Overall Score:

49 - Very Weak

Legal Framework Score:

62 - Weak

Actual Implementation Score:

32 - Very Weak

Category I. Civil Society, Public Information and Media

I-1. Civil Society Organizations

1. Are anti-corruption/good governance CSOs legally protected?

100

1a. In law, citizens have a right to form civil society organizations (CSOs) focused on anti-corruption or good governance.

YES | NO

References:
Law No. 1 for 2001: The Law for Associations and Foundations

YES: A YES score is earned when freedom to assemble into groups promoting good governance or anti-corruption is protected by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

NO: A NO score is earned when any single non-violent group is legally prohibited from organizing to promote good governance or anti-corruption. These groups may include non-violent separatist groups, political parties or religious groups.

1b. In law, anti-corruption/good governance CSOs are free to accept funding from any foreign or domestic sources.

YES | NO

Comments:
They must be ready to declare sources or face the possibility of being questioned about sources. There were problems faced by some local NGO’s that sought to end tribal blood feuds. The NGOs were obtaining technical and financial assistance from the United States government.

YES: A YES score is earned if anti-corruption/good governance CSOs face no legal or regulatory restrictions to raise or accept funds from any foreign or domestic sources. A YES score may still be earned if funds from groups with a history of violence or terrorism (within last ten years) are banned.

NO: A NO score is earned if there any formal legal or regulatory bans on foreign or domestic funding sources for CSOs focused on anti-corruption or good governance.

1c. In law, anti-corruption/good governance CSOs are required to disclose their sources of funding.

YES | NO

Comments:
Foreign funding should be disclosed to the government.

References:
http://www.icnl.org/knowledge/pubs/ArabStates.pdf#search=%22Sources%20of%20Funding%20NGO%20Yemen%22

YES: A YES score is earned if anti-corruption/good governance CSOs are required to publicly disclose their sources of funding.

NO: A NO score is earned if no such public disclosure requirement exists.

2. Are good governance/anti-corruption CSOs able to operate freely?

2a. In practice, the government does not create barriers to the organization of new anti-corruption/good governance CSOs.

100 | 75 | 50 | 25 | 0

Comments:
The first reference listed says that no licensing is required but the law and bylaws and the second source clearly indicate a registration/licensing process.

References:
http://www.icnl.org/knowledge/pubs/ArabStates.pdf#search=%22Sources%20of%20Funding%20NGO%20Yemen%22
http://www.state.gov/g/drl/rls/hrrpt/2005/61703.htm

100: CSOs focused on promoting good governance or anti-corruption can freely organize with little to no interaction with the government, other than voluntary registration.

75:

50: CSOs focused on promoting good governance or anti-corruption must go through formal steps to form, requiring interaction with the state such as licenses or registration. Formation is possible, though there is some burden on the CSO. Some unofficial barriers, such as harassment of minority groups, may occur.

25:
0: Other than pro-government groups, CSOs focused on promoting good governance or anti-corruption are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

2b. In practice, anti-corruption/good governance CSOs actively engage in the political and policymaking process.

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Comments:
NGOs may not participate in partisan activities.

References:
Law No. 1 and the By Laws of 2004

100: Civil society organizations focused on anti-corruption or good governance are an essential component of the political process. CSOs provide widely valued insights and have political power. Those CSOs play a leading role in shaping public opinion on political matters.

75:

50: Anti-corruption/good governance CSOs are active, but may not be relevant to political decisions or the policymaking process. Those CSOs are willing to articulate opinions on political matters, but have little access to decision makers. They have some influence over public opinion, but considerably less than political figures.

25:

0: Anti-corruption/good governance CSOs are effectively prohibited from engaging in the political process. Those CSOs are unwilling to take positions on political issues. They are not relevant to changes in public opinion.

2c. In practice, no anti-corruption/good governance CSOs have been shut down by the government for their work on corruption-related issues during the study period.

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Comments:
Some organizations that were forced to close reopened within the same year under a different name/auspices.

References:
No media reports.

