

COUNTRIES AT THE CROSSROADS

Countries at the Crossroads 2012: Yemen

Introduction

The Republic of Yemen was established on May 22, 1990 by the uneasy merger of two existing states, the Yemen Arab Republic (YAR) in the north and the People's Democratic Republic of Yemen (PDRY) in the south. The merger reflected longstanding popular aspirations for unity, along with the coincidence of elite interests on both sides of the border.¹ Southern leaders feared repercussions of the collapse of the USSR and the Eastern bloc, whereas leaders of the YAR hoped to smoothly incorporate the south's territory and resources without ceding much political power. The discovery of petroleum and natural gas along the border between the two states was an additional facilitating factor leading to unification.

Political fault lines between the north and south produced or exacerbated during the unification process have endured to the present and regionalism remains a salient source of division in Yemen, though many political, economic, and social cleavages overlap with regional distinctions. Former President Ali Abdullah Saleh, who stepped down in early 2012, often manipulated these overlapping cleavages to retain power over his more than two decades in office. The political hegemony that victorious northern leaders imposed on the south after a brief civil war between the two regions in 1994 was a major contributing factor to the rise of the Hiraak, or the Southern Movement, in 2007.² But regional grievances coalesced with others by 2011, when a broad cross-section of society joined in what became a year-long revolutionary movement demanding an end to Saleh's rule and comprehensive reform of state institutions. While Saleh resigned office in November 2011 and the transitional government endorsed Abd Rabbuh Mansour al-Hadi as a consensus candidate in an uncontested February 2012 presidential poll, many of the difficult provisions of the transitional agreement have been only partially implemented or not implemented at all, leaving many features of the Saleh regime in place.

Meanwhile, human insecurity, already a severe problem in Yemen, has been exacerbated by the political instability and violence that has marked 2011 and 2012. In the face of considerable violence carried out by state and non-state actors, as well as increasing military incursions by the United States and Saudi Arabia since 2009, material and human losses have been considerable.³ While Saudi Arabia's direct role was largely limited to the last iteration of the al-Huthi conflict in 2010, the United States dramatically escalated its use of missile strikes using aerial drones in 2011 and 2012, first in cooperation with the Saleh regime and later with the transitional government of President Hadi. The number of internally displaced persons (IDPs) has exceeded 700,000, with at least 7.5 million people in need of direct food assistance and over one million children and nursing mothers reaching the threshold for global acute malnutrition.⁴

At least five distinct factors have contributed to the escalating humanitarian crisis in Yemen in 2011 and 2012: the military campaign against civilian protesters in major urban centers; fighting between Yemeni citizens and domestic and foreign militants associated with Al-Qaeda in the Arabian Peninsula (AQAP) and Ansar al-Shari'a; an ongoing flow of refugees from

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the Horn of Africa; armed conflict with al-Huthi militias, a Shia insurgent group, in the north; and the country-wide increase in food and fuel prices, which have left millions food-insecure and approaching famine in several governorates.⁵ There is a high probability that continuing governance failures, political instability, and ongoing violence will contribute to the worsening of this multi-faceted humanitarian crisis in the coming year.

The “Change Revolution” beginning in January 2011 can be understood as both a cause and a consequence of Yemen’s declining governance performance between 2009 and 2012. Increasing limitations on practical opportunities to influence political decision-making or hold elected officials accountable contributed to a climate of discontent, fueling existing opposition in the south and the north and escalating reform-oriented protest activity initiated by the organized Joint Meeting Parties (JMP) political opposition. At the same time, many viewed the JMP’s focus on procedural reform and negotiations with the existing regime as a failure, and the broader revolutionary fervor of the regional prodemocracy uprisings throughout the Middle East contributed to the rapid escalation of nonviolent protest in major urban centers in January and February 2011. The JMP tried to align itself with this protest movement, but was widely characterized as behind the curve. Led by a younger cohort of activists—many with partisan ties to the JMP, but some with no particular history of party activism—the protesters quickly organized around calls for the “fall of the regime,” echoing slogans heard throughout the region. Nonviolent marches and sit-ins were staged in most urban centers, each with its own distinctive tone. In San’a, the movement was centered in newly-dubbed “Change Square” outside of San’a University, and quickly developed into a tent encampment of permanent protest.

A major turning point in the movement came on March 18, 2011, when government agents fired live ammunition on protesters in Change Square, reportedly killing 52 unarmed civilian protesters and wounding hundreds. Dozens of Yemeni government officials, including many ambassadors, parliamentarians, and senior figures in the civil service resigned in protest.⁶ This was followed by the high-profile defection of Ali Muhsin al-Ahmar’s 1st Armored Division of the Yemeni armed forces, which vowed to protect protesters from military units and Republican Guards loyal to President Ali Abdullah Saleh. Sheikh Sadiq al-Ahmar, son of the late Sheikh Abdullah bin Hussein al-Ahmar and paramount sheikh of the Hashid tribal confederation, similarly pledged the protection of his tribal forces. Militias associated with the Huthis also aligned with the protesters.⁷ These developments led to the key distinguishing feature of the Yemeni revolutionary movement: the continuation of nonviolent demonstrations by hundreds of thousands of unarmed civilians, paired with a protective belt of armed actors who engaged in ongoing exchange of fire with loyal elements of the military.

Protection of protesters by these armed actors should be understood in light of their own intra-elite interests and should not be read as a sign of their commitment to the protesters’ civil rights agenda. Ali Muhsin, in particular, served as a henchman of the Saleh regime for decades, while the Ahmar family has long been accustomed to wielding power through and outside of state institutions simultaneously. The alliance of Ali Muhsin and the Ahmars with street protesters has been one of convenience, not principle.

