



Detention of Women in Yemen: Procedures and Facilities

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Introduction

Even before the political crisis in Yemen beginning in 2011, the judicial and prisons system in Yemen faced severe challenges. The political uncertainty, civil unrest and insecurity across the country have affected the ability of the courts to provide protection against arbitrary detention (detention without a lawful reason), undue delays in trials to decide the lawfulness of detention and conclude cases, and poor or sub-standard conditions within detention facilities.

The purpose of this brief paper is to provide background information to local actors who may wish to work on the treatment and rights of women in detention in Yemen. It provides an outline of international legal standards that are relevant to detention and women's rights, and compares the current situation in Yemen to these to identify gaps where civil society actors may work to improve the situation. At the end of the paper is a list of materials which may be useful in developing a deeper understanding of this topic.

Women in Yemen and the protection of human rights

In general, women and girls are known to face social and political discrimination in Yemen. Yemen ranked 152nd out of 187 countries in United Nations Development Programme's Gender Equality Index, which is

based on factors including female literacy, maternal mortality rates, and female participation in the labour force.¹

Yemen has signed almost all of the main international human rights treaties,² including the [Convention on the Elimination of All Forms of Discrimination against Women](#), but they are not put into practice. Yemen has been criticised often by groups such as the UN Human Rights Council, Amnesty International, Human Rights Watch and the UN Committee on the Elimination of Discrimination Against Women for its treatment of women, asylum seekers and migrants, and political activists.

Access to justice is generally poor – 50 per cent of all Yemenis have little or no access to courts or to other ways of solving disputes fairly. The previous Constitution of Yemen ([ratified](#) by popular [referendum](#) on May 16, 1991 and amended in 1994 and 2001³) requires the judiciary to be independent, but it is weak and not fully independent. Judge's decisions can be affected by corruption and political interference, according international fact finding missions.⁴ This gap is often filled instead by non-state processes, such as tribal mediation. Any justice reform efforts will need to acknowledge and incorporate tribal mediation practices, in order to both secure local ownership as well as to help promote the rights of women in existing practices.

Detention and criminal justice in Yemen

According to the director of the Rehabilitation and Correction Authority, in July 2013 there were approximately 14,000 individuals held in Yemeni prisons; 92 per cent of individuals in prison were men aged between 18 and 35.⁵ Similar age-disaggregated data on women is not generally available.. Many incidents where inmates have died, been killed, committed arson attacks, and gone on hunger strikes have been reported by *The Yemen Times* and Amnesty International. Although there has been some movement in releasing political prisoners who were arrested for participating in the 2011 events, they are reportedly faced with torture, abuse, and other forms of mistreatment.

Yemeni law states that people waiting for their trials must be kept separate from people who have been found guilty of a crime.⁶ According to the International Centre for Prison Studies, 70.1 per cent of the prison population in Yemen is awaiting trial.⁷ There are very few detention facilities for women in police stations in Yemen; if a woman is arrested, she is usually directly transferred to the central prison.⁸ As there are so few women detained, and they have to be kept separate from men in prisons, women usually go straight from arrest into women's prisons.⁹ They are generally not held at police stations except in non-traditional holding facilities.

Extended prison stays are common in Yemen and affect all prisoners equally. Many people stay in prison for longer than they are required to by the court because they, or their families, are unable to pay fines or bribes.

A number of cases demonstrate these extended prison stays. A significant number of individuals were detained because of their participation in the 2011 events, including women. In 2012, Cabinet Decision No. 180 (2012) was issued, to release all those detained in relation to the 2011 events. Despite this, 16 individuals remain in custody and, in 2014, the families of these individuals did not have any information on their relatives' whereabouts. Additionally, 22 people were detained in connection with the Presidential mosque bombing in June 2011. On 4 June 2013, President Hadi issued a decree to release 19 of these 22 detainees. The Attorney General released 17 of the detainees on 6 June 2013 and promised to investigate the remaining five. The five remaining detainees are still in prison and have not had their cases heard. The chief of the Criminal Specialised Court referred the case to the Supreme Judiciary Council in March 2013, and nothing has happened since.¹⁰

¹ See <http://hdr.undp.org/en/content/table-4-gender-inequality-index>, accessed 20 November 2014

² See <http://www1.umn.edu/humanrts/research/ratification-yemen.html>, accessed 23 February 2015

³ See <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=category&category=LEGAL&publisher=&type=&coi=YEM&docid=3fc4c1e94&skip=0>, accessed 23 February 2015

⁴ US Department of State Country Reports on Human Rights Practice – Yemen, 27 February 2014, <http://www.refworld.org/docid/53284a4814.html>, accessed 15 November 2014

⁵ *ibid*

⁶ Article 71, Law No. 13, Concerning Criminal Procedure (see below for more details on Yemeni national law)

⁷ See http://www.prisonstudies.org/country/yemen#further_info accessed on 27 November 2014.

⁸ Interview, L. Hamedy, 26 November 2014.

⁹ Interviews: S. Bashareen, 19 November 2014; L. Hamedy, 26 November 2014.

