



EQUALITY NOW

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Silvia Pimentel

Chairperson, Committee on the Elimination of Discrimination against Women

Jean Zermatten

Chairperson, Committee on the Rights of the Child

By e-mail: cedaw-crc@ohchr.org

Re: Joint CEDAW-CRC General Recommendation / Comment on Harmful Practices

30 August 2011

Dear Ms. Pimental and Ms. Zermatten,

Thank you very much for this opportunity to submit input on harmful practices affecting girls under eighteen years of age for the new joint CEDAW-CRC General Recommendation / Comment on Harmful Practices. Equality Now is an international human rights organization with ECOSOC status, founded in 1992, working for the protection and promotion of the rights of women and girls worldwide. Equality Now's membership base, the Women's Action Network, is comprised of more than 35,000 individuals and organizations in over 160 countries. Issues of concern to Equality Now include discrimination in law, sexual violence, trafficking of women and girls, female genital mutilation, and all other forms of violence and discrimination against women and girls.

We would like to submit information regarding female genital mutilation and child marriage for consideration by your committees in developing the joint recommendation/comment. In particular, please find attached our Women's Actions in *Liberia: Enact a law to protect women and girls from female genital mutilation (FGM) and ensure justice in the case of Ruth Berry Peal who was forcibly subjected to FGM* – March 2011); *Saudi Arabia: End child marriages and male guardianship over women* – November 2010; and *Yemen: End early marriages by enacting and enforcing a minimum age of marriage law* – April 2010, which illustrate the need for comprehensive laws (or decrees) prohibiting the harmful practices of FGM, child marriage and the male guardianship system and laws establishing a minimum age of marriage.

The need for national legislation against FGM – Liberia case example

As Equality Now noted in its submission to the CSW Communications Procedure on 1 August 2011, Liberian women and girls are suffering from FGM and even women who are not from the practicing communities are sometimes forced to undergo the practice. The case of Ruth Berry Peal illustrates the problem. Ruth is a wife, a mother and a member of the Kru Tribe ethnic group (a community which does not practice FGM), who was forcibly taken from her home to the "bush" where

she was genitally mutilated in a ritual from which Ruth developed health complications. Ruth filed a lawsuit against the women who forcibly mutilated her, but because she exposed their practice her husband and children received threats from the Gola community and the Zoes of the *Sande* demanding she drop the case.

Over 58.2% of Liberian women have undergone female genital mutilation as an initiation rite to womanhood by different ethnic groups. Even though FGM in Liberia is generally carried out on girls between the ages of 8 and 18 years old, in some cases girls as young as 3 years old are subjected to the practice. Culturally entrenched, the practice is propagated by a politically influential female secret society known as the *Sande*, in which young girls that attend traditional *Sande* schools go through the process of indoctrination of social and traditional training and graduate to womanhood upon undergoing FGM. The Liberian Ministry of Internal Affairs issues permits to the women who run these schools and who carry out FGM on the girls in attendance. In a meeting with the Minister in June 2011, the Minister committed to suspending the issuance of permits but only until December. However, the permits are still being issued to *Sande* members. Although Ruth's case ultimately went forward and the two women were found "guilty" of kidnapping, felonious restraint and theft and were sentenced to three years imprisonment each in July 2011, Liberia still issues permits for FGM to be carried out and has no anti-FGM law.

Only 19 of the 28 African countries where FGM is practiced as well as South Africa and Zimbabwe (not generally considered practicing countries) have federal laws prohibiting FGM. Five of the nineteen countries without laws have ratified the Protocol on the Rights of Women in Africa to the African Charter on Human and Peoples' Rights which mandates that all States Parties enact and enforce legislation prohibiting FGM. We hope the joint recommendation/comment will advocate for the use of legislation as a strategy to end FGM.

The need for strong minimum age of marriage laws – Saudi Arabia and Yemen examples

Equality Now has been informed of several cases of Saudi girls being married off at the behest of their male guardians. The most recent case concerns 12-year-old Fatima from Najran who was married on 5 October 2010 to a 50 year old man who already has a wife and ten children. Her father sold her in marriage for a sum of 40,000 Saudi Riyals (approximately US\$ 10,665). Fatima, who has not yet fully reached puberty, now lives with her husband and his family. According to her paternal uncle Mohamed, Fatima's husband has subjected her to sexual relations. Fatima's paternal grandfather and uncle were strongly opposed to the marriage but could not prevent it because Fatima's father, as her male guardian, has the right under Saudi law to marry her off at any age to whomever he pleases. In addition, Saudi legal system recognizes only the right of the father and not the right and interest of the child.