The Gulf Cooperation Council (GCC) attempted to mediate the dispute and broker a peaceful transfer of power that could accommodate the old regime, the partisan opposition, and these other power-brokers, but Saleh refused to sign the agreement on three separate occasions. Over the spring and early summer of 2011, civilian casualties remained relatively low, but following a June 3 assassination attempt on President Saleh and his consequent departure from the country for medical treatment in Saudi Arabia, the violence escalated precipitously. This

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violence primarily included clashes between forces loyal to the government and those under the control of members of Saleh's family and military defectors and tribal militias, but Islamist militants associated with Ansar al-Shari'a and AQAP also began to attack government military installations over the summer and into the fall. Saleh returned from Saudi Arabia on September 23, 2011, at which point unconfirmed reports attributed to his own deputy information minister put the death toll of military and civilian casualties for the uprising at 1,480.⁸ Facing a growing stalemate and viewing a negotiated agreement as the only way to assure his immunity and a place for his family in Yemen's future, President Saleh signed the GCC agreement on November 23, 2011.

According to the agreement, Saleh's presidential powers were transferred to Vice President Abd Rabbuh Mansur al-Hadi, who headed the largely irrelevant government while Saleh was in Saudi Arabia. In practical terms, this required the assent of several members of Saleh's immediate family, who between them controlled most of the remaining branches of the armed forces and security services. Prior to coming to office, Hadi did not have his own base of political support and was thus a natural neutral candidate to lead the transitional government. What was an asset in his selection as a consensus candidate, however, quickly became a liability, as Hadi has endeavored to govern without much independent legitimacy. Hadi appointed a new prime minister, Muhammed Basindawa, a southerner with a technocratic background in the oil industry and loose (but informal) ties to the organized political opposition. He assembled a government of national unity, splitting positions equally between GPC loyalists and members of the opposition, as stipulated in the GCC agreement. This new National Reconciliation Government (NRG), which has been tasked with overseeing a transitional period, received parliamentary approval for its government proposal on December 28, 2011. The JMP and the GPC formally agreed to support al-Hadi as a consensus candidate, and he was elected on February 21, 2012. According to the GCC agreement, during the next two years, the new government must convene a national dialogue that includes all of Yemen's diverse centers of power, particularly the southern movement and the al-Huthi movement. It is through this process that any future constitutional revisions will be agreed, after which new parliamentary elections will be held, ideally by 2014.

Protesters were initially deeply critical of the GCC agreement, but have modified their positions as provisions of the agreement have been implemented and conditions have shifted on the ground. Chief among the continued objections, however, was the question of legal immunity, guaranteed for Saleh and his closest family members and associates under the GCC agreement. Protests against immunity were dramatic, as when thousands of protesters marched on foot for over 170 miles from Taiz to Sanaa in late December 2011 as part of the "Life March." As the protesters drew closer to the capital, representatives of the GPC announced that if the march reached Sanaa, it would be considered a breach of the GCC agreement and grounds for the GPC's withdrawal from the transitional government.⁹ When the marchers did arrive in Sanaa on December 24, government forces fired on them, killing at least 13 and injuring hundreds.¹⁰ Despite this and other efforts to prevent immunity, a parliament composed of deputies elected in 2003 endorsed an immunity law consistent with the GCC provisions on January 21, 2012, paving the way for the next stage in the transitional process, the confirmation of Hadi as president.

In the pre-election period, conflict over whether and how to move forward has contributed to increasing tension, and even some armed clashes, among rival trends within the opposition in Sanaa.¹¹ After the election, the climate in the capital appears to be significantly less tense, with the protest movement recalibrating in advance of a planned national dialogue process.

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Protest leaders remain in the square, and Friday mobilization has become ritualized, with crowds reaching 80,000 to 100,000 on Fridays but dropping considerably during the week. Protesters are engaging in a wide range of organizational and capacity-building measures in advance of the planned national dialogue process, hoping that it will be more inclusive than the earlier stages of the transition.

At present, the Hadi presidency has strong support in some quarters, but significant challenges remain. Hadi's ability to govern has been undermined by Saleh's return to Yemen and his assumption of the leadership of the General People's Congress. While he does not hold formal office, he continues to work as a spoiler for negotiated solutions and the redistribution of power. Additional challenges include combatting secessionist tendencies within the Hiraak movement in the south, the need to better integrate the Huthis in the political process, and defending against escalating attacks by Ansar al-Shari'a on military installations throughout the country. The military committee formed by Binsidwa has been very successful in demilitarizing the major cities and the economic infrastructure that was destroyed in the protests is being restored. There has been violence in the north between the Salafi center in Dammaj and the al-Huthi movement as well as conflicts in Hajja, al-Jawf, and Amran governorate. Attacks on military installations have left hundreds of soldiers dead in what is becoming a war of attrition between Ansar al-Shari'a and the Yemeni military. Meanwhile, throughout several cities in Yemen, civilians frustrated by high levels of corruption have staged a "parallel revolution" in the public sector, storming the offices of government ministries and shutting down operations, demanding investigation of corrupt officials. Because of the nature of the negotiated transition, many vestiges of the old regime remain in place, stifling the demands of revolutionary protesters and reformist partisans alike.