¹⁰ All the information in this paragraph is synthesised from Paragraph D of the OHCHR August 2014 Report, 'Situation of human rights in Yemen', UN Doc No. A/HRC/27/44, p. 9 *et seq.*

The most common crimes in Yemen are: theft, adultery, drinking alcohol, murder, prostitution (trafficking women for prostitution and begging) and promotion of drug abuse.¹¹ It is believed that the majority of women who are in detention were arrested for prostitution.¹² However, prostitution is defined very vaguely in Law No. 12 as “committing one of the acts touching the honour and violating the law for the purpose of spoiling the morals of others or gaining from it”.¹³ This has led to women being arrested and accused of prostitution if they are walking with a man in the street, or even if they are walking after dark in the street.¹⁴ Prostitution can be punished by three years in prison.¹⁵

According to human rights activist and lawyer Khaled Al Ansi, Yemeni society remains hostile to female offenders. “Society still deals with women’s ‘crimes’ in an unforgiving and violent manner, as opposed to how men’s crimes are dealt with, despite the possibility of women being imprisoned on mere suspicion or for smaller crimes”, said Al Ansi.

MP Shawqi Al Qadi, meanwhile, points out that “the prevailing social outlook in Yemen is that prison is unacceptable for women – it is only acceptable for men to serve sentences behind bars. In Yemen women are still being judged on their ‘shame’, which is rather unjust”

Amal Al Basha, a civil right activist and president of ‘The Sisters’ Forum’, a local organisation focusing on women’s rights, agrees. She argues that society expects female prisoners to live in isolation and shame and to avoid mingling with other women who are not stigmatised as having been criminals. ***The circle of offending***

Several cases have been reported of women in Yemen who are caught in a circle of being detained for crimes (especially prostitution), released without given access to any community support and arrested again.¹⁶ The local community and members of the family usually reject these women, and there is a difficult culture of shame for women who have been in detention or arrested, even if they are innocent.¹⁷ When women are released from prison, they often have no support and so they return to prostitution to support themselves and their children. They are often arrested again and the circle starts again. Refugee and asylum seeking women are at high risk and Somali women refugees and asylum seekers have a reputation for being involved in survival/transactional sex.

Refugees, asylum seekers and migrants are also detained in Yemen. According to The Office of the United Nations High Commissioner for Human Rights (OHCHR), over 200 asylum seekers from Eritrea were detained by the Yemeni authorities, and held in Hodeida Detention Centre on alleged security grounds.¹⁸

Case study: Safiya¹⁹

When Safiya was set free after serving one year in the Yemeni capital’s central correctional facility for women, where she had been held without trial, she found no one waiting to welcome her home. The 29-year old, whose family had disowned her upon her arrest in 2009, found herself alone upon her release. With no one to turn to, she found herself marrying a stranger — a taxi driver who had agreed to provide shelter in exchange for sex.

But her new husband had secret plans. He soon put Safiya to work, sending her to meet with male clients in hotels across the city. Safiya in turn resisted, left her short-lived marriage and turned to prostitution to support herself. After a short while she found herself behind bars again.

Safiya, whose name along with others in this investigation has been changed, is one of 116 female inmates in Yemen who are victims of what experts describe as government neglect and social stigma.

¹¹ Interview, L. Hamedy, 26 November 2014.

¹² Interview, S. Bashareen, 19 November 2014.

¹³ Article 277, Republican Decree for Law No. 12 (1994) Concerning Crimes and Penalties

¹⁴ Interview, S. Bashareen, 19 November 2014.

¹⁵ See Chapter 8, Law No. 12.

¹⁶ See Arab Reporters for Investigators Journalism, ‘Yemen’s women inmates: disowned by family, cast out by society, forced back into crime’, November 2013, <http://arij.net/en/yemen%E2%80%99s-women-inmates-disowned-family-cast-out-society-forced-back-crime> accessed on 26 November 2014.

¹⁷ Interviews, Anonymous, 27 November 2014; S. Bashareen, 19 November 2014.

¹⁸ UN Human Rights Council, ‘Situation of human rights in Yemen’ Report of the United Nations High Commission for Human Rights, Human Rights Council 27th Session, 27 August 2014, UN Doc A/HRC/27/44, para. 54

¹⁹ The original version of this case study appears in a 13 November 2013 article in Al-Thawra Newspaper, ‘Yemen’s women inmates: disowned by family, cast out by society, forced back into crime’, available at: <http://en.arij.net/report/yemens-women-inmates-disowned-by-family-cast-out-by-society-forced-back-into-crime/>; last accessed 23 March 2015.

Around a quarter of these inmates will return to prison for the same offence after their release, according to experts, who attribute the cycle to the absence of a law addressing the care and rehabilitation of such prisoners upon release if their friends and families have disowned them. Experts also point to the Ministry of Interior and Ministry of Social Affairs for falling short in their duty to support Yemen's only organisation – The Yemen Women's Union – dedicated to providing refuge and care for these women.