YES: A YES score is earned if there were no CSOs shut down by the government or forced to cease operations because of their work on corruption-related issues during the study period.

NO: A NO score is earned if any CSO has been effectively shut down by the government or forced to cease operations because of its work on corruption-related issues during the study period. The causal relationship between the cessation of operations and the CSO’s work may not be explicit, however the burden of proof here is low. If it seems likely that the CSO was forced to cease operations due to its work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

3. Are civil society activists safe when working on corruption issues?

33

3a. In practice, in the past year, no civil society activists working on corruption issues have been imprisoned.
Comments:
A judge was arrested on trumped up charges (for actually having ruled in a case against a senior military official on a land dispute-case). But no known civil society activist has been known to be arrested.

References:
http://www.yementimes.com/article.shtmli=851&p=local&a=10

YES: A YES score is earned if there were no CSO activists imprisoned related to work covering corruption.

NO: A NO score is earned if any activist was jailed in relation to work covering corruption. The causal relationship between the official charges and the person’s work may not be explicit, however the burden of proof here is low. If it seems likely that the p

3b. In practice, in the past year, no civil society activists working on corruption issues have been physically harmed.

YES | NO

Comments:
Many people advocating for a peaceful end to the Houthi Rebellion were arrested and beaten.

References:
http://www.yementimes.com/article.shtmli=949&p=front&a=1

YES: A YES score is earned if there were no documented cases of CSO activists covering corruption being assaulted in the specific study period. A YES score can be earned if there was an attack but it was clearly unrelated to the activist’s work.

NO: A NO score is earned if there were any documented cases during the study period of assault to an activist who covers corruption. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

3c. In practice, in the past year, no civil society activists working on corruption issues have been killed.

YES | NO

Comments:
From the referenced Yemen Times article: The statement asserted that Al-Usaili was killed for publishing a short article entitled, The Country of Tribes Suffers, in the newspaper’s June 22 issue (No. 210). The piece criticized Al-Haima district officials for obstructing a water project underway in the area.

References:
http://yementimes.com/article.shtmli=961&p=front&a=3

YES: A YES score is earned if there were no documented cases of CSO activists being killed related to a corruption case in the specific study period.
4. Can citizens organize into trade unions?

75

4a. In law, citizens have a right to organize into trade unions.

YES | NO

Comments: However union activities are highly controlled. The Federation of Labor Unions is a government institution.

References:
http://www.pogar.org/countries/civil.asp?cid=22

YES: A YES score is earned when trade unions are allowed by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

NO: A NO score is earned when any single non-violent trade union is legally prohibited by the government from organizing.

4b. In practice, citizens are able to organize into trade unions.

100 | 75 | 50 | 25 | 0

References:
http://www.pogar.org/countries/civil.asp?cid=22

100: Trade unions are common and are an important part to the political process and political discourse. Trade union organizers have widely understood rights. Trade unions are free from intimidation or violence.

75:

50: Trade unions exist, but are not always relevant to politics or policy debates. Barriers to organizing trade unions exist, such as intimidation at work, or retribution firings. Trade union organizers have some rights, but these may not be commonly known, or are difficult to defend.

25:

0: Trade unions are rare. Significant barriers to organization exist, including direct violence. Rights of union organizers are not widely known, or are ineffective in protecting organizers.

I-2. Media
5. Are media and free speech protected?

50

5a. In law, freedom of the media is guaranteed.

YES | NO

Comments: Two newspapers were suspended, and reporters were arrested and beaten. The law, however does guarantee press freedom, but the government is trying to issue a tougher Press Law. No independent audio/visual media are allowed (such as TV or radio). Even independent HAM radio licenses are not allowed.

In a country like Yemen with high illiteracy, the bans on independent broadcast media are particularly damaging to open and accountable government (the print media reaches just a fraction of the total population).

References:

YES: A YES score is earned if freedom of the press is guaranteed in law, including all political parties, religions, and ideologies.

NO: A NO score is earned if any specific publication relating to government is legally banned, or any general topic is prohibited from publication. Specific restrictions on media regarding privacy or slander are allowed, but not if these amount to legal censorship of a general topic, such as corruption or defense. A NO score is earned if non-government media is prohibited or restricted.

