

## Abstract

*Effective implementation of health and human rights strategies depends on demonstrating that universal human rights can advance the interests of local communities. The relationship between universal rights and local interests can be especially fraught in the Muslim world. This article responds to Islamist opposition to human rights by referring to alternative constructs of Islam that affirm its compatibility with human rights and, more generally, responds to assertions that rights are a specifically Western political, legal, or economic construct. The argument that health, human rights, and Islam can be mutually complementary is substantiated by reference to Yemeni experiments in health and human rights. These examples illustrate the utility of human rights in addressing public health issues and how Islam can assist rather than contradict this project.*

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*L'efficacité de la mise en oeuvre des stratégies des droits à la santé et des droits de la personne va de pair avec la possibilité de montrer que les droits de la personne universels peuvent aller dans le sens des intérêts des communautés locales. Le rapport entre les droits universels et les intérêts locaux peut présenter des difficultés particulières dans le monde musulman. Cet article apporte une réponse à l'opposition islamiste vis-à-vis des droits de la personne en se référant à d'autres notions présentes dans l'Islam qui affirment sa compatibilité avec les droits de la personne et, plus généralement, répond aux assertions selon lesquelles les droits de la personne constitueraient un concept politique, juridique ou économique purement occidental. L'argument en faveur d'une complémentarité mutuelle entre les droits de la personne et de la santé et l'Islam est illustré par un exemple tiré d'expériences sur les droit à la santé et les droits de la personne menées au Yémen. Cet exemple montre que les droits de la personne sont utiles pour faire face aux problèmes de santé publique et la manière dont l'Islam peut contribuer au projet, plutôt que de s'y opposer.*

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*La posibilidad de poner en práctica las estrategias de salud y de derechos humanos depende de demostrar que los derechos humanos universales pueden hacer avanzar los intereses de las comunidades locales. La relación entre los derechos universales y los intereses locales puede ser especialmente frágil en el mundo musulmán. Este artículo responde a la oposición Islamita a los derechos humanos, refiriéndose a conceptos alternativos de Islam que afirman su compatibilidad con los derechos humanos y, más generalmente, responde a aseveraciones de que los derechos son un concepto político, legal o económico específicamente occidental. El argumento de que la salud, los derechos humanos e Islam pueden ser mutuamente complementarios se corrobora por referencia a experiencias piloto yemeníes en la salud y los derechos humanos. Estos ejemplos recalcan la utilidad de los derechos humanos en abordar temas de salud pública y la forma en que Islam puede ayudar, en vez de contradecir, este proyecto.*

# HEALTH, HUMAN RIGHTS, AND ISLAM: A Focus on Yemen

*Anthony Tirado Chase and Abdul Karim Alaug*

The increasing penetration of human rights into contemporary public health strategies, however partial and incomplete, draws attention to the relationship between supposedly universal human rights and local cultural constructs. Ensuring the effectiveness of health and human rights-based strategies depends on demonstrating the relevance of human rights as a tool that can advance rather than conflict with the agency and interests of local social and cultural groups.<sup>1</sup> This relationship between the local and a global regime can be especially fraught in the context of the Muslim world. In using human rights to strategically address health issues in the predominantly Muslim Middle East, the public health sector must take into account this region's particular political, social, and cultural context and the international community's efforts to demonstrate the relevance of international human rights to issues of local concern.

Within sections of the Muslim Middle East, most acutely in some parts of the Arab world, Islam is at times flagged as an obstacle to the implementation of human rights.<sup>2</sup> This must be forthrightly addressed, and the relationship between human rights and Islam appropriately conceptualized, if arguments opposing the integration on an Islamic basis of human rights in public health efforts in this region are to be engaged. Islam is not inherently an opponent or proponent of human rights. There are constructs of

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Islam that—as the instrument of political projects—do pose such an opposition, just as there are also constructs that pose Islam and human rights as complementary.