Al-Thawra Newspaper

Women, crime and punishment around the world

Information on women and crime from around the world is well documented.²⁰ It is generally understood that women and girls are more likely than men and boys to be detained in unsuitable conditions. One of the reasons for this is that there are usually much fewer women than men in prisons, and not enough resources are given to make sure that women's facilities meet international or national standards. Another important trend is that, around the world, women who have been convicted of prostitution and are not properly supported after they are released from their sentence are likely to re-offend.

Across the region, there is a trend of a culture of shame for women who are in – or have been in – detention. After the political uprisings beginning in 2011 in Yemen, Libya, and Egypt, many women have experienced sexual and gender-based violence (SGBV) as part of their arrest and punishment. Even civilians (not the police or military) have been involved in these attacks against women.

However, women across these countries are less likely to be arrested for the same actions as men. The strong male-driven structure of society in these countries, along with the importance of the family with the father at the head, has resulted in women's punishment often being dealt with in the family home.

An important problem is sexual and honour-related crime across the region. The definition of adultery in many countries in the region can mean that a rape, where the woman is a victim, can be classified as adultery. So, the victim also becomes the criminal.

International standards and best practice for detention of women

There are many rules of international law that are relevant to treatment of people in detention and women's rights. There are also non-legal standards which should guide detention procedures and facilities for women. The legal and non-legal standards relevant to non-discrimination, segregation and fundamental rights come together to ensure that women in detention are treated with dignity and that their needs are met. However, this can only happen if the government of a country recognises its duties, has the political will to respect its duties, and provides the money required to implement these duties. It also requires a civil society, including lawyers and informed detainees, who can be active in making sure that international law and standards are respected.

Non-discrimination

The principle of non-discrimination is central to the protection of women's rights, and comes from many international human rights treaties. These include the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) and the International Covenant on Civil and Political Rights (ICCPR). It is important to remember that most detention facilities and procedures were designed and intended for men. So, even if men and women are treated in exactly the same way, women's needs might not be met. For example, if men and women detainees are provided with the same hygiene kits, and those hygiene kits do not include sanitary napkins, the treatment is equal, but women's *needs* are not adequately met. In this way, women may experience 'indirect' discrimination.

Segregation

Certain groups should be kept separate from others in detention to protect themselves and their rights:

- Females should be detained separately from males
- Juveniles should be separated from adults²¹

²⁰ See, for example, Ashdown, J. and James, M., 'Women in detention', *International Review of the Red Cross*, Volume 92, No. 877, March 2010.

²¹ Article 37, UN Convention on the Rights of the Child; Article 10(2), ICCPR.

- Women with children should have separate accommodation (Standard Minimum Rules, Article 8)
- People waiting for their trial should be separated from those who have been sentenced after a guilty plea or being found guilty²²

Fundamental rights relevant to detention

All persons have the following rights relevant to detention:

- The right to freedom from arbitrary arrest detention (detention without a lawful reason) (Article 9, ICCPR)
- The right to not be tortured, or to be treated in a cruel, inhuman or degrading way (being in prison for a very lengthy time, or with no clear end to detention may be a violation of this right) (Article 7, ICCPR; torture is defined in the 1984 Convention Against Torture)
- The right to a fair and public hearing, without undue delay (including access to legal advice and assistance in a language they understand) (Article 14 ICCPR)
- The right to rehabilitation (Article 10(3) ICCPR)

Additionally, the 1951 UNHCR Refugee Convention outlines how states must not punish refugees who have entered a country illegally but have come to the authorities as soon as possible and can give a good reason for why they entered illegally. If a state does restrict refugees' movements, it should only do what is necessary. Yemen has signed the Refugee Convention but has not brought it into practice in national law.

UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)

The most relevant international standards to women in detention are the 2010 UN Bangkok rules which were adopted by the UN General Assembly. They are not legally binding, but they should guide the actions of states in relation to the treatment of women prisoners. They are a helpful guide to advocacy and projects relating to women in prison. Briefly, they state:

- States should take into account the special needs of women prisoners (Rule 1)
- Newly arrived women should be able to contact their relatives, access legal advice and information about the prison and where to seek help in a language that they understand (Rule 2(1))
- Before going into prisons, care arrangements should be made for children of women going into prison, including the possibility of delaying prison sentences, according to the best interests of the child (Rule 2(2))
- Women should be sent to prisons close to their home, especially in consideration of their responsibilities as mothers (Rule 4)
- Women's detention facilities should have necessary equipment and materials, including free sanitary napkins and regular water supply, especially for women who are pregnant, breastfeeding or menstruating (Rule 5)
- Women should be screened for sexually transmitted diseases, mental health care needs, reproductive health history, any drug dependency and possibilities of sexual abuse (Rule 6)
- If sexual abuse has occurred, women should be offered assistance and advised of possible legal action as well as specialised psychological support and protection against retaliation (Rule 7)
- The right to confidentiality including in relation to their reproductive health history should always be respected (Rule 8)
- If a woman prisoner is accompanied by a child, that child should also have health screening
- Mental health care should be made available if necessary, and prison staff should be adequately trained to deal with this (Rule 12)
- Special measures should be available for pregnant women, breastfeeding mothers and mothers with children in prison (Rules 48-52)

²² Article 10(2), ICCPR.