5b. In law, freedom of speech is guaranteed.

YES | NO

References:
Yemeni Constitution
The Press and Publications Law No. 25 for 1990
http://www.pogar.org/countries/civil.asp?cid=22

YES: A YES score is earned if freedom of individual speech is guaranteed in law, including all political parties, religions, and ideologies.

NO: A NO score is earned if any individual speech is legally prohibited, regardless of topic. Specific exceptions for speech linked with a criminal act, such as a prohibition on death threats, are allowed. However, any non-specific prohibition earns a NO score.

6. Are citizens able to form media entities?

44

6a. In practice, the government does not create barriers to form a media entity.
### Media License Appeal Mechanism

100: Media entities can freely organize with little to no interaction with the government. Media groups have equal access to broadcast bandwidth through a reasonably fair distribution system.

75:

50: Formation of media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur. Division of broadcast bandwidth is widely viewed to be somewhat unfair.

25:

0: Media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear. Division of broadcast bandwidth is widely viewed to be used as a political tool.

6b. In law, where a media license is necessary, there is an appeal mechanism if a license is denied or revoked.

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Comments:
Applicants or owners of a revoked newspaper license may go to court. Appeals are sometimes helpful from international human rights NGO’s like Amnesty International and Human Rights Watch.

### Media License Availability

YES: A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied media license. A YES score is also earned if no license is necessary.

NO: A NO score is earned if there is no appeal process for media licenses.

6c. In practice, where necessary, citizens can obtain a media license within a reasonable time period.

| 100 | 75 | 50 | 25 | 0 |

Comments:
New Press Law includes burdensome requirements for a newspaper license. Other media licenses are not allowed (radio or TV).

References:
50: Licensing is required and takes more than two months. Some groups may be delayed up to six months.

25:

0: Licensing takes close to or more than one year for most groups.

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6d. In practice, where necessary, citizens can obtain a media license at a reasonable cost.

Comments:
New Press Law requires high financial resources to be proven before licensing.

References:
Same source as previous question

100: Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

75:

50: Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

25:

0: Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

7. Are the media able to report on corruption?

YES

NO

7a. In law, it is legal to report accurate news even if it damages the reputation of a public figure.

Comments:
Press law bans the citing of names.

References:
http://www.rsf.org/article.php3?id_article=17212

YES: A YES score is earned if it is legal to report accurate information on public figures regardless of damage to their reputations. Public figures are defined broadly, including anyone in a position of responsibility in the government or civil service; any political leader; leaders of civil society groups including religious groups, trade unions, or NGOs; leaders or officers of large businesses. A YES score can still be earned if a reckless disregard for the truth (i.e. slander) is prohibited.

NO: A NO score is earned if privacy laws protect any public figures (as defined in the YES coding) from accurate information.
7b. In practice, the government or media owners/distribution groups do not encourage self-censorship of corruption-related stories.

Comments:
Assaults and beatings or journalists occur as well as arrests, closure of newspapers and temporary or indefinite suspension of licenses.

References:
http://www.rsf.org/article.php3?id_article=17212

100: The government, its proxies, or media ownership/distribution groups make no attempt to restrict media coverage of corruption-related issues through unofficial means.

75:

50: The government, its proxies, or media ownership/distribution groups make some attempts to restrict media coverage of corruption-related issues through unofficial means, such as restricting access by disfavored media outlets, or other short-term consequences. Violent reprisals against media outlets are rare.

25:

0: The government, its proxies, or media ownership/distribution groups actively use illegal methods to restrict reporting of corruption-related issues. This may include harassment, arrests, and threats. Journalists and publishers take a personal risk to report on corruption, and media outlets who commonly report on corruption face long-term consequences or violent reprisals.

7c. In practice, there is no prior government restraint on publishing corruption-related stories.

References:
http://www.rsf.org/article.php3?id_article=17212

100: The government never prevents publication of controversial corruption-related materials.