The initial focus of this article, therefore, is a response to oppositional arguments by referring to constructs of Islam that affirm its ability to coexist with human rights. After then briefly outlining a rights-based approach to development and health, this argument will be substantiated by reference to Yemeni experiments with human rights-based approaches to family planning and reproductive health.<sup>3</sup> These give examples of both the complications and potential advantages in the relationships among Islam, human rights, and health in a conservative Muslim country. Specific reference will be made to Yemeni interaction with international organizations in formulating rights-based approaches to health and development and the integration, albeit limited, of Muslim clerics into these public health strategies. This example speaks to the utility of human rights in addressing local issues and shows how Islam can be taken to be complementary rather than competitive to this project.

### **Human Rights in a Muslim Context: Perception of a Normative Conflict**

Violations of human rights that impact on health take place in every region of the world. Similarly, all political societies include ideological opponents to the domestic implementation of human rights. Most often, such ideological opponents—rather than disputing human rights as such—claim some form of cultural exceptionalism to human rights' relevance.<sup>4</sup> The Muslim world, the Middle East, and the Arab world and its diverse states are no different in this respect. In terms of women, for example, it is sometimes asserted (falsely, according to many scholars of Islam) that practices such as female genital mutilation (FGM) or inequality in political rights have a Qur'anic basis.<sup>5</sup> The isolation of women in some parts of the Middle East from the public sphere is another example of a practice implying rights violations that is sometimes justified as culturally based.<sup>6</sup> Addressing assertions that such violations are cul-

turally justifiable is, therefore, essential to all who argue that human rights violations increase vulnerability to ill-health.<sup>7</sup>

In theory, the Muslim Middle East—a vast region with differing and even contradictory political, economic, and social foundations—is neither more nor less suitable to the application of the international human rights regime than any other region of the world.<sup>8</sup> Indeed, many argue that Islam and human rights are particularly complementary.<sup>9</sup> Islam's doctrinal emphasis on egalitarianism, its path-breaking (at the time) grants of rights to women and minorities, and its historic changeability depending on political context make the point that, at a minimum, there is no essential conflict between Islam and human rights.<sup>10</sup>

On a practical plane, the diverse political arrangements that have historically held sway in the Muslim world have been relatively tolerant in comparison to those in other regions.<sup>11</sup> Even in the post-colonial era, despite contradictory practices at home, many governments of the Muslim world have been vocal defenders at the United Nations and other international fora of human rights, insisting on their application in such predominantly Muslim areas as the Palestinian Authority, Bosnia, and Kosovo. Perhaps more important even than government acknowledgment and acceptance of human rights is that Muslims themselves, be they citizens of more secular or of more religiously oriented governments, have increasingly spoken the language of human rights in their contemporary political discussions as a way of advancing political, cultural, and economic interests.<sup>12</sup>

It is also true that assertions of a conflict between Islam and human rights resonate in certain sectors in the West as well as within the Muslim world. Regarding the Middle East, it is important to note that the perception of a cultural conflict between Islam and human rights is primarily political in the sense that it has been elaborated in particular historical contexts by specific political ideologies using religion instrumentally to advance their interests—most recently and prominently by religious nationalists or so-called Islamists.<sup>13</sup> As in every part of the world, this opposition be-

tween human rights and indigenous political society is putatively based in the claim that human rights threaten cultural identity. Although the Muslim world's elections and public opinion polls regularly show that, generally, there is only minority support for ideological groups that pose this sort of dichotomous opposition, such ideologies do have importance and must be addressed.<sup>14</sup>

The perception of a conflict between the Muslim world and human rights comes down to three identifiable political arguments that can be summarized as follows:

- Human rights are a specifically Western political construct and, as such, represent an extension of Western power into the global arena. In other words, the oppositional argument put forth is that human rights are not universal, but rather an expansion under legal guise of Western political hegemony that violates the political and cultural sovereignty of the Muslim world.
- The legal guarantees of human rights are Western in origin and directly conflict with Islamic law (*shari`a*), making it impossible for Muslims to adopt human rights principles or integrate them into state law.
- Human rights are a normative cover, accompanying and reinforcing economic globalization to the benefit of the First World. As there has come to be—rightly or wrongly—identification of economic globalization as a cause of the continued state of underdevelopment in some parts of the Muslim world, the argument made is that human rights are part of globalization and, hence, part of processes meant to dominate and impoverish the Muslim world.