Accountability and Public Voice

The Republic of Yemen has a directly elected president and a bicameral legislature with a 301-member lower house (Council of Deputies) and a 111-member upper house (Consultative Council). The latter is composed of political appointees who play an advisory, but not legislative, role. Appointments are of symbolic and material value and have served as a form of patronage that has aided in the consolidation of presidential power. The lower house, in which the ruling General People's Congress (GPC) has held a continuous majority of seats since 1997 (and a supermajority since 2003), has legislative authority. Elections to the lower house are conducted on a plurality basis in single-member districts. This offers a substantial advantage to members of the largest parties—the GPC and the Islamist Yemeni Congregation for Reform (Islah)—and has made it much more difficult for women, minorities, and members of smaller ideological groupings to win seats without regime patronage. The number of women running for and elected to office at the national level has declined with each electoral cycle, despite rising levels of women's literacy, civic engagement, and political activism.¹² Saleh proposed a 15 percent quota for women's representation in parliament in 2008, but Islah (the leader of the JMP) and other Islamist allies, refused to endorse the measure. Despite this, Islah has been more successful than other parties at mobilizing women's votes and has produced some of the country's most capable female activists, including recent Nobel Laureate Tawakkul Karman, a journalist, activist, and member of Islah.

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Political competition in Yemen is constrained, but nonetheless allows for real choices between candidates and the ideas that they represent. Yemenis enjoy universal adult suffrage, and registration campaigns have had a notable impact on the number of women registering for and voting in elections over successive electoral cycles. A wide range of political parties representing substantial variations in ideology and constituency vie for elections at the municipal and national level, though parliament's legislative prerogatives have been limited in practice by the blurred boundary between the Saleh regime and the majority General People's Congress, as well as by the low capacity and internal divisions between parties in the opposition. Nonetheless, the institution has remained a vibrant site of debate and a source of public deliberation, and parties frequently hold internal conferences that help to articulate diverse political positions and agendas.

Three political parties—the ruling GPC, Islah, and the Yemeni Socialist Party (YSP)—have dominated electoral races and parliamentary debate since unification. The first two hold the overwhelming majority of parliamentary seats, but the YSP is a potent symbolic player, given its history as the ruling party of the PDRY and its continuing role in representing some southern perspectives. There are smaller parties of leftist, nationalist, and sectarian orientation that, despite declining electoral shares, publish partisan newspapers, participate in public forums for debate, and issue press releases on relevant topics.

Since 2005, several of Yemen's opposition parties have worked together through an alliance known as the Joint Meeting Parties (JMP). This alliance features an internally democratic power-sharing model and rotating leadership positions. It includes very small opposition parties like the Nasserists or al-Haqq (a Zaydi religious party), but Yemenis widely regard it as a joint vehicle of Islah and the YSP, with the YSP as a junior partner. JMP leaders themselves recognize the disproportionate weight of Islah in determining alliance positions, despite some notable compromises regarding the south and, to a lesser extent, the role of women.

The JMP's greatest victory to date was the 2006 presidential election, in which the alliance fielded a candidate, Faisal bin Shamlan, who forced then-president Saleh to campaign more aggressively and make more political concessions than had been necessary in the essentially-uncontested 1999 election. In an improvement over the 2003 parliamentary elections, the Supreme Commission for Elections and Referenda (SCER) ensured significant state media coverage of opposition candidates, though the incumbent still received a larger share.

The official results of the 2006 elections awarded Saleh 77 percent of the vote, which was five percentage points lower than pre-election estimates, but the JMP rejected the early count, threatening street demonstrations to protest what it called voter manipulation and fraud.¹³ Saleh eventually acknowledged the JMP's claims, declaring the final count valid while admitting that mistakes had been made. The European Union Electoral Observation Mission to Yemen, which monitored the polls and documented some of the irregularities, but nonetheless declared the elections free and fair.¹⁴ Many observers remarked that, despite flaws, the elections represented a historic step forward in Yemen's democratic development, particularly given the atmosphere of genuine competition between two candidates with distinguishable political and ideological approaches.

This qualified opposition "victory" was followed by several years of unsuccessful efforts to increase competitiveness in the electoral system and combat corruption, primarily through proposed reforms to Yemen's electoral and media laws. In August 2008, the ruling party's supermajority voted to maintain the 2001 electoral law for the upcoming April 2009 elections. In light of the SCER's inability to prevent the use of state resources by the ruling party, the

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opposition feared an unfair election. These fears—combined with a decline in media freedom, civil liberties, and associational freedom—led many JMP leaders to support a boycott of the scheduled 2009 parliamentary elections. Senior GPC leaders did not want to participate in an uncontested election, and the two sides thus agreed on a two-year postponement. The state of emergency declared amid the 2011 protests and unrest further suspended the elections. According to the GCC agreement, parliamentary elections will be held in 2014, after the two year transitional period and necessary constitutional and legal revisions.

Much of Yemeni political life occurs outside of the context of formal political competition, however. Personalized networks of patronage and related power blocs are also integral to the state-society relations against which elections unfold. Three main power blocs are of particular significance: powerful merchants close to the regime, the government and its military, and the tribes, although the power of tribal leaders has been declining. Additionally, the al-Huthi movement has demonstrated its power in the north,¹⁵ and the southern movement may potentially form another base of regional power, though it has not yet consolidated itself politically enough to play a role in national politics, except perhaps as a spoiler.

