah, "Privatization: Reality and Ambitions!" *Yemen Times* Vol. XI (26 March–1 April), at: <http://www.mafhoum.com/press/yemar31.htm>; Nabil Sultan, "The Bane of Privatization and Liberalization," *Dialogue on Globalization* (2004), at: <http://library.fes.de/pdf-files/iez/global/50042.pdf>; Adnan Hizam, "Yemen – WTO: negotiations to take several more years," *Yemen Observer* Issue IX, No. 26 (22 July 2006), at: http://www.yobserver.com/news_10574.php
- ²² Huda Seif (2006), op cit.
- ²³ Abdel Kaher el-Zaemey, "Voices from the Field: The Importance of Life Skills and Social Capital in Micro and Small Enterprise Development in Yemen" (Bonn: Working Group for International Co-operation in Skills Development, 28–30 April 2003), p. 4, at: <http://www.unevoc.unesco.org/wqskills/papers/Yemen-ElZaemey.pdf>.
- ²⁴ Huda Seif (2006), op cit.
- ²⁵ Social Democratic Forum, op cit.
- ²⁶ Huda Seif (2005), op cit.
- ²⁷ Social Democratic Forum, op cit., p. 1.
- ²⁸ Abdul W. al-Serouri, Dina Balabanova, Souad al-Hibshi, Abdul W.A. Serouri, "Lessons from Yemen: Cost Sharing for Primary Health Care," Oxfam Working Papers (Oxford: Oxfam, 2002), p. 13.

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- ²⁹ For example, health-sector staff have been reported as impeding access to health services, as demonstrated in cases studies in *Ibid.*, pp. 7,8, 9, 12–13, 26.
- ³⁰ Huda Seif (2006), *op cit.*
- ³¹ The report goes on to note that “*Akhdam* often use herbs, self-medication, and traditional practices, which sometimes have very adverse effects on their health. Some of them buy analgesics from the private drug stores without knowing the diagnosis. In some cases they have to steal to save the lives of their children or family.” Oxfam, *op cit.*, p. 8.
- ³² *Ibid.*
- ³³ Huda Seif (2006), p. 7.
- ³⁴ Social Democratic Forum, *op cit.*
- ³⁵ Huda Seif (2005), *op cit.*
- ³⁶ Huda Seif (2006), p. 21.
- ³⁷ Social Democratic Forum, *op cit.*, p. 3.
- ³⁸ Huda Seif (2006), *op cit.*
- ³⁹ Interview with Huda Seif, 11 July 2006.
- ⁴⁰ Huda Seif (2006), p. 5.
- ⁴¹ Huda Seif (2005), *op cit.*
- ⁴² *Ibid.*
- ⁴³ Social Democratic Forum, *op cit.*
- ⁴⁴ See CESCR’s General Comment No. 7: the right to housing: “forced eviction” (1997).
- ⁴⁵ See “Principles on Housing and Property Restitution for Refugees and Displaced Persons,” in Final Report of the Special Rapporteur Paulo Sérgio Pinheiro, submitted in accordance with Sub-Commission resolution 2004/2, E/CN.4/Sub.2/2005/17 (2 May 2005); “Basic principles and guidelines on the right to a remedy and reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law,” as developed with the contributions of Special Rapporteurs Theo van Bowen and Cherif Bassiouni: UN Commission on Human Rights resolution 2005/35 (19 April 2005); See “Guiding Principles on Internal Displacement,” developed with contributions from the Independent Expert Francis Deng, in E/CN.4/1998/53/Add.2 (11 February 1998); See “Basic principles and guidelines on development-based evictions and displacement,” in Report of the Special Rapporteur Miloon Kothari on adequate housing as a component of the right to an adequate standard of living, and on the right to nondiscrimination in this context, E/CN.4/2006/41 (14 March 2006).
- ⁴⁶ Huda Seif (2005), *op cit.*
- ⁴⁷ *Ibid.*
- ⁴⁸ *Ibid.*
- ⁴⁹ Huda Seif (2005) and (2006), p. 40.
- ⁵⁰ *Ibid.*
- ⁵¹ *National Human Rights Report 2004*, *op cit.*
- ⁵² Joe Flood, “Cost Estimate for Millennium Development Goal 7, Target 11 on Slums.” Background report for UN Millennium Project Task Force on Improving the Lives of Slum Dwellers and UN-HABITAT. (Elsternwick, Australia: Urban Resources, 2004); World Bank, “Costing the MDG of Universal Primary Completion,.” Barbara Bruns, Alain Mingat, and Ramahatra Rakotomalala, eds., *Achieving Universal Primary Education by 2015: A Chance for Every Child* (Washington: World Bank, 2003); [www1.worldbank.org/education/pdf/achieving_efa/chapter4.pdf/]; FISE (Fondo de Inversión Social de Emergencia in Nicaragua). 2004. “Lineas De Corte.” PowerPoint presentation. [www.ruta.org/downloads/info-genero/Nicaragua/ALCALDIA/332_1_Slide1.].