- Measures for protection of women should be available (including, for example, survivors of sexual or gender based violence) and prison as a protective measure should only be used when necessary or requested by the woman (Rule 59)

There are also several practical guides to gender-sensitive monitoring and activities with detainees. A helpful publication is 'Women in Detention: A guide to gender-sensitive monitoring' (2013), produced by Penal Reform International and the Association for the Prevention of Torture.²³

National laws and policies on detention procedures and facilities in Yemen

National law

Yemeni national criminal law has many rules to protect people who are detained²⁴ There are even special rules for examining women when they enter prisons, and rules to separate people who are waiting for their trial from people who have been found guilty.

According to Yemeni criminal law,

- People awaiting trial must be kept separate from those who have been sentenced following a trial or guilty plea (Article 71, Law No. 13)
- An arrested person must be presented to a judge within 24 hours of being arrested, and be informed of the reason of arrest, and allowed to answer the charge (Article 77, Law No. 13)
- A person selected by the arrestee or a relative must be notified immediately of the arrest (Article 77, Law No. 13)
- Police may arrest a person if there is "strong evidence that he has committed a serious crime" (Article 107, Law No. 13)

Release from detention after arrest

Chapter Eight of Law No. 13 contains the rules on temporary release, which is under the authority of the General Prosecutor. The General Prosecutor has a general and overriding responsibility for ensuring the lawfulness of arrest, prosecution and sentence. The General Prosecutor is allowed to decide themselves to release a person who has been arrested, or if the arrested person requests to be released; this is only if the arrested person promises to be present whenever he or she is requested, and to respect any rulings against him or her (Article 192). An arrested person *must* be granted temporary release, if seven days have passed since the date of interrogation, and if he or she has a recognised house address and the maximum sentence for the crime which is suspected is not more than one year (Article 194). Even if these conditions have not been met, an arrested person may still be granted temporary release with a bond, which covers the court's cost, the fine in case the person is found guilty, and the costs of the claimant (Article 197).

Monitoring illegal arrests

The General Prosecutor is under a duty to monitor people in prisons in his or her area, and check that they were not illegally arrested. If they were, the General Prosecutor must authorise their release (Article 192, Law No. 13).

Rules for the investigation

The General Prosecutor must seek medical advice to determine the psychological state and age of a suspect. Additionally, people in detention are not allowed to be tortured under Yemeni national law (Article 363, Law No. 13). Investigations must be completed within a maximum of two months from the date of opening the case file, and if a person has been in prison up to that time, the investigation must be completed more quickly (Article 129, Law No. 13).

Sexual and gender-based violence and protection of women

²³ Information may also be available in Arabic from the ICRC, and the national Red Crescent society.

²⁴ Law No. 12 on Crimes and Punishment (1994) and Law No. 13 Criminal Procedures (1994)

Across the globe, women in detention and under investigation for crimes are more vulnerable to SGBV. There is currently only limited protection against SGBV in Yemeni national law, especially for women in detention. Body searches of a woman must only be done “with the knowledge of another woman” and in the presence of two female witnesses, and the name of the official conducting the search must be recorded (Article 81, Article 143, Law No. 13). Rape is defined in Article 269 of Law No. 12 as “every sexual insertion, which is committed on another person, be it male or female, without consent”. Additional offences include ‘Disgraceful Acts’, and ‘Disgrace to Honor with Coercion’, which are vaguely defined and may be difficult to identify or prove, especially in the context of detention. It should be noted that the offence of rape in Yemeni law is aggravated (can lead to a higher sentence) if the victim is under the care of the perpetrator, and it may be possible to argue that a prison official or investigating officer meets this criteria. Of course, this kind of accountability requires an independent judiciary, and otherwise the political will to hold public officials to legal standards. This means that it may be difficult for the prison authorities to identify SGBV, and to take action against the perpetrator.

Practice in Yemen

In general, the law is not put into practice. The National Dialogue process has attempted to address this. However, its recommendations do not add anything more than what is already in Yemeni national law. The major challenge is the non-implementation of the legal provisions both in national and international law.