The primary figure in the government and the GPC has been Saleh himself, though the 2011 crisis warns against conflating Saleh and the GPC entirely. When government forces fired on unarmed protesters on March 18, 2011, a spate of senior GPC officials—from prominent ambassadors to government ministers—resigned their posts in protest, thus fracturing the ruling party's clientelistic network. Similarly, it was at this point that Ali Muhsin al-Ahmar, the primary individual associated with the military, realigned with the opposition, taking his 1st Armored Division with him. Yet Ali Muhsin's defection was not a comprehensive military realignment so much as a fissure. In addition to Ahmed Ali, who commands the elite Republican Guard, Saleh has also engineered senior military and security appointments for his nephews, Yahya Muhammed Saleh, Tariq Muhammed Saleh, and Ammar Muhammed Saleh. While President Saleh was in Saudi Arabia in the summer of 2011 for medical treatment, his son and nephews continued the armed campaign against civilian protesters and their armed protectors, 'Ali Muhsin's forces, and tribal militias under the command of Sheikh Saddiq al-Ahmar. As the leader of the most important tribal bloc, the Hashid confederation, Sheikh Saddiq was elected to replace his father, Sheikh Abdullah bin Hussein al-Ahmar, who for years was simultaneously a close ally of President Saleh, a member of the opposition Islah, and Speaker of Parliament. Sheikh Saddiq's alignment with the protesters, and his brother Hamid's prominent role in the JMP opposition, suggest that tribal affiliations themselves, while important, are being displaced by other kinds of mobilizational appeals. Tribal figures aligned with and were essential to the protest movement of 2011, but they neither created nor led it.

While Saleh's ability to monopolize power was shaken by defections from the ruling party, tribal, and military elites, he had more success in mobilizing mosque preachers throughout the country. Prior to 2011, the *salafi* trend was responsive to the anti-Shi'i rhetoric that has accompanied the armed campaign against the Huthi family and its loyalists in the northern province of Sa'ada. Some popular preachers, like Shaykh Abd al-Majid al-Zindani, maintained dual loyalties for years, with a leadership role in Islah but clientelistic ties to Saleh. While al-Zindani and many others have backed the revolutionary movement, they have also used the atmosphere of chaos to incite violence between their supporters and members of the Huthi group, or Zaydi Shi'a more broadly. While this has meant something less than overt support for the Saleh regime, support for internecine violence has contributed to divisions within the opposition

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and limited its capacity in ways that worked to the advantage of Saleh and his allies and hobbles the new transitional government, as well.

This highlights the fact that the JMP has a complicated relationship to its constituents, as the Change Revolution made increasingly evident. On the one hand, the JMP was organizing protests calling for trenchant political reform in December 2010 and January 2011, before the full escalation of the revolutionary movement. Its mid-level leaders in many ways laid essential groundwork for the movement by developing a rhetoric of “nationalist opposition” that stressed the same tropes as the regime—especially affirming the integrity of Yemeni national unity against the southern movement and al-Huthi movement—but turned them against the regime by highlighting divisiveness, corruption, sectarian incitement, and regional discrimination undertaken by regime figures themselves. In this way, the JMP provided a critical antecedent to the revolution.¹⁶ Their ability to do this owes in large part to Yemen’s vibrant associational sector, in which non-governmental organizations thrive, despite limits imposed upon their activities by the government. The associational sector has served as a meeting-ground for many of the JMP’s mid-level activists and provided a critical link between partisan activists and non-partisan activists as the protest movement developed in early 2011.

At the same time, because of its cross-ideological nature and the inherent fragility of an alliance that brings together groups from dramatically different regional, sectarian, and ideological lines, the JMP adopted strategic silences on important issues that might sow dissension in its ranks. This meant that below the leadership level, members of the various opposition parties often felt that their preferences and interests were being sacrificed. This was true of Southerners who felt that Islah’s dominance gave the alliance a Northern tilt, and were critical of YSP leaders effectively relocating to Sanaa, and it was true of Islah members who worried that the Islamist commitments of their own leaders were being watered-down by concessions to the YSP. Women, people from the midlands (for whom the cultural North/South dichotomy centered on Sanaa vs. Aden makes less sense than a developmental center/periphery distinction might) and people of Yemen’s rapidly growing youth stratum were progressively “left out” of JMP decision-making and JMP policy, and quickly attached themselves to the broader revolutionary fervor of the region in winter 2011.

By the end of 2011, this tension between the JMP and grassroots constituencies throughout the country was even more pronounced. When the GCC agreement was first introduced in April 2011, revolutionary youth opposed it, but the JMP signed it anyhow. Members of the Coordinating Committee for the Youth Revolution in Yemen (CCYRY), the major umbrella organization coordinating youth protesters in major urban centers, complained that the JMP was preventing them from pressing for their demands, alleging that the organized opposition convinced Ali Muhsin’s 1st Armored Division to use force to suppress youth protesters who were marching against the GCC agreement.¹⁷ After the GCC agreement was signed by Saleh in November 2011 and a new NRG was formed with half of its members drawn from the JMP, youth protesters’ critique of the GCC agreement became critique of the JMP that abetted it. When protesters led the “March of Life” from Taiz to San’a in December, they were signaling the insufficiency of regime and opposition alike. When government agents – now working at least nominally at the behest of the NRG – fired on those protesters, new protest marches from Hodeidah and Mukallah were announced. Mid-level cadres from the JMP member parties, men and women who helped smooth the gap in early 2011, have largely been forced to choose between alignment with a remnant of revolutionary youth or with a JMP leadership that looks increasingly ossified. Many have begun to work via the associational sector with youth

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protestors who are searching for new means to effect change as Yemen's political process moves forward and the transitional regime seeks to consolidate power.