These arguments positing a conflict between the Muslim world and human rights emerge, respectively, from the political, legal, and economic fields. A response to each of them should specifically address these objections if Islam and human rights are not to be falsely constructed as monolithic opponents, thereby obstructing attempts to integrate human rights into public health strategies in predominantly Muslim regions.

In response to the first argument that human rights are

a political construct designed to extend Western power, rather than a truly global regime, two basic points should be highlighted. One, the international human rights regime has been elaborated by the United Nations (UN) with the participation and consent of all member states. Two, human rights are about limits on the state and as an international regime must apply equally to all states. In short, the human rights regime has been constructed by states from all parts of the world and in dialogue with local and transnational civil societies. It is a tool for criticism of state violations in any part of the world, including by First World powers such as the United States—for example, the criticism the US has faced over issues ranging from the discriminatory application of the death penalty to the treatment of Muslim immigrants since September 11, 2001. It is fundamental to the universality of the human rights regime that all states—First or Third World, Muslim or non-Muslim—are subject to censure for rights violations, and it is these states that have constituted the rights regime and agreed to be subject to its norms by consenting to international treaties and conference documents.

More important than formal consent and structural equality in responding to this notion of human rights as a political imposition is the resonance that human rights have found among populations in the Muslim world. Understanding human rights utility in addressing the political, economic, and social challenges facing many societies—including predominantly Muslim societies in the Middle East—has meant that individuals, groups, and states increasingly look to the rights regime as a useful tool for accomplishing their goals. In fact, rather than imposing rights, First World powers have made little notable effort to expand human rights into the Muslim world; any advances have occurred primarily because of the efforts of those within these societies or through the networking of transnational advocacy movements.<sup>15</sup>

The human rights framework's sole imposition is an insistence that individuals and social groups be granted agency to participate in defining a state's politics. This is not an imposition of Western political interests, but rather

of the voices and demands from within a society. Human rights cannot be and are not meant to be imposed from the outside, as we currently see in Iraq. Rather, their domestic implementation relies, as will be noted regarding Yemen and public health, on governmental commitment, civil society participation, and grassroots engagement.

Regarding the second oppositional argument, that human rights law conflicts with Islamic law, it is, of course, only Muslims as individuals and as social groups who can define their religion and whether or not its interpretation and practice conflict with human rights. There is an enormous diversity of Muslim practice, and as has already been noted there are numerous civil society organizations in the Muslim world that do their work with reference to human rights. On a more formal level, states with predominantly Muslim populations have legally affirmed their acceptance of the principles that underlie the human rights regime. If there is a perception of conflict on particular points, the easiest answer, therefore, is that states in the Muslim world can either not sign treaties or take reservations to derogable articles in human rights treaties they find objectionable—the rights regime, it must again be emphasized, is based on state consent. Basic principles of self-determination, non-discrimination, the right to the highest attainable standard of health, as well as other human rights, however, have been affirmed and reaffirmed by Muslim states in international treaties and consensus conference documents as fully in accord with Islamic principles.

This is not entirely satisfactory, however, as we have already noted the Islamist movements that assert a contradiction between human rights and Islam, whether or not a state has formally ratified a treaty. Just as fundamental as formal governmental acceptance and civil society engagement, therefore, is the legal support for human rights in the diversity of the Islamic legal tradition. Those working within the Islamic tradition and seeing no conflict between it and human rights include religious philosophers from across the Muslim world. Among the most notable is Muhammad al-Ashmawi from Egypt who argues that the Islamic shari`a is largely silent on issues of state policy and law-making and,

hence, from a Muslim theological perspective it does not define law for Muslim societies.<sup>16</sup> Abdullahi an-Naim from the Sudan, on the other hand, argues that—properly read—the sources of Islamic law include within them the potential for re-readings that construe them as affirming rather than negating human rights guarantees in the public sphere.<sup>17</sup> Said Nurcu in Turkey, similarly, puts forth a vision that has resonated strongly with a liberal Islam that positively accords with freedom of thought, religious choice, and an open civil society.<sup>18</sup> Perhaps most convincingly, and with the greatest popular backing of the contemporary religious philosophers who argue for the compatibility of Islam and human rights, Abdolkarim Soroush has gained an important following in Iran for his powerful arguments that Islam's essence is religious, not political, and that political rights and religious duties must be conceptualized as existing on different planes if Islam is not to be distorted out of recognition.<sup>19</sup> Thus, both Muslim governments and different strands of Muslim theology can refute the idea of a necessary clash between Islam and human rights. This is an area of debate; as a dynamic, living religion, Islam can be constructed in any number of contradictory ways. Nonetheless, it is fair to say that arguments which note that human rights and Islam are usually complementary rather than clashing stand on strong normative ground within the Muslim Middle East.