75:

50: The government prevents publication of controversial corruption-related material in cases where there is a strong political incentive to suppress the information. In countries where illiteracy is higher, the government may allow a free print press but censor broadcast media.

25:

0: The government regularly censors material prior to publication, especially politically sensitive or damaging corruption-related material.

8. Are the media credible sources of information?

56

8a. In law, media companies are required to disclose their ownership.
YES | NO

Comments:
Licenses are often under the names of owners or owner’s representatives.

References:
http://www.pogar.org/countries/civil.asp?cid=22

YES: A YES score is earned if media companies are required by law to disclose all owners of the company.

NO: A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain type of entities or agents from being disclosed.

8b. In practice, journalists and editors adhere to strict, professional practices in their reporting.

100 | 75 | 50 | 25 | 0

Comments:
The major news outlets are government owned, and there one finds a noticeable lack of ethics. There are some independents that are not fully adhering to professional ethics. The independents and some of the opposition parties’ press organs try to display a noticeably higher standard of ethics.

References:
http://www.yementimes.com/98/iss31/intview.htm

100: Editors and journalists at the major media outlets abide by a strict journalistic code of conduct and are unwilling to alter their coverage of a particular issue, event or person in exchange for money, gifts, or other favors or remuneration.

75:

50: Editors and journalists at the major media outlets generally avoid altering coverage in exchange for favors but some exceptions have been noted. Not all newsrooms abide by a formal journalistic code of conduct.

25:

0: Editors and journalists are widely known to sell favorable or unfavorable coverage in exchange for money, gifts, or other remuneration. The major media outlets do not abide by any formal journalistic code of conduct.

8c. In practice, during the most recent election, political parties or independent candidates received fair media coverage.

100 | 75 | 50 | 25 | 0

Comments:
Government controls the major media outlets and there is a general trend in using the media to support the ruling party’s candidates, especially the TV and radio. Attempts are made to show this as merely discussion of achievements and successes, but the implication is obvious.
100: All political parties and independent candidates have some access to media outlets. Individual media outlets may have biases, but on balance, the national media coverage reflects the interests of the electorate. Media groups generally act as disinterested parties in an election. In places where a government is popular with the public, opposition viewpoints can access the public via media outlets.

75:

50: Major popular media outlets have a persistent bias regarding some parties or independent candidates. Some major parties may be partially excluded from media coverage, or draw more negative coverage. Media sectors may have distinct biases, such as newspapers favoring one party, while radio favors another.

25:

0: The mass media, on balance, have clear preferences in election outcomes and coverage is driven to achieve these goals. Some major parties or independent candidates are excluded or consistently negatively portrayed by mass media. Dissenting political opinions are only found on fringe or elite media outlets, such as Web sites.

8d. In practice, political parties and candidates have equitable access to state-owned media outlets.

100  |  75  |  50  |  25  |  0

References:
See source of previous question

100: The government ensures that equal access and fair treatment of election contestants is provided by all state-owned media outlets, including all electronic and print media. This obligation extends to news reports, editorial comment, and all other content.

75:

50: The government generally ensures equal access and fair treatment of all candidates and parties by state-owned media outlets but some exceptions exist. State-owned media may occasionally discriminate against particular parties or candidates and advertising rates may be confusing or non-transparent.

25:

0: The government uses state-owned media to routinely discriminate against opposition candidates and parties. Advertising space may be denied to opposition candidates and parties or higher rates may be charged.

9. Are journalists safe when investigating corruption?

0

9a. In practice, in the past year, no journalists investigating corruption have been imprisoned.

YES |  NO

Comments:
There were few arrests, (the editor of Al-Balagh was detained for a day), but the government has resorted to beating of newspaper editors and reporters, which is sometimes harsher and more demeaning.
YES: A YES score is earned if there were no journalists imprisoned related to work covering corruption during the study period.

NO: A NO score is earned if any journalist was jailed because of his/her work covering corruption during the study period. The causal relationship between the official charges and the journalist’s work may not be explicit, however the burden of proof here is low. If it seems likely that the journalist was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

9b. In practice, in the past year, no journalists investigating corruption have been physically harmed.