Civic groups were active and growing in number prior to the 2011 revolution. However, their ability to influence government policy and legislation has typically been weak in comparison to other sources of political influence (e.g., the military, tribes, important clerics, and important family networks). In addition, Yemen's civil society has faced the proliferation of paradoxical "government non-governmental organizations," which give the impression of independence and create the artificial appearance of grassroots support for government policy. This cluttering of the public sphere has also extended to the media, where government-sponsored papers and websites often closely mimic the appearance, names, and even mastheads of prominent opposition and independent papers in an effort to confuse or mislead readers.

Under former President Saleh, NGOs and media outlets operated with relative freedom, but there were red lines that they could not cross and many groups and individuals struggled to determine exactly where these red lines are at any given time. Consistently taboo subjects include direct criticism of the president and his family, discussions of Saudi funding and business dealings, and opposition to government actions in Sad'a. Open discussion of or investigation into government corruption and coverage of the southern movement and government efforts to suppress it have also generated aggressive government responses in the past. While journalists and NGO workers have sometimes been accused of activities that insult religion or undermine national unity, these taboos have been selectively invoked and have usually masked violation of one of the more well-established red lines.

Over the past five years, the media climate in Yemen has declined precipitously, though Yemeni journalists have also become progressively more aggressive in their investigative reporting. The Yemeni Journalists' Syndicate is a corporatist institution tasked with licensing and regulating professional journalists. The senior leadership has included GPC and opposition members, with the majority of its executive members usually drawn from the opposition parties or from among Yemen's political independents, making the YJS a reliable (but largely ineffective) advocacy mechanism for press freedom. Article 103 of the Press and Publications Law, which the syndicate has been ineffective in amending, outlaws anything that "might spread a spirit of dissent and division among the people" or information that "leads to the spread of ideas contrary to the principles of the Yemeni revolution, [is] prejudicial to national unity or [distorts] the image of the Yemeni, Arab, or Islamic heritage." This is a blunt instrument in the hands of the government, as illustrated by the formation in May 2009 of a Special Press Court, the sole purpose of which is the punishment of journalists who violate these regulations. There have been calls for the new government to overturn these laws and abolish the court.

Despite these encroaching limitations, Yemeni journalists and editors have worked in recent years to professionalize their trade and expand the scope of their investigative reporting, often at great personal risk. Prominent journalists like Abdulkarim al-Khaiwani, Jamal Amer, and Sami Ghaleb have crossed obvious red lines deliberately, facing imprisonment, abduction, and abuse, but have become popular symbols of encouragement to journalists and activists. Newspaper offices have been ransacked and computers confiscated, including files with information on confidential sources, prompting many to move their records to computer servers located outside of Yemen. Because print media are subject to strict licensing requirements that give the government considerable leverage over them, some have sought to avoid censorship pressures by moving online, but critical sites have frequently been blocked. In March 2011, several popular news sites with ties to the opposition, including MarebPress and NewsYemen,

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were hacked in a clear effort to discredit reporting on the growing momentum of the revolutionary movement.¹⁸

As elsewhere in the region, the 2011 revolutionary movement featured a high proportion of “citizen journalists” who used social media to report, coordinate activities, and raise awareness of human rights abuses to audiences inside and outside of Yemen. The greatest challenge to these non-professionals came in the form of pervasive and seemingly deliberate electricity cuts and petroleum shortages. Change Square and similar protest centers throughout the country relied on portable generators to allow activists to communicate electronically, but petroleum shortages made this access unreliable, causing news blackouts at several critical junctures in the fighting, especially in late spring and early summer 2011. Residents of Sana’a had only 2-4 hours of electricity per day for much of 2011, making social media reporting a challenge.¹⁹ Electricity has been restored in most urban centers, but activists continue to complain of periodic disruptions.

The general chaos that has characterized the period since January 2011 has allowed for a substantial escalation in violence against members of the news media. While some watchdogs contend that “targeting killings” have declined, total deaths have increased since the beginning of the revolutionary movement, as reporters frequently put themselves in harm’s way to document war-like conditions.²⁰ There is also evidence of disappearances, attacks on newspaper and news website offices and servers, and the arbitrary detention of reporters and photographers.²¹

While Yemen’s print media and the rise of social media offer increasingly diverse coverage of local and international news, only 63 percent of all Yemenis are literate and the majority live outside of major urban centers. This means that most citizens continue to get their news from broadcast media, over which the government maintains a near-monopoly. The rise of independent Suhail TV in 2011 has challenged this monopoly, as have region-wide satellite stations, but this has also made journalists and photographers working with these station particular targets of government attacks.²²

Civil Liberties

The climate of pervasive violence that has characterized Yemen since the beginning of the revolution movement (and, in some parts of the country, before then) means that Yemeni citizens do not experience meaningful protection by the state. In some parts of the country, protection is provided through tribal social relations, rather than the state itself. When citizens in non-tribal areas are victims of state violence, or of violence by non-state actors, they can expect no legal recourse. Yemen’s security services act with impunity; extrajudicial killings, enforced disappearances, and arbitrary arrests were increasing even before the near-total deterioration of citizen security in 2011. Independent investigation and verification of allegations of abuse and torture, arbitrary detention, and other human rights abuses have been difficult to obtain, owing to the government’s tactic of blocking media and human rights groups’ access to conflict areas. International relief organizations have had to rely on local organizations—often with ties to political parties—in order to get estimates of need in Sad’a and other areas too insecure for travel. Since early 2011, many international agencies have closed their Yemen offices or evacuated all non-essential personnel in an effort to limit risk, but consequently, knowledge of the scope of human rights violations has become even more difficult to verify. Local human rights organizations like the National Organization for Defending Rights and Freedoms (HOOD)

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have had their headquarters burned down and records destroyed, yet they continue to play an essential advocacy role.²³

All Yemeni citizens face this culture of impunity with regard to violations of their basic human rights, but women, religious minorities, and some political groups face distinctive challenges under the current system. Yemen ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1984, but discrimination against women remains pervasive. Political parties typically do not support female candidates; Islah does not accept women's candidacy on principle, whereas the GPC and YSP support the idea of women's candidacy but fail to give actual female candidates adequate material or rhetorical support in their campaigns. Parliament's recent record with regard to gender equity has been poor, and the delay of parliamentary elections has made formal political channels an ineffective means of addressing gender inequity. As the political situation has deteriorated, female activists working outside of formal and partisan channels have faced greater harassment by the security forces and informal vigilante groups organized by clergy, some with ties to former President Saleh.