Beyond the arguments of philosophers, it is essential to approach the notion of a purported clash between Islamic law and human rights in the context of specific rights. Religious and cultural objections are addressed more effectively when rights are discussed in terms of resolving specific issues rather than in abstract reference to supposedly competing legal systems. There is a reason why so many Muslim states and so many Muslims have been part of the construction of the international human rights regime: it has been in their interests and in accord with their values. In terms of women's health, for example, the Yemeni government has realized that restrictions on women's rights to education and information have had a negative impact on women's ability to access reproductive health services the



government has made available. In order to address its high population growth and the resulting negative impact on economic development, the government has worked to actively promote the right to health—and other related rights, such as rights to education and information—in order to accomplish its own self-interested economic development goals.<sup>20</sup> Muslim reformers, mainstream clerics, and even most Islamists agree that Islamic law does not deny a woman's right to health, education, information, or freedom of movement, and thus can be enlisted in support of this project. Conceptualizing human rights in terms of its specificities and relevance to political, social, and economic problems, rather than as an abstract bundle that can be framed as "Western law," is essential to answering claims of cultural illegitimacy.

In its specifics, human rights have no necessary points of conflict with dominant interpretations of Islam. This has been affirmed by many governments in the Muslim world, ranging from the more secular, such as Tunisia or Turkey, to the more religious, such as the Islamic Republic of Iran, which has declared it sees no incompatibility between Islam and human rights.<sup>21</sup> This has also been affirmed by the theologians already mentioned and by the human rights groups that have flourished—when given the political space—from within Muslim political societies. Palestine's Gaza Center for Mental Health Programme, for example, makes explicit reference to health and human rights approaches in its work.<sup>22</sup> A rhetorical caricature of the relationship between Islam and the international human rights regime as a clash of competing legal systems, therefore, sets up a false contradiction that can be refuted theologically and politically.

Lastly, in regard to the third oppositional argument that human rights are part and parcel of a globalization project that extends Western economic hegemony, one must be clear that human rights do not correspond with economic globalization. Indeed, human rights can be seen as a tool by which states and civil societies can resist international pressures that may force them to compromise rights-based obligations in the economic sphere. While not a panacea, the human rights regime can be used to place the needs of indi-

viduals and social groups above the demands of international forces that might diminish their human rights in favor of the priority of structural adjustment programs or the demands of multinational corporations for economic concessions that can negatively impact on public health services. The rights regime stresses the legally obligatory nature of state commitments to human rights, including the right to the highest attainable standard of health and other rights that are fundamentally connected to achieving health and well-being. It thus imposes a countervailing legal obligation on states to resist pressures within the international system that would restrict the ability to fulfill such rights.

Rather than being part of global economic processes that may impoverish Muslim societies to the benefit of the West, human rights can be integrated into health and development policies in a manner that is fundamental to positive economic development results.<sup>23</sup> To the degree that globalization impels violations of human rights and empowers those who already hold a disproportionate share of global economic power, human rights is a tool of resistance by which individuals and states can insist on their rights in the economic as well as the political sphere.

It is certainly true that the forces behind globalization are far more amorphous in source than the traditional focus of the human rights regime on specific state violations. It is also true that globalization is a multi-faceted process with complex results that cannot be tagged as simply negative or positive. Nonetheless, as there are at least some negative effects of economic globalization, it is fair to say that human rights is one element of an effective response to these negative effects. It is even more clear that any identification of human rights as coterminous with globalization is false; indeed, rights are essential to protecting cultural and social particularities from being sacrificed at the altar of global homogeneity.<sup>24</sup>

Be it in the political, legal, or economic field, the question is not if human rights are in opposition to Islam. The fundamental question is if human rights are relevant to the contemporary health and development challenges facing Muslim societies. In particular, do human rights-based approaches to

development and health resonate on local levels as effective and legitimate responses to issues of concern? Such resonance is essential if human rights are to be translated from a global regime into one that can be implemented in an effective, participatory manner at the local level.