It is difficult to predict what will be the result of a case, because it depends on the individual judge and prosecutor in the case. This is an important issue for women in prisons in Yemen, because the majority of them are accused of prostitution, adultery and other ‘honour’ related crimes. As these types of crimes are highly stigmatised in Yemeni culture, the cultural background of the judge in the case can impact the outcome.²⁵ The laws are also not applied because the court system is weak, and many women in prisons are not able to access legal advice, because they would have to first contact their families.²⁶ Some women who have tried to contact their families while in prison – especially those who are accused of prostitution and similar crimes – have been disowned by their families and left without help.²⁷

The OHCHR conducted a visit in 2014 to Yemen and reported general delays in trial, poor conditions, reports of arbitrary detention and inadequate access to medical assistance. Female detainees experience poor relationships with prison staff, which makes it difficult to access services or address the poor conditions in prisons.²⁸ In Al Dhale’a prison in which, specifically, four women female detainees were held in one small cell without any access to special premises for sanitation, food or recreation. OHCHR also found seven boys held in shared cells with adult male detainees.²⁹

Refugees, migrants and asylum seekers are also vulnerable to detention in Yemen. In July 2014, OHCHR reported that over 200 asylum seekers from Eritrea had been detained in Hodeida Detention Centre, some since 2011, on alleged security grounds. The United Nations High Commissioner for Refugees (UNHCR) intervened in February 2014, and 161 Eritreans were released and moved to Sana’a.

In some rural and women’s prisons pre-trial detainees and children are not separated from the general prison population. This is also the case in some prisons in the capital. The Ministry of Human Rights launched a campaign in 2012 to separate juvenile detainees from the adult population.

Tribal methods of resolving disputes are common in Yemen, especially in rural areas. One of the features of the tribal system is the use of private prisons, whereby the tribal elders privately rent a detention cell and hold persons accused and charged in non-state trials.³⁰ The tribal methods are often preferred to the formal judicial system, because of perceived corruption and interference in the judiciary.³¹

²⁵ Interview, S. Bashareen, 19 November 2014.

²⁶ see Gaston, E. and al-Dawsari, N., ‘Justice in Transition in Yemen: A mapping of local justice functioning in ten governorates’, (Washington: USIP, 2014)

²⁷ Interview, S. Bashareen, 19 November 2014

²⁸ Interview, Anonymous, 27 November 2014.

²⁹ ‘Situation of human rights in Yemen’ Report of the United Nations High Commission for Human Rights, Human Rights Council 27th Session, 27 August 2014, UN Doc A/HRC/27/44, pages 9-10.

³⁰ US Department of State (USDOS) Country Reports on Human Rights Practices- Yemen, 27 February 2014, <http://www.refworld.org/docid/53284a4814.html> accessed 18 November 2014, page 57.

³¹ Interview, S. Bashareen, 19 November 2014.

Detention procedures in Yemen

Official statistics on detained women and girls in Yemen are difficult to find and different sources have different figures. According to the International Centre for Prison Studies, there are 30 detention facilities, under the authority of the Ministry of Interior and the management of the Central Prisons Authority; 170 women were in prison in Yemen in 2009 (1.6 per cent of the total prison population). One organisation reports that there are 251 women detained across nine prisons in Yemen.³² Additionally, although the International Committee for the Red Cross (ICRC) has good access to prisons, there are some detention centres which cannot be accessed. The ICRC reports that in 2013, its staff visited 5,986 detainees in 17 detention facilities.³³ The overall figure is believed to be much higher than this, with up to 100 women in each prison that detains women.³⁴ The general perception amongst women interviewed about security issues in Yemen was that women were less likely than men to be punished or imprisoned; the police or security services usually approach male family members to punish women.³⁵ This was especially relevant to punishment for acts of political activism.

In theory, the procedures are the same for women and men. However, women's detention facilities have only become available in the last two or so decades. There are now separate facilities for women in Aden (overcrowding), Hadramout (significant, detailed allegations of violations), and a female section in a general prison in Ibb, Lahj, Taiz. Female detainees in Marib are held in an unofficial residence, with reported abuse. There is also a new female section in the prison at Shabwa, but there were no female detainees in September 2014.³⁶

Please see Annex 1 for a table that looks at Yemeni detention law and practice.

Case study: Yemen's prisons and the Prison Act

When it comes to rehabilitation, inmates within prisons are no better off than ex-prisoners outside, despite the fact that Yemen's Prison Act stresses the importance of in-prison rehabilitation.

Article 3 of the Prison Act states that "the treatment of prisoners should aim towards their reformation and rehabilitation, through all relevant means and educational processes, including training in services and in manual and social skills, as well as physical, cultural and leisure activities".

But in reality, this law is far from the practice within correctional facilities. Prisons fail to rehabilitate their inmates, emotionally and behavioural, experts say. According to the president of the National Women's Committee, "rehabilitation programs are rare, and when they are carried out, it is only in a few prisons".

Members of Parliament interviewed for this investigation agree. "A prisoner needs an environment of care and preparation for life outside prison," MP Shawqi Al Qadi says.

Abdullah Al Hakim, another MP, acknowledged insufficient government support. "A survey is currently underway and has so far covered ten prisons in Yemen, looking into fields such as reformation, rehabilitation, fostering and safety", Al Hakim said. "The results are not satisfying, and any type of care seems to be almost entirely absent."

Recent Developments and Initiatives

Government

Although there was a national consultation process, through the National Dialogue Conference (NDC), it does not create anything new for detention or women's rights in Yemen. Mostly, the outcome document of the NDC repeats what is already in the law. The main problem is that the law is not implemented; General Prosecutors do not have enough staff or money and judges are not fully independent. This is one of the reasons that tribal justice is preferred by many and it is believed by some that private prisons are better for women than government prisons.³⁷

³² Interview, Anonymous, 27 November 2014.