Outside of the political sphere, gender remains a pervasive source of distinction in regard to many basic life indicators among Yemenis. Women and girls are, on the whole, less healthy, less literate, and less mobile than their male counterparts, something which is often attributed to low marriage ages and high fertility rates. Investment by state and non-state actors in girls' health and education over the past two decades mean that young women 15-24 have largely closed the literacy gaps and fertility rates are declining significantly, but social norms and legal barriers to equality persist. A woman must receive permission from her husband or father to obtain a passport or travel abroad. Unlike men, women do not have the right to confer citizenship on a foreign-born husband. The process of obtaining citizenship for a child of a Yemeni mother and foreign father is more difficult than that for a child born to a Yemeni father and foreign mother. The Yemeni government has also been widely criticized for failing to protect the rights of girls, particularly those forced to become child brides. This phenomenon, which often occurs in rural regions outside of government oversight, was highlighted by several high-profile cases in 2008. While the government acceded to international pressure to modify the law in 2009 and set 17 as the legal age of marriage for girls, many Islamists, including Shaykh 'Abd al-Majid al-Zindani, criticized this as a state interference into religious practice. Notably, 2011 Nobel Laureate Tawakkol Karman, who is from the same party as al-Zindani and sparred with him over related issues in the past, was one of the most vocal advocates of this reform. Despite a legal challenge initiated by opponents of the new law, it remains in effect; it is only sporadically enforced. The constitution affirms legal rights for different categories of citizens on the basis of Shari'a. There are no explicit legal protections for ethnic, religious, sexual or other minority groups, and the state has not undertaken systematic efforts to prevent discrimination against such groups or against the physically or mentally disabled.

Yemen is a religiously diverse country, with denominational variation and widely divergent attitudes toward public piety. At a denominational level, the overwhelming majority are Muslims, divided between Zaydi Shi'a (mainly in the northern highlands), Sunnis of the Shafa'i legal school concentrated in many urban centers and in the midlands, and a growing number of adherents of a conservative Sunni trend known as *salafism*. The growth of the *salafi* community traces to high levels of labor migration to Saudi Arabia in the 1970s and 1980s, but also to its rejection of status-based hierarchies associated with the Zaydi tradition, in particular. While Shafa'i Sunnis and Zaydis have coexisted comfortably for centuries, tension between *salafis* and Zaydis has been marked, often expressed around issues of communal autonomy over

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religious curricula and judicial practice. In addition to these large Muslim groups, there is also a small minority of Isma'ili Shi'a, and historically significant but currently very small community of Yemeni Jews. Christians, Hindus, and other smaller groups, once a feature of Aden's demographic landscape, no longer have a notable social or political presence. Lastly, more than two decades of Marxist rule in the PDRY helped to create different public cultures in parts of the now-unified country, and there is substantial public debate between Islamists and secularists over the scope of religion in public life, though this contentious debate is reflects asymmetries of power between them.

Though Yemen enjoys a considerable intra-Muslim diversity, religious freedom is also sometimes constrained, both legally and in practice. While the republican regime is formally secular, Islam is the religion of state and debate about the role of religion in society leaves a clear imprint on Yemen's public politics. The penal code criminalizes apostasy and a number of related but lesser charges, and insulting Islam and Islamic heritage are punishable offenses, mainly deployed against journalists as part of a wider campaign against press freedom. The criminalization of apostasy can pose a challenge to members of small religious communities, but also to those who espouse atheistic or heterodox beliefs. In practice, allegations of *takfir* (being outside of the bounds of belief) are sometimes employed by political actors both allied with the government and against it. While these are not claims that are levied through courts, they nonetheless have the power to compel individuals to modify their positions, by raising the specter of extrajudicial violence. There was a particular anxiety in opposition circles following the killing of Socialist figure Jarallah 'Omar in 2002, which was exacerbated by the establishment of the Fadilah Group's informal policing of vice and virtue beginning in 2007. The Fadilah Group brought together salafi clerics with ties to Islah, but also those associated with the GPC and some independent salafis, further blurring the boundary between "regime" intimidation of its critics and Islamist encroachment on freedom of expression. Since the Huthi uprising in the north, the government has used incendiary rhetoric against Zaydi Shi'i religious leaders, fueling existing conflict between salafi Sunnis and Zaydis. The new transitional government has entered into negotiations with the Huthi movement in an effort to abate conflict, but violence between the Huthis and their opponents, the salafis in Dammaj and elsewhere has continued to escalate.