In June 2009, Equality Now issued a news alert highlighting the case of Amneh Mohamed Sharahili, a 10 year old school girl, who was to be married by her father to a 25-year-old Saudi man. Equality Now called on the government of Saudi Arabia to prevent Amneh's marriage and to ban all child marriages by enacting and enforcing a law establishing a minimum age of marriage. Since we issued our alert we have been unable to get news of Amneh and we fear her father has married her off. In our June 2009 alert, we also highlighted the reported case of an eight-year-old girl from Onaiza who had been married by her father to a middle-aged man to settle a debt. The mother of the girl petitioned for a divorce but the Saudi court held that it was the male guardian's right to contract such a marriage and only the girl (and not her mother) could contest her own marriage when she reached puberty. In that case, due in part to international outcry, the husband was reportedly prevailed upon to grant the eight-year-old a divorce.

Child marriages continue to be prevalent in Saudi Arabia despite clear evidence that such marriages have severe negative physical, emotional, psychological, intellectual and sexual implications for children. However, Saudi Arabia has neither defined a minimum age of marriage nor taken steps to ban child marriages. The accepted practice of male guardianship over women and girls, where a woman is considered to be under the guardianship of her father or closest male relative all her life, is directly contradictory to international human rights standards. The combined effect of the lack of a minimum age of marriage and practice of male guardianship over women and girls mean that a Saudi girl can be forced into marriage at any age at the wish of her male guardian.

Saudi law is not codified, rather the legal system is based on individual judges applying their interpretations of *shariah* (Islamic law). Although some agencies of the Saudi government, such as the Ministry of Justice and the Human Rights Commission have spoken out against child marriages and have instituted some intermediate steps such as requiring the age of marriage on marriage contracts, these are not enough to be a deterrent to male guardians, like Fatima's father, who choose to sell their (sometimes prepubescent) daughters into marriage, or to adult (often middle-aged) men who seek to marry and have sexual intercourse with child brides. In July 2011, there were news reports that the Ministry of Justice is "working on a regulation banning the marriage of female minors," while maintaining that, "the marriage of under-age girls in the country is not a phenomenon yet as some claim... those who say this are wrong. We are considering regulations in line with the Islamic Shariah to govern this kind of marriage." Under the current Saudi legal system, the only effective solution to this issue would be an edict from the Saudi King prohibiting child marriages, establishing punishments for those who enter into or facilitate such unions, and overturning the system of male guardianship, which informs all aspects of women's lives in Saudi Arabia.

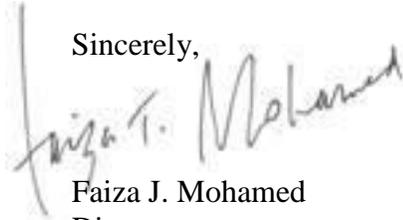
As Equality Now noted in its submission of 3 March 2011 to the Committee on Economic, Social and Cultural Rights concerning the lack of a minimum age of marriage law in Yemen, Equality Now paid two visits to Yemen, in October and November 2010, and met with partner civil society organizations, government agencies and parliamentarians to discuss the passage of a minimum age of marriage law. We were told about a child marriage case involving an 11 year old girl, Leila [not her real name], from Amran governorate who was married to a 40 year old farmer. She wants a divorce from her abusive husband and to continue her education. With the cooperation of Yemen Women Union, Equality Now is following up the case of Leila to ensure that she stays in school and gets a divorce. Leila is just one example of the pervasive human rights violation of child marriage, which has an adverse impact on the lives of these children in so many ways.

Yemen currently has no legal minimum age of marriage and cases of child marriages are common. The Yemeni government has failed to take any action to ban such marriages. Women's and children's rights organizations in Yemen have been working tirelessly on this issue but so far their efforts have not borne fruit. The conservative elements in the government have consistently blocked any efforts to introduce a minimum age of marriage law. A draft bill was submitted by two government agencies (National Commission for Women (NCW) and the Higher Council for Motherhood and Children) in 2009 with the backing of Yemeni women and children's rights organizations that fixed the minimum age of marriage for girls at age 17 and included penalties and punishment for those in violation. However, the bill was sent to the Parliamentary Sharia Committee for further consideration and after debating the issue the Sharia Committee came up with 15 pages of recommendations in October 2010 against a minimum age of marriage specifying among other things that early child bearing prevents breast cancer. The draft bill is still pending but further discussion has been postponed.

We hope the joint recommendation will reinforce particularly Article 16(1)(b) and 16(2) of CEDAW which state that women shall have the same right as men “freely to choose a spouse and to enter into marriage only with their free and full consent...[and] the betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.”

We hope the information we have provided will be useful in your work on the joint recommendation/comment, which will in turn provide further encouragement and guidance to States Parties to address these fundamental issues affecting the rights of women and girls. Thank you very much for your attention.

Sincerely,

A handwritten signature in black ink, appearing to read "Faiza J. Mohamed". The signature is written in a cursive style and is positioned above the printed name and title.

Faiza J. Mohamed
Director