### **Rights-Based Approaches to Development and Health**

Integrating recognition of how civil, cultural, economic, political, and social rights violations implicitly or explicitly impact on creating vulnerabilities and, hence, on the health status of vulnerable social sectors, including women, is increasingly seen as fundamental to public health work. Similarly, it is increasingly seen as fundamental to recognize the impact that public health practices can have on human rights and, lastly, how public health and human rights are closely interlinked.<sup>25</sup> Rights-based approaches to public health have developed in dialogue with rights-based approaches to economic development that emphasize the interdependence of political and economic rights.<sup>26</sup>

Bringing human rights into state policy-making is a radical departure in many parts of the world, including regions in which state constraints on both political and economic freedoms predominate. In regard to the Arab world, for example, the *Arab Human Development Report 2002* emphasizes the impact of Arab governments' indifference, at best, to such freedoms as a core reason for lagging human development in the Arab world.<sup>27</sup> The correlation between the character of a state's governance—its accountability, transparency, and respect for human rights—and its ability to sustain equitable and democratic human development is the essential insight of contemporary development practitioners.<sup>28</sup> The mainstreaming of human rights took on weight with Kofi Annan's call for rights to be integrated into all UN activities and became formalized with agreement among UN agencies on the following three points underlying a "common understanding" regarding human rights and development:<sup>29</sup>

1. All programs of development cooperation, policies, and technical assistance should further the realization of

human rights as laid down in the Universal Declaration of Human Rights and other international human rights instruments.

2. Human rights standards contained in, and principles derived from, the Universal Declaration of Human Rights and other international human rights instruments guide all development cooperation and programming in all sectors and in all phases of the programming process.
3. Development cooperation contributes to the development of the capacities of “duty-bearers” to meet their obligations and/or of “rights-holders” to claim their rights.<sup>30</sup>

While this formalizes the commitment of UN agencies to the integration of human rights into their development programming, it remains relatively inconclusive regarding the specifics of how this can be operationalized. In this document, and in the work of other development agencies working with human rights, various factors relevant to implementation are emphasized. These can be summarized as revolving around the following elements:

1. **Human Rights Law.** Human rights violations are deemed to be a fundamental obstacle to accomplishing sustainable and equitable development. Most generally, therefore, implementation of human rights obligations is conceptualized as essential to realizing development. More specifically, human rights are also seen as a key diagnostic tool in revealing populations (ethnic, gender, geographic, class) that disproportionately suffer rights violations and, thus, are vulnerable to underdevelopment. For example, with regard to health, identifying discriminations and other rights’ violations through disaggregation of data becomes a key indicator in diagnosing populations vulnerable to ill health, as well as the sorts of rights that must be implemented to counteract this vulnerability.
2. **Participation.** A rights-based approach emphasizes—as have many approaches to development—the necessity of broad societal participation in development processes. More importantly, it is only the fulfillment

of fundamental rights that provide a means to empower individuals and social groups within a society and, hence, enable this imperative of societal participation in constructing development policies.

3. **Accountability.** When states fail to implement rights, rights-holders are entitled to redress either administratively or judicially. In order to allow for accountability, states must be transparent and subject to the rule-of-law—particularly in their development processes. Without such accountability, implementation of human rights law and societal participation is easily subverted.
4. **Cooperation.** A rights-based approach presumes cooperative efforts among international organizations, governments, and civil societies on legal and policy interventions to facilitate the implementation of a full range of rights within development programming, rather than pushing human rights by relying on shaming and external moral and political pressures. Human rights in this approach, in short, are conceptualized as a cooperative tool to accomplish a mutual goal, not as an end in itself.