In late 2011, as the transitional government took power, trade unions and other workers' groups helped to organize what they have called a "parallel revolution." This series of work stoppages and lockouts targeted senior civil servants and military figures who were widely viewed as corrupt and tied to the old regime. These were neither centrally organized nor wholly spontaneous, but occurred in local "waves" across regions. For the most part, the demands of workers focused on the replacement of senior figures within the organization, and basic cost-of-living increases or improvements in working conditions. This developed out of the grassroots momentum of the wider revolutionary movement, and while it was articulated in more explicitly economic terms, it also expressed the common protest themes of dignity, citizen equality, and anti-corruption. Additionally, professional organizations have a larger role than traditional trade unions.

Rule of Law

In Yemen, equality before the law is limited in several ways. The laws on the books do not always affirm the principle of legal equality among citizens, there are substantial practical barriers to the enforcement of those which do, and law itself has been a mechanism through which the regime has been able to silence dissent and punish its critics, particularly the media.²⁴

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Major reforms to the judiciary will be required in order to establish greater rule of law, but these reforms are unlikely to occur outside of the broader National Dialogue or the process of constitution revision.

Under the current constitution, Yemen's legal system is formally divided into three tiers: the Courts of First Instance, Court of Appeals, and Supreme Court. Judicial practice, however, is not independent of the executive branch, nor is it protected from other sources of social and political pressure. In rural areas, where the majority of Yemenis reside, access to counsel is limited and tribal or customary law often supersedes Yemeni law. In fact, even in urban areas, citizens often prefer Islamic or customary courts to resolve disputes because they are seen as more effective.

The constitution nominally guarantees judicial independence, but the executive office heavily influences the court system. Appointments to the Supreme Judicial Council, which oversees the court system as a whole, are political appointees, and Saleh himself chaired the council until 2006. It is currently chaired by former Chief Justice, Essam 'Abd al-Wahhab al-Samawi. Like many civil servants, judicial staff promotions are based on a complicated system of favors and patronage rather than merit, rendering them susceptible to pressure from influential political or religious figures. Both a judge's social or tribal ties and, at times, bribery may influence verdicts. Prosecutors are similarly liable to be influenced, but as they play a smaller role in determining outcomes, they may face less direct pressure. More often, the authorities simply fail to pursue cases against prominent individuals, particularly on charges of corruption. The presumption of innocence is prescribed, yet rarely upheld in practice. Suspects are frequently held without charge for lengthy periods without any recourse. Leaders of political protests, particularly leaders of the southern movement since 2007 and the Huthi movement since 2004, have been arbitrarily arrested and detained. It is worth noting that throughout 2011 and into early 2012, the court system has been largely inoperable, as much government business has been delayed or interrupted by instability in much of the country.

Property rights and contracts are not well protected by law. This is in part because of differences in land tenure policies under the northern and southern regimes, where rules governing private ownership varied widely and were never smoothly integrated. The land registration system is complex and inexact, with multiple copies of deeds sold for the same plot. Prosecution or punishment for illegal land confiscation and related abuses remains rare, except for those with close patronage ties to the president. This promises to be a substantial problem following the revolution, given the scope of property destruction that has occurred during the year of conflict.

While the courts have regularly issued rulings in compliance with the president's preferences, on those occasions when they have challenged the vested interests of important tribal or political figures, judicial independence has also been further undermined by the use of executive pardons and amnesties or by the intervention of international actors such as the United States. Consistent with the broader personalization of politics described above, President Saleh regularly circumvented legal procedure by commuting or reducing sentences based on private, individualized agreements. Such extralegal agreements and the president's power to pardon have often been used to neutralize potential opponents or exonerate allies. In 2010, for example, the government charged Yemeni journalist and al-Jazeera contributor 'Abdullelah Haidar Shaea, whose reporting on Yemeni-US cooperation in counterterrorism operations and interviews with senior AQAP figures were critical of both the US and Yemeni governments, with terrorist recruitment.²⁵ After signing the GCC agreement in November 2011, Saleh promptly issued a

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blanket amnesty for all crimes committed during the revolutionary tumult (excluding the assassination attempt on him in June), for which Shaea was eligible. The amnesty – itself a personal decision taken by President Saleh – was reversed through a similarly personalized mechanism when President Barack Obama called President Saleh and asked that Shaea not be released.²⁶

The government has also established special courts that fall outside of the constitutional structure and should be considered, at best, an extension of executive authority. The Specialized Criminal Court, established in 1999, expanded its mandate in 2004 to include “crimes against national security,” giving the government wide latitude in prosecuting its critics. SCC procedures routinely fail to meet basic international standards and some trials have been held in secret. Attorneys representing suspects consistently complain of being denied access to evidence and to their clients.

The second exceptional court is the Special Press Court, designed to try journalists for crimes of expression ranging from “insult and humiliation” of public figures, to “undermining unity.” As discussed below, journalists and editors who have investigated corruption have been the most frequent targets of media suppression. A striking example of the extrajudicial use of this court system is the case of journalist Muhammed al-Maqaleh, who disappeared in 2009, was held and tortured in secret until January 2010, then charged in the Specialized Criminal Court and the Special Press Court for his coverage of the conflict in Sad’a, then released in May 2010 when his case was “discontinued” as part of a broad presidential amnesty for journalists in response to the demands of activist groups.²⁷ This case exemplifies the contingency and opacity of Yemeni encounters with the law.