³³ ICRC Annual Report, 2013, page 512.

³⁴ Interview, S. Bashareen, 19 November 2014.

³⁵ Saferworld, 'It's dangerous to be the first', October 2013, page 12.

³⁶ Information about women's detention facilities taken from Gaston, E. and al-Dawsari, N., 'Justice in Transition in Yemen: A mapping of local justice functioning in ten governorates', (Washington: USIP, 2014)

³⁷ Interview, L. Hamedy, 26 November 2014.

The Yemen National Women's Committee is a government-affiliated body working to empower women. Local Yemenis work on the committee in coordination with national and international partners to safeguard women's fundamental human rights. The Millennium Development Goals provide the framework guiding the committee's main policy priority areas. In 2011, the committee produced the fourth Five Year Action Plan to empower women in all fields. The report of the Committee referred to plans to build ten shelters for battered women, but it is not clear what has been done in reality. In 2014, the Yemeni government decided to make a quota for women in government and public office. This may assist in ensuring that women's rights are protected in law and in practice, but so far there has been stunted progress: the last intake of new government ministers was not in accordance with the agreed quota.

Rehabilitation

In the opinion of experts interviewed for this investigation, the lack of governmental involvement in the care and rehabilitation of former female inmates is the main reason many of them end up repeatedly in prison, especially with the absence of a law specifically addressing this issue. "What the government is offering in this case is minimal and insufficient", explains Dr. Jalal Faqira, a women's rights activist who strongly believes in the importance of refuge homes and rehabilitation programmes.

Shawqiya Al Absi argues that the authorities' role has thus been limited to their referral of an ex-prisoner to the only existing shelter. Colonel Mutahhar Al Shaaybi, director of the central prison in Sana'a, disagrees. He argues that "the care and rehabilitation of ex-prisoners is a matter belonging to social and civil organisations. Our job is to handle prisoners who are still behind bars".

Additionally, Dr. Shafiqa Saeed, chair of the National Committee for Women – the only governmental authority that directly addresses women's rights and issues and their integration in politics – believes that post-prison rehabilitation is not within her expertise. Instead, she explains, it falls under the responsibility of civil society. According to Saeed, the duty of the National Committee for Women is limited to consultation, planning, policies, and follow-up of these procedures.

Many of the women interviewed for this investigation had, in fact, never even heard of the Sana'a shelter for women, and many of those who had were unaware of its location or how to contact the organisation. Ramziya Al Eryani explains that "anonymity and secret location protect them from potential attacks and break-ins". Furthermore, Al Eryani said, "When asked about these women, we usually say they are trainees who have come from distant districts and must spend their training periods with us."

Sheikh Jabri Ibrahim Hassan, head of counselling at the Ministry of Endowments and Guidance, in turn urged the government to take responsibility by establishing rehabilitation and refuge centres for women leaving prison and providing them job opportunities, thus rekindling hope in their lives. "A woman is also a human being", Hassan said. "Many women are imprisoned on suspicion of crime only and, even when proven innocent, they bear the shame of having been a 'criminal' and a prisoner and are shunned from society. This may create a need for revenge, which may push a woman to commit more crimes."

"A decent livelihood is mandatory for the wellbeing of ex-prisoners and in order to keep them from deviation", added Dr. Anissa Dawkam, Director of the Centre for Psychological Research in Taaz University, stressing that rehabilitation was the government's responsibility.

Case study: Yemeni Women's Union shelters³⁸

According to the president of the Yemeni Women's Union, Ramziya Al Eryani, one major factor in the struggle of the shelter to reach women in need is the lack of government attention and support. Without substantial support, Al Eryani warns that the shelter may have to close its doors to those in need of asylum and help.

At the latest national conference, however, the Minister of Social Affairs, Dr. Ama Al Razzaq Hamad, stated that supporting the women's shelter "is not among the Ministry's duties".

Al Eryani, for her part, disagrees, stressing that it is in fact the government's duty to establish a shelter for former inmates, sex workers and victims of domestic abuse, or at least support the existing initiative. "It ought to be our duty, as social civil organisations, to supervise, train and rehabilitate as is happening in Jordan, Egypt and Morocco", Al Eryani said.

³⁸ The original version of this case study appears in a 13 November 2013 article in Al-Thawra Newspaper, 'Yemen's women inmates: disowned by family, cast out by society, forced back into crime', available at: <http://en.arij.net/report/yemens-women-inmates-disowned-by-family-cast-out-by-society-forced-back-into-crime/>; last accessed 23 March 2015.

Prison chief Major General Mohammed Al Zalab echoes the concerns of Al Eryani. “Many female prisoners leave prison only to find no one to turn to, so they turn to crime and return to prison,” he said, adding that 24 women have returned to prison during the past year.