The fundamental insight in a rights-based approach to health is that vulnerable or marginalized populations subject to human rights violations bear a disproportionate share of a society's development and health problems. This insight underlies the growing international consensus that human rights, development, and health are interdependent and mutually constitutive, and that the implementation of human rights is fundamental to advancing public health and is in the mutual interest of states, international organizations, and civil society.<sup>31</sup>

Among many possible examples, this calls attention to the problematic status of women in the Muslim Middle East. *The Arab Human Development Report 2002*, for example, notes that:

Utilization of Arab women's capabilities through political and economic participation remains the lowest in the world in quantitative terms. Women occupy only

3.5% of all seats in parliaments of Arab countries compared to 11% in sub-Saharan Africa and 12.9% in Latin America and Caribbean countries. In many countries of the region, women suffer from unequal citizenship and legal entitlements. In some countries with elected national assemblies, women are still denied the right to vote or hold office. And one in every two Arab women can neither read nor write.<sup>32</sup>

As is predicted in a health and human rights model, these patterns of rights violations correlate with women's statistically clear comparative vulnerability to ill-health in the Arab world. Disability for Arab women is higher than it is for Arab men; and while Arab men live longer than the world average, "Arab women have a lower life expectancy than the world average, partly due to high maternal mortality rates."<sup>33</sup> There is great variation both within and among Arab states, just as there is in the Middle East and the Muslim world as a whole. Nonetheless, as an aggregate these are worrisome numbers, as the authors of the *Arab Human Development Report* recognize. The systematic political-civil discriminations cited above as well as systematic violations of such rights as women's right to education (two-thirds of the illiterate population in the Arab world are women, for example) and right to information (in some countries women do not have the ability to access information relevant to health decisions, or to independently decide on the health care choices they face) are part of a pattern of rights' violations that lead to vulnerability to ill-health and broader patterns of underdevelopment.

### **A Focus on Yemen**

An analysis of approaches to addressing women's health status in the context of a relatively conservative, predominantly Muslim state in the Arab world is a way of illustrating both the challenges and opportunities in a human rights-based approach to health. Interestingly, in terms of increasing global attention to rights, until the 1990s Yemen remained quite disconnected from processes integrating rights norms into domestic governance in other parts of the post-colonial world. Networks advancing such standards had relatively little impact in Yemen, even compared to

human rights movements in other parts of the Arab world; and Yemen's governments have seen little self-interest in integrating this international language into domestic policy-making. Coincidental to the unification of North and South Yemen in 1990, however, came the domestic emergence of governmental and nongovernmental lobbies pushing Yemen to interact with international norms, particularly in regard to human rights and economic development.<sup>34</sup> This occurred at the same time as the shift by the UN and other international development practitioners toward conceptualizing human rights and economic development as mutually constitutive rather than separate (or even contradictory) processes.

Hence, just as Yemen began reaching out to international norms, application of those norms were evolving toward a so-called rights-based approach to human development with its emphasis on integrating commitments to economic and social as well as political and civil human rights into development processes, and prioritizing living standards (measured by life span, health and educational status, for example) rather than the more narrow goal of merely improving rates of economic growth.<sup>35</sup> By virtue of this timing and a confluence of domestic and international currents, Yemen became one of the first countries to actively experiment with a human rights-based approach to economic development.

These experiments, it must be emphasized, were and remain contested, and there is every reason to await their sustained implementation with healthy skepticism. The same ideological and political turmoil that opened space for a constituency to form behind such experiments also opened space for ideological currents that opposed such moves, including the Islamist *Islah* party with which the ruling party has been, at times, in tenuous coalition. Indeed, *Islah* symbolizes the challenge in many parts of the Muslim world for a minority political movement that empowers itself by opposing human rights as a Western (or American) imposition. Despite this opposition, Yemen's self-interested response to the strains and pressures it faces have included crafting a human rights friendly policy. This was evidenced

most publicly in its creation of a Ministry for Human Rights, the second in the Muslim Middle East (the first being in Morocco).<sup>36</sup> While these rights policies were impelled by the impact of domestic, international, and transnational actors, they have also been formulated with deference to Yemen's conservative religious context. This points to the incipient attempts in Yemen to use religious and human rights frameworks in a mutually supportive manner and indicates the promise of such an approach to the question this article addresses: how to link the global human rights regime to the agency and interests of peoples in the Muslim Middle East in a way that overcomes obstacles that may be posed by the assertion of a religious conflict.