Rule of law is also substantially undermined by the existence of multiple and not wholly coordinated branches of the security forces, as well as militias associated with tribal and other political factions. Because of the way in which President Saleh pooled control over the security services in the hands of his sons and nephews, there has been no genuinely “neutral” use of state force in Yemen. Clashes between the tribal militia of Sadeq al-Ahmar and the Republican Guard (under the control of Ahmed ‘Ali Saleh, the President’s son) in 2011 were not viewed as a conflict between “state forces” and “militants” but as a battle between rival militias. Similarly, when the 1st Armored Division of the Yemeni Armed Forces joined with al-Ahmar in protecting protesters, it was framed as a move by ‘Ali Muhsin’s forces, not a branch of the state military. This personalization of the use of force has been a major source of ongoing conflict in the transitional period since Saleh left power, as his family members were protected by the transitional agreement and retained positions of military power. Integrating and reforming the armed forces remains one of the most daunting challenges facing the transitional government.

Anticorruption and Transparency

Despite the establishment of investigative bodies and passage of anticorruption legislation, opaque government procedures and overt corruption abound in Yemen. Government efforts to combat corruption have been largely cosmetic, and the need for comprehensive anticorruption reform has been one of the central points of consensus cementing the JMP alliance and bridging the JMP and the grassroots protest movement of 2011.

In the upper echelons of government, nepotism and patronage politics ensure that appointments and promotions are largely made without regard to merit or qualification, but

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paltry civil service salaries provide incentives for employees to seek petty bribes even at low levels of the bureaucracy. In 2006, the government passed the National Anti-Corruption Law, which mandated the establishment of an independent commission to implement procedures designed to prevent corruption and to investigate allegations against civil servants, public officials, and members of the military. This commission, known as the Supreme National Authority to Combat Corruption (SNACC), was appointed in 2007, with 11 members elected from a pool of 30 candidates appointed by Shura Council, which is itself composed of presidential appointees. The appointment process was viewed with suspicion by members of the opposition, who saw appointment of some opposition members less as a sign of SNACC's independence than as a way to co-opt critical voices. By 2010, the SNACC reported having received over 10,000 financial disclosures from public employees, and recommended that 24 of these be prosecuted.²⁸ In the midst of the uprising of 2011, the SNACC referred a further 38 cases for prosecution.²⁹ The slow pace and political nature of the judicial process fueled revolutionary momentum, as well as the efforts undertaken by activists in the "parallel revolution" in late 2011 and early 2012.

Other anti-corruption bodies, like the Central Organization for Control and Auditing (COCA), produces some records of its audits, but like SNACC, all anti-corruption bodies rely on the judicial branch, which is itself one of the primary sites of government interference and corruption. Parliament has some oversight authority, particularly with regard to the budget, but the GPC supermajority has rarely put real pressure on government officials. The greatest parliamentary anti-corruption effort has probably been the formation of Parliamentarians Against Corruption, which was comprised of MPs on both sides of the aisle, which provided important domestic pressure for the establishment of SNACC, but cannot push cases to prosecution directly.

While in the past the government has rarely publicized its accounts except under significant pressure from parliament, there has been some improvement in budgetary transparency since Yemen began publishing an Executive Budget Proposal and Year-End Summary in 2010.³⁰ The accuracy of information in published reports remains questionable due to a dearth of trained bureaucrats and a lack of political will to ensure accuracy. Bureaucratic hurdles for citizens requesting information on government expenditures and operations are unduly difficult. The draft Freedom of Information law introduced in 2009 has yet to be passed into law.

Combating corruption therefore occurs mainly outside of government channels, through investigative journalism in independent and opposition papers and through the advocacy of anti-corruption NGOs. The boundary between media, NGOs, and political opposition parties, however, is often quite porous, with members of opposition parties often founding or accepting positions in NGOs that allow them to pursue an anti-corruption agenda.

Under President Saleh, the distribution of foreign aid was a particular locus of corruption, particularly with regard to the distribution of military contracts to private entrepreneurs with patronage ties to Saleh and his relatives.³¹ Journalists who reported on corruption in the military faced particular repression. The "parallel revolution" appears to be an explicit expression of Yemenis' frustrations with past failures to effectively curtail corruption at all levels of the civil and military government apparatuses, in particular. The first public sector strike was held at Yemenia, the national airline, demanding the resignation of the firm's president, son-in-law of President Ali Abdullah Saleh. Dozens of government agencies have been the targets of similar campaigns by public sector workers, through a combination of strikes, work stoppages, and the

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seizure of executive offices by large groups of workers.³² Police went on strike in the capital, as well, alleging that their director, General Muhammed al-Qawsi, had engaged in corruption and withheld wages, and there have been disruptions targeting senior leaders in the Air Force and other military branches, as well. The pressure generated by this kind of populist anti-corruption action led SNACC to initiate some high-profile prosecutions, though whether these will ultimately result in legal judgments remains to be seen.³³

Recommendations

- Wide-ranging security sector reform should be undertaken in order to better integrate and depersonalize control over the armed forces and security services and to reduce corruption in the awarding of military contracts.
- The upcoming National Dialogue should be inclusive of and responsive to actors who were largely excluded from partisan negotiations over the transitional framework.
- Serious consideration should be given to demands for greater local autonomy and the devolution of power; external actors should relax their assumptions about the benefits of “centralization” where centralization has been an impediment to good governance and has enabled asymmetric development.
- The government should adopt electoral reforms suggested by the EU in 2006 and advanced by the JMP in 2008. In particular, provisions designed to improve representativeness and accountability should be strongly considered.
- Parliamentary elections under a revised electoral law should be held at the earliest possible point.
- Steps should be taken to more clearly separate executive and judicial offices, including clear limits on the president’s authority to issue pardons and amnesties.
- The Special Press Court should be abolished, and the function of the Journalists’ Syndicate should be modified to facilitate freedom of expression.
- Former President Saleh should be encouraged to resign his position in the General People’s Congress and to leave Yemen.

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