Al Eryani states that the Yemeni Women’s Union “has not received a penny from the government” and that “the Interior Ministry and Social Affairs Ministry have both refused to offer support, even for something as basic as covering the shelter’s mortgage – an amount of 130.000 Y.R. (600 USD) a month”.

“Every time I think we will not be able to carry on paying for our expenses, I imagine the horrible situation of having to throw these women back into the streets”, Al Eryani told the journalist of this report.

She repeatedly requested the government support her project, paving the way for the establishment of more shelters for women in various districts around Yemen. The expenses for each of these shelters, Al Eryani estimates, would amount to 400.000 to 460.000 Y.R. annually (around 2.000 USD).

Civil society

A civil society movement on women in detention is currently limited in scale. This is in part due to funding issues and in part to the cultural obstacles in publically allying with women and girls who are rejected by their families and Yemeni society. Still, there are a handful of international and local organisations that work both on individual women’s cases as well as the general conditions in prisons.

The International Committee of the Red Cross, visits people in prison and monitors the conditions and offers medical assistance. Detention work has been one of the ICRC’s core protection activities in Yemen for the past 3-4 years and is still developing. In places of detention, the ICRC analyses the complete situation of the detainee to find the persons or group of persons which have protection needs. It does not matter what reason a person is in prison. The ICRC looks for adequate information on the general situation of all detainees (including children, women, people with disabilities) regarding their conditions, their treatment, their access to health care, if they have contact with their family, as well as their specific needs and vulnerabilities. The information collected contributes to the ICRC’s work with the authorities to achieve improvements in the conditions and treatment of detainees as a whole, through the intermediary of the detaining authorities. The ICRC does not have a specific women’s programme.³⁹

The Yemeni Women’s Union offers free legal support and counselling on domestic violence to vulnerable women in some prisons, courts and police stations across the country. It also set up a women’s refuge for women and their children and provides rehabilitation and training. In 2009, the Yemeni Women’s Union set up the first shelter for women who have been released from prison or are survivors of domestic violence, in Sana’a. Most women spend between six and nine months at the shelter and are offered rehabilitation courses. They can learn knitting, glass-blowing, hairdressing and other crafts so that they will be able to support themselves. Some women leave the shelter and find jobs, others have nowhere to go or leave before they complete their courses. The shelter received no government funding.

Oxfam (through local partners) works to help advocate for women’s rights, including a minimum legal age for marriage, and protection against SGBV.

Ahd Foundation for Rights and Justice Mukala is currently working on many cases of women who are in prison for crimes and survivors of domestic violence. Women detainees can contact Ahd lawyers, who will follow the case and represent them. Ahd also investigates the situation of underage girls in prisons. Ahd lawyers also work to make sure that children in prisons with their mothers have appropriate identity documents and birth certificates.

The UN Refugee Agency is mandated to offer protection to refugees, asylum seekers, and internally displaced persons in Yemen. The Protection Unit intervenes with the Yemeni authorities in relation to detention of asylum seekers. The Protection Unit also deals with GBV protection.

Research is also available from human rights monitoring bodies and organisations, including the OHCHR, which has an office in Yemen, and Amnesty International and Human Rights Watch, who conduct regular research on rights violations. Valuable information is also available from United States Institute of Peace on justice and security in Yemen.

³⁹ Interview, ICRC, 25 November 2014.

Reference materials

International Legal Materials

- 1970 Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)
- 1976 International Covenant on Civil and Political Rights (ICCPR)
- 1984 Convention Against Torture (CAT)
- 1989 UN Convention on the Rights of Children

International Statutes

- 1955 Standard Minimum Rules for the Treatment of Prisoners
- 'Situation of human rights in Yemen' Report of the United Nations High Commission for Human Rights, Human Rights Council 27th Session, 27 August 2014, UN Doc A/HRC/27/44
- United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders ('The Bangkok Rules'), 6 October 2010, UN Doc No. A/C.3/65/L.5

Yemeni National Legal Materials

- Republican Decree for Law No. 12 (1994) Concerning Crimes and Penalties
- Republican Decree for Law No. 13 (1994) Concerning Criminal Procedures

Articles and reports

- UNHCR, CORI Country Report, Yemen, September 2014 (see www.coricentre.net)
- Ashdown, J. and James, M., 'Women in detention', International Review of the Red Cross, Volume 92, No. 877, March 2010
- Saferworld 'It's difficult to be the first: Security barriers to women's public participation in Egypt, Libya and Yemen' October 2013

Guides

- Penal Reform International 'Women in detention: a guide to gender-sensitive monitoring', 2013

ANNEX 1: Detention procedures in Yemen – table of law and practice

The table below shows what the procedure should be according to the law, and what is the reality.