### **Approaches to Family Planning and Reproductive Health in Yemen**

Family planning and reproductive health have gained attention in Yemen because of their considerable impact on women's health and economic development. Yemen continues to be one of the least-developed countries in the world. While its Human Development Index (HDI) value increased from 0.242 to 0.482 in the past decade, the *Global Human Development Report* for the year 2004 still ranks Yemen 149 among 177 countries.<sup>37</sup> Yemen's population growth rate is among its foremost challenges as it attempts to develop economically. Since 1975, Yemen's population has grown by two and half times, reaching 20 million in 2004. Attempting to slow rapid population growth, therefore, has been among the government's economic development priorities since the early 1990s. Even though the Yemeni Constitution deals with this issue only in general terms (Article 30 provides that "the State must protect motherhood and infancy and safeguard childhood and youth"), governmental interest in family planning and population goes back to 1984—before the unification of North and South Yemen—when North Yemen established the National Committee for Population and Family Planning. Since then, with increased international support, numerous national conferences and workshops have been organized, including two national conferences held in 1991 and 1996 to



formulate population policies and strategies. The first and second five-year development plans (1996-2000 and 2001-2006) identify the increase in the social acceptance and utilization of family planning programs and women's access to reproductive health services as strategic goals. Nonetheless, progress has been scant. According to a 1998 Yemeni reform report health sector, the total fertility rate was 7.4% and annual population growth was 3.7%; as of 2004 the annual population growth is estimated at 3.44%, still among the highest in the world.<sup>38</sup> The maternal mortality rate has been estimated as 570 per 100,000.<sup>39</sup> Of the 25% of births attended by trained health personnel, only 25% of women received prenatal care in 1998, and recent statistics show no improvement in these numbers.<sup>40,41</sup>

Despite increases in available reproductive health services, Yemen's fertility rate has only slightly declined and remains one of the highest in the world. According to the 1999 National Poverty Survey, the overall contraceptive prevalence rate (both modern and traditional methods) reached 30% in 1999 in comparison with 21% in 1997 and in 2002 this reportedly increased to just 31%—21% traditional methods and 10% modern.<sup>42</sup> There is also a clear discrepancy between urban and rural areas in the use of family planning methods. In the 15-45 age group, 29% of urban women use family-planning methods, but only 8% in rural areas.<sup>43</sup>

Yemen has ratified most of the major international human rights instruments, including the Convention on the Elimination of all forms of Discrimination against Women (CEDAW). Nonetheless, women in Yemen suffer from various forms of discrimination and gender inequality that negatively impact on their health and their ability to access reproductive health services. Gender inequality is reflected in the Gender Development Index (GDI) in which Yemen ranks 126 out of 144 countries—the lowest in the Arab region.<sup>44</sup>

These revealing indicators on population growth, inability to access health services, and gender inequality are associated with various forms of rights violations committed against women—violations based on factors that include:

- Legal status: Yemen's Personal Status Law embeds discrimination against women in law;
- Economic class: poor women in Yemen have little access to an increasingly privatized health sector;
- Geography: there is an enormous disparity in access to health services between rural and urban women;
- Social group: members of refugee groups and of the *Akhdam* minority suffer from systemic discrimination and thus women from these groups suffer double discrimination; and
- Violence: violence against women, for example, in terms of domestic violence, violence against female domestic servants—many from refugee and the *Akhdam* minority communities—and violence in the public sphere as well as the torture of women in interrogation centers and prisons.<sup>45</sup>

Steps that move reproductive health initiatives into an explicitly rights-based framework and that make clear that the rights necessary to implement reproductive health policies are not in contradiction with Islam have been tentatively introduced in order to achieve more tangible results in this field.<sup>46</sup> Yemen's conservative environment has meant that human rights violations in the so-called private sphere have often been ignored and assumed—falsely—to have no public ramifications. This has meant that issues such as violence against women, the power of males to keep female family members from accessing health services, and FGM have not been addressed in national policies and programs.