YES | NO

Comments:
The government has resorted to beating of newspaper editors and reporters.

References:
See following question

YES: A YES score is earned if there were no documented cases of journalists being assaulted during the specific study period for their work covering corruption issues.

NO: A NO score is earned if there were any documented cases of assault to a journalist covering corruption during the study period. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

9c. In practice, in the past year, no journalists investigating corruption have been killed.

YES | NO

Comments:
At least one journalist has been killed this year, but several others were abducted and beaten severely.

References:

YES: A YES score is earned if there were no documented cases of journalists being killed because of their work covering corruption-related issues during the study period.

NO: A NO score is earned if there were any documented cases where a journalist was killed in relation to his or her work covering corruption-related issues in the study period. The relationship between a mysterious death and an individual’s work may not be clear, however the burden of proof here is low. If it is a reasonable guess that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.
10. Do citizens have a legal right of access to information?

10a. In law, citizens have a right of access to government information and basic government records.

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Comments:
Article 3 of the Press Law and Article 3 Clause 5 of its Executive By-Laws explicitly state that the citizens have a right to obtain information. Currently, there is a new draft press law being discussed and most partisan press and independent journalists do not approve of it (see last source).

References:
Yemeni Constitution
Law of the Press No. 25 of 1990 (Article 3)
Republican Decree 49 of 1993 Concerning the Executive By-Laws of Law No 25/1990 (Article 3 Clause 5)
http://www.nic.gov.ye/English%20site/SITE%20CONTAINS/about%20yemen/yjok%20view/aboutyem.htm

YES: A YES score is earned if there is a formal right to access any government documents. Exceptions can be made for national security reasons or individual privacy, but they should be limited in scope. All other government documents should be available upon a public request. There should be a formal process for requesting this information.

NO: A NO score is earned if there is no such right.

10b. In law, citizens have a right of appeal if access to a basic government record is denied.

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Comments:
No expressed method found to obtain information, but general government information (not sensitive) will be readily available if one wants and looks for it.

References:

YES: A YES score is earned if there is a formal process of appeal for rejected information requests.

NO: A NO score is earned if there is no such formal process.

10c. In law, there is an established institutional mechanism through which citizens can request government records.

| YES | NO |

Comments:
Overall aspects of trying to obtain information are well covered in the source link. According to press law and executive by laws (see answere to 10b), the press is supposed to fulfill this purpose. But the Constitution explicitly gives the citizens the right to sue the government in the courts if they are denied any of their rights.
YES: A YES score is earned if there is a formal government mechanism/institution through which citizens can access government records available under freedom of information laws. This mechanism could be a government office (or offices within agencies or ministries) or an electronic request system.

NO: A NO score is earned if there is no such formal mechanism or institution.

11. Is the right of access to information effective?

25

11a. In practice, citizens receive responses to access to information requests within a reasonable time period.

| 100 | 75 | 50 | 25 | 0 |

Comments:
Efforts to obtain information are not rejected unless they deal with sensitive material, especially defense, or finances of officials. Government internet information is also poor.

References:
Own experience

100: Records are available on-line, or records can be obtained within two weeks. Records are uniformly available; there are no delays for politically sensitive information. Legitimate exceptions are allowed for sensitive national security-related information.

75:

50: Records take around one to two months to obtain. Some additional delays may be experienced. Politically-sensitive information may be withheld without sufficient justification.

25:

0: Records take more than four months to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records. National security exemptions may be abused to avoid disclosure of government information.

11b. In practice, citizens can use the access to information mechanism at a reasonable cost.

| 100 | 75 | 50 | 25 | 0 |

Comments:
Formal mechanism for obtaining information is not readily accessible to public, but there are sufficient periodic government reports that are readily available, including government finance, judicial records and security records (criminal statistics). Public sector enterprises also provide sufficient information on their operations, including utilities and financial institutions like the Central Bank.

References:
Own experience
100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

11c. In practice, citizens can resolve appeals to access to information requests within a reasonable time period.