Stage in procedure	In law	In practice	Who is involved?
Arrest	The police should only arrest if there is “strong evidence” that a person has committed a crime	People – especially women – are arrested on circumstantial evidence.	Police
Investigation by police	Investigation should be carried out within 24 hours after arrest. Then the detainee must be released or referred to the General Prosecutor.	70.1% of people in prison in Yemen are awaiting trial	Police General Prosecutor
	People awaiting trial should be kept separate from people who have been convicted.	Pre-trial detainees are not separated from the general prison population. There are no detention facilities for women in police stations in Yemen. ⁴⁰	The ICRC monitors prison conditions in this manner
	The family and a lawyer of a detainee should be told immediately by the police where the person is.		Lawyer (if contact is allowed) Family members
Release or referral to General Prosecution	The General Prosecution is responsible for ensuring that no one is detained against the law	There are wide reports that people do not have a trial at all and remain in prison. ⁴¹	General Prosecutor
(If charged by General Prosecutor)			
Completion of Investigation	The investigation must be finished within two months after the case was opened.	Most people in prison do not know what the status of their case is	General Prosecutor
	If a person is still in prison, the investigation should be done faster	All investigations are slow, and the General Prosecutor is understaffed ⁴²	General Prosecutor
	If more than two months are needed for the investigation, the General Prosecutor must get permission from the Chief Prosecutor to extend this	People are usually held without information on their investigation, and generally without regard to the charging deadline.	General Prosecutor Chief Prosecutor

⁴⁰ Interview, L. Hamedy, 26 November 2014.

⁴¹ See ‘Justice in Transition’ Gaston, E. and al-Dawsari, N., ‘Justice in Transition in Yemen: A mapping of local justice functioning in ten governorates’, (Washington: USIP, 2014).

⁴² Gaston, E. and al-Dawsari, N., ‘Justice in Transition in Yemen: A mapping of local justice functioning in ten governorates’, (Washington: USIP, 2014).

Trial	There are several rules in Yemeni law relating to what evidence is allowed in a trial	Often, the judge’s own background will influence the outcome of a trial. This is especially relevant to women, since the majority of female detainees are accused of sexual or honour-related crimes or prostitution. The cultural shame of even being accused can contribute to a finding of guilt and a harsh sentence, even when there is not enough evidence for a legal conviction. ⁴³ The judiciary is generally not completely independent and General Prosecutors struggle to meet their responsibilities in law because they do not have enough staff. ⁴⁴	Judges General Prosecutor Defence lawyer
Conclusion of the trial	Should be within a reasonable time	The timing and outcome of trials are unpredictable ⁴⁵	Judges General Prosecutor Defence Lawyer
Release or Service of Sentence	Law No. 12 sets the maximum sentence for various crimes.	Many women accused of prostitution are given the maximum three year sentence	Judges General Prosecutor Defence Lawyer
	In international law, Yemen is under a duty to offer rehabilitation. ⁴⁶	Female detainees experience poor relationships with prison staff, which makes it difficult to access services or address the poor conditions in prisons. ⁴⁷	Prison staff Judges (to review conditions) Defence lawyer
	Men and women should be detained separately	In Yemen, men and women are detained separately	Prison staff Ministry of Interior Central Prison Authorities
	Female detainees with children or pregnant women must have their sentences detained. Children over	Pregnant and nursing women are detained, and children accompany their detained mothers. Children over the age of two	Family members

⁴³ Interview, S. Bashareen, 19 November 2014.

⁴⁴ Gaston, E. and al-Dawsari, N., ‘Justice in Transition in Yemen: A mapping of local justice functioning in ten governorates’, (Washington: USIP, 2014).

⁴⁵ Interview, S. Bashareen, 19 November.

⁴⁶ Article 10, ICCPR.

⁴⁷ Interview, Anonymous, 27 November 2014.

	the age of two should not remain with their mothers in prison. ⁴⁸	years remain in prison with their mothers because their mothers have been rejected by their families and alternative care arrangements are not available.	Prison Service Women's refuges (see below)
Release	Once the sentence has been served, the detainee should be released	Most detainees stay longer than their sentence in Yemen, because their families are unable to pay bail or bribes. For women, the rejection of their families means that they are completely without support	Prison staff General Prosecutor Family Defence Lawyer
	Release before the end of a sentence is possible. ⁴⁹	Early release appears to be very rare.. Although there appears to be a permissive environment for bribed release, this is rare for women since they are generally unable to raise funds from their families.	Defence Lawyer Prison staff Head of the General Prosecution, Governorate Committee (see Chapter Four Law No. 13)
After release	Under international law, the government must offer rehabilitation ⁵⁰	The government offers no rehabilitative services to women, and does not fund organisations working to provide these services. ⁵¹ The lack of support from their families and the lack of support from the prison service puts women at a particular risk of committing a crime again – especially prostitution. ⁵²	Prison Service Civil Society Ministry of Interior

⁴⁸ Article 484, Law No. 13.

⁴⁹ See Chapter Four, Law No. 13.

⁵⁰ Article 10, ICCPR.

⁵¹ See Arab Reporters for Investigators Journalism, 'Yemen's women inmates: disowned by family, cast out by society, forced back into crime', November 2013, <http://arij.net/en/yemen%E2%80%99s-women-inmates-disowned-family-cast-out-society-forced-back-crime> accessed on 26 November 2014.