In an attempt to redress this situation, the Yemeni government has taken steps toward a rights-based approach to issues that underlie gender discrimination. This required conceptualizing a woman's inability to access reproductive health care services as a human rights issue. For example, violations of the right to freedom of movement because of family or social restrictions on female movement outside the house is understood to be a factor that keeps women from health clinics at which they could receive information and medical attention relevant to their reproductive health. Conceptualized in this manner, rectifying a rights' viola-

tion—even one in the “private” sphere—is seen as fundamental rather than ancillary to accomplishing the goal of advancing women’s health status and, in that way, also impacts on an issue such as population growth to the benefit of Yemen’s overall economic development goals.

In this respect, Yemen provides at least elements of an interesting model. Yemen’s National Population Council (NPC) officially espouses the concept of reproductive health as developed at the International Conference on Population and Development (ICPD), Cairo, 1994, and the Fourth World Conference on Women (FWCW), Beijing, 1995; and it has taken this concept in the direction of a rights-based approach in cooperation with WHO, as well as the UN Office of the High Commissioner of Human Rights (OHCHR), and the United Nations Development Programme (UNDP).<sup>47</sup> Beginning in 1999, Yemen became one of the first countries to request cooperation with the UN’s multi-agency Human Rights Strengthening Project (HURIST—a joint UNDP, WHO, OHCHR program on facilitating a human rights-based approach to development assistance) to help it design a rights-based approach to health and economic development. This approach is inter-sectoral and has entailed discussions and negotiations on virtually all aspects of Yemen’s reform, extending into laws and regulations regarding NGO activities, investment law, personal status law, as well as broader issues of transparency and good governance. HURIST’s particular focus has been on Yemen’s five-year development plan (2001-6) and ways in which it could be implemented using a rights-based approach.<sup>48</sup> Various ministries (planning, health, and education) developed specific plans in this regard; a particular focus has been an inter-sectoral approach to reproductive health.<sup>49</sup>

Addressing these issues in a manner that enlists local cultural traditions—including Islam—as complementary rather than contradictory to human rights has been seen as essential to effectiveness. In working with HURIST and, in particular, implementing the Cairo Conference’s conceptualization of reproductive rights, the NPC relies in part on a partnership with Muslim Imams to spread information on the government’s family planning programs, including the

cultural acceptability of family planning and reproductive rights. NPC's programs, for example, include consultations among women's groups, NGOs, as well as Imams. Imams then use their Friday sermons as a means to spread the word about the cultural acceptability of family planning and reproductive rights. Integrating Imams into this process has helped the government undercut conservative resistance and short-cut the ideological objection that a rights-based approach is imposed by the West rather than a response to local social and economic needs.

The example of Yemen illustrates the potential of approaches that emphasize the positive interrelation among health, human rights, and Islam. It is both possible and productive to work with Muslim institutions to advance human rights and, by extension, a health and human rights approach, so long as one does not accept a clichéd construct of Islam as antithetical to human rights. The possibilities of a mutually supportive relationship are defined by the political dynamics of particular societies more than by generalized assumptions about the nature of Islam.

## **Conclusion**

The challenge to those who seek to integrate human rights into public health efforts within the Middle East is to make clear the relevance of rights violations (i.e., the right to work of Palestinians denied that right; the right to food of Sudanese facing forced starvation; the right to education for minorities and women systematically denied that right in Yemen) to ill-health, and avoid the focus one too often finds on abstractions such as rights' cultural DNA. Interventions on the health and human rights' status of populations vulnerable to rights' violations such as women and minorities in the Middle East must take into account the compatibility between health-related human rights and Islam in the context of the ongoing debate about the place of human rights in predominantly Muslim political societies. As in the case of Yemen, it is an approach that can allow local religious actors as well as women's groups, NGOs, and other civil society members to be elicited as supporters rather than opponents of the implementation of human rights.<sup>50</sup>

The opportunity the Middle East's rich cultural environment represents for advancing health and human rights are immense and, it is important not to assume an opposition, and rather, seize possibilities for cooperation. As a step toward this, discussions of human rights should focus on their tangible reality, not abstract assertions which declare human rights to be in conflict with Islam. When discussions focus on the specifics of how a rights-based approach can help achieve public health goals, then the dialogue that flows out of this tangible focus can revolve around how human rights intersect with the goals and aspirations of states and peoples in the Middle East, and how civil societies can be brought into the process of developing a health and human rights approach. This is the dialogue that must occur.

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