100 │ 75 │ 50 │ 25 │ 0

Comments:
Once information is denied, rarely are appeals made if any to obtain them and they would most likely be denied

References:
None available

100: The agency/entity acts on appeals quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

75:

50: The agency/entity acts on appeals quickly but with some exceptions. Some appeals may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency/entity does not resolve appeals in a timely fashion quickly. Appeals may be unacknowledged for many months and simple issues may take more than three months to resolve.

11d. In practice, citizens can resolve appeals to information requests at a reasonable cost.

100 │ 75 │ 50 │ 25 │ 0

Comments:
There is no formal appeals mechanism other than the courts, which would make it prohibitively costly.

References:
None available

100: In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge an access to information determination.

75:

50: In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge an access to information determination.
**25:**

0: The prohibitive cost of utilizing the access to information appeals mechanism prevents middle class citizens from challenging access to information determinations.

**11e. In practice, the government gives reasons for denying an information request.**

100 | 75 | 50 | 25 | 0

Comments:
Quite often the excuse is sensitivity of information," probable slander of officials or security reasons.

References:

100: The government always discloses to the requestor the specific, formal reasons for denying information requests.

75:

50: The government usually discloses reasons for denying an information request to the requestor, with some exceptions. The reasons may be vague or difficult to obtain.

25:

0: The government does not regularly give reasons for denying an information request to the requestor.

**Category II. Elections**

**II-1. Voting & Citizen Participation**

12. Is there a legal framework guaranteeing the right to vote?

100

12a. In law, universal and equal adult suffrage is guaranteed to all citizens.

YES | NO

Comments:
This right was established in May 1991; it was amended September 1994 and February 2001, but this has not changed the universal suffrage for citizens over 18. Naturalized citizens must have gone through a 15-year cooling over period" before having the right to vote.

References:
Yemeni Constitution
YES: A YES score is earned if the right to vote is guaranteed to all citizens of that country. A YES score can still be earned if voting procedures are, in practice, inconvenient or unfair.

NO: A NO score is earned if suffrage is denied by law to any group of adult citizens for any reason. Citizen is defined broadly, to include all ethnicities, or anyone born in the country. A NO score is earned if homeless or impoverished people are legally prohibited from voting.

12b. In law, there is a legal framework requiring that elections be held at regular intervals.

YES | NO

Comments:
Tenure has been amended for presidential elections and Municipal Councils from 5 years to 7 years, House of Representatives from 5 years to six years.

References:
Same sources for previous question.
Elections Law (Law 13 for 2001) and By Laws
1999 Amendment to Constitution

YES: A YES score is earned if there is a statutory or other framework enshrined in law that mandates elections at reasonable intervals.

NO: A NO score is earned if no such framework exists.

13. Can all citizens exercise their right to vote?

75

13a. In practice, all adult citizens can vote.

100 | 75 | 50 | 25 | 0

Comments:
An incomplete score is granted because of the cooling-off period for naturalized citizens, which is 15 years after having obtained citizenship.

References:
Same sources as question 12a.

100: Voting is open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers.

75:

50: Voting is often open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers, with some exceptions.

25:
0: Voting is not available to some demographics through some form of official or unofficial pressure. Voting may be too dangerous, expensive, or difficult for many people.

13b. In practice, ballots are secret or equivalently protected.

100 75 50 25 0

Comments:
In every election, there have been complaints of ballot tampering and use of dubious electioneering tactics (military votes, handouts for votes etc.) Although some of the sources are old, the chances are there are more ways to tamper with elections, especially as the ruling party dominates the Supreme Elections Committee and most of the election committees in the field and polling places.

References:
http://www.harpers.org/Democracy.html

100: Ballots are secret, or there is a functional equivalent protection, in all cases.

75:

50: Ballots are secret, or there is a functional equivalent protection, in most cases. Some exceptions to this practice have occurred. Ballots may be subject to tampering during transport or counting.

25:

0: Ballot preferences are not secret. Ballots are routinely tampered with during transport and counting.

13c. In practice, elections are held according to a regular schedule.

100 75 50 25 0

Comments:
The time frames have been changed by statute (see comment for 12b).

References:
See sources for question 12 B

100: Elections are always held according to a regular schedule, or there is a formal democratic process for calling a new election, with deadlines for mandatory elections.

75:

50: Elections are normally held according to a regular schedule, but there have been recent exceptions. The formal process for calling a new election may be flawed or abused.

25:

0: Elections are called arbitrarily by the government. There is no functioning schedule or deadline for new elections.

14. Are citizens able to participate equally in the political process?
14a. In law, all citizens have a right to form political parties.

**YES | NO**

**Comments:**

There are often instances, where the ruling party will clone parties that are similar to opposition parties it deems to be hostile”. There are also burdensome procedures to the formation of new parties. The Bylaws have made the formation of new political parties even more difficult. Note most of the parties that did appear after unification were not really new, but rather elements of the one-party systems that existed in both North and South or factions that were operating underground. After unification 22 political parties surfaced, but in reality now only a handful are really still functioning. Only five have at least one member in Parliament (301 seats).

**References:**

Constitution
[http://www.idea.int/arab_world/yemen/](http://www.idea.int/arab_world/yemen/)

**YES:** A YES score is earned if citizens have the right to form political parties without interference from government. A YES score may still be earned if groups or individuals with a history of violence or terrorism (within last ten years) are banned from forming political parties. Non-discriminatory minimal criteria (e.g. minimum age) are also allowed.

**NO:** A NO score is earned if there are any legal or regulatory restrictions or prohibitions barring any types of political parties from being formed.

14b. In law, all citizens have a right to run for political office.

**YES | NO**

**Comments:**

Being a candidate is one thing, getting on the ballot is somewhat tougher, especially for President and to a certain extent for members of Parliament.

**References:**

Elections Law (2001) and By-Laws
By_laws

**YES:** A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) have the right under law to run for political office. A YES score may still be earned if individuals with a history of violence, terrorism, or criminality are banned from running for office.

**NO:** A NO score is earned if there are any legal restrictions barring certain individuals or groups from running for political office.

14c. In practice, all citizens are able to form political parties.
Comments:
There are often instances, where the ruling party will clone parties that are similar to opposition parties it deems to be hostile. There are also burdensome procedures to the formation of new parties. The Bylaws have made the formation of new political parties even more difficult. Note most of the parties that did appear after unification were not really new, but rather elements of the one-party systems that existed in both North and South or factions that were operating underground. After unification 22 political parties surfaced, but in reality now only a handful are really still functioning. Only five have at least one member in Parliament (301 seats).

References:
Same sources as previous question (14b).

100: While there is no guarantee of electoral success, political parties can form freely without opposition.

75:

50: Some barriers to formation are present, such as burdensome registration requirements that may not be fairly applied. Some parties’ political viewpoints may draw pressure from the government, such as surveillance or intimidation. Some political parties or organizations may have extra barriers to getting on a ballot.

25:

0: Some political parties are effectively barred from forming through some manner of official or unofficial pressure. This may include threats, arrest, or violence from competing parties or other groups.

14d. In practice, all citizens can run for political office.

100: While there is no guarantee of electoral success, anyone can run for office under transparent and equitable guidelines. There is a formal process for access to the ballot which is fairly applied. The costs of running a campaign are reasonable and do not deter candidates from entering a race.

75:

50: Some barriers exist to getting on the ballot and bureaucratic or regulatory requirements for doing so may be unfairly applied. The costs of running a political campaign are significant and result in dissuading some candidates from running for office.

25:

0: Citizens can effectively be barred from the ballot through government abuse of official rules and/or unofficial pressure. The costs of running a campaign are extremely high and result in most average citizens being unable to run an effective campaign for office.
14e. In practice, an opposition party is represented in the legislature.

Comments:
Ruling party dominates the Parliament with around 170 seats out of 301. Largest opposition party has some 40 seats and all others around 10. Parliament does not initiate legislation, but approves drafts presented by Cabinet (including budget). Through political clout or otherwise, the Parliament seldom may comment on proposals or have reservations, but often they are meaningless.

References:

100: The opposition party always has some influence on the proceedings of the legislature. The opposition party can introduce legislation or bring pending matters to a vote without the consent of the ruling party.

75: The opposition party has influence on the proceeding of the legislature, but it is limited in scope. The opposition's ability to force votes or publicly debate certain topics may be limited.

50: The opposition party has influence on the proceeding of the legislature, but it is limited in scope. The opposition's ability to force votes or publicly debate certain topics may be limited.

25: The opposition party has only token participation in the legislature's proceedings and cannot advance legislation or force a debate.

II-2. Election Integrity

15. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

100

Comments:
The Supreme Elections and Referenda Committee oversees all the election proceedings. It is supposed to be formed of different political parties and organizations. The law allows political parties to set up monitoring units of their own.

References:
General Election and Referendum Law (13) 2001 of the Republic of Yemen.

YES: A YES score is earned if there is an agency or set of agencies/entities formally assigned to ensure the integrity of the election process.
16. Is the election monitoring agency effective?

65

16a. In law, the agency or set of agencies/entities is protected from political interference.

YES | NO

Comments:
The Supreme Elections and Referenda Committee actually runs the election process and coordinates with other monitoring agencies or NGO’s for the monitoring tasks.

References:
See previous question
Political Parties and Organizations Law

YES: A YES score is earned only if the agency or set of agencies/entities has some formal organizational independence from the bodies being contested in the election. A YES score is still earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the election monitoring agency or set of agencies/entities is legally tied to bodies contesting the election (i.e. an executive branch agency such as the Interior Ministry, or a committee of the legislature). A NO score is automatically earned if there is no election monitoring agency.

16b. In practice, agency (or set of agencies/entities) appointments are made that support the independence of the agency.

100 | 75 | 50 | 25 | 0

Comments:
The first Supreme Committee (1994) was fairly representative of the various political factions, but as the years advanced the ruling party (the People’s General Congress) dominated the committee, although they are theoretically not supposed to engage in any political activities.

References:
Elections Law and By-Laws

100: Appointments to the agency or set of agencies/entities are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. However, individuals appointed may have clear party loyalties.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.
16c. In practice, the agency or set of agencies/entities has a professional, full-time staff.

100  | 75  | 50  | 25  | 0

Comments:
Recently two new members were added from the opposition after fierce political disputes between the ruling party and the opposition bloc. For an idea of the staffing of the SCER, see second link.

References:
See previous questions sources.
http://www.yementimes.com/article.shtml?id=949&amp;p=front&amp;a=2
http://www.yementimes.com/article.shtml?id=941&amp;p=opinion&amp;a=4
http://www.yementimes.com/article.shtml?id=980&amp;p=opinion&amp;a=3

16d. In practice, the agency or set of agencies/entities makes timely, publicly available reports following an election cycle.

100  | 75  | 50  | 25  | 0

Comments:
Generally, the reports have been timely, with some delays due to geographical remoteness or disputed results.

References:
http://www.scer.org.ye/english/generalelections law.htm (Article 106)

100: Reports are released to the public on a predictable schedule, without exceptions.

75:

50: Reports are released, but may be delayed, difficult to access, or otherwise limited.

25:

0: The agency or set of agencies/entities makes no public reports, issues reports which are effectively secret, or issues reports of no value.

16e. In practice, when necessary, the agency or set of agencies/entities imposes penalties on offenders.
Comments:
Only the Courts can impose fines or punishments driven by lawsuits of contestants, citizens, political parties, etc. Cooperation with the courts may come from the Elections Committee, depending on the parties involved.

References:
http://www.scer.org.ye/english/generalelectionslaw.htm Article 125

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100: When rules violations are discovered, the agency or set of agencies/entities is aggressive in penalizing offenders and/or in cooperating with other agencies in penalizing offenders.

75:

50: The agency or set of agencies/entities enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

25:

0: The agency or set of agencies/entities does not effectively penalize offenders and/or cooperate with other agencies in penalizing offenders. The agency may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

17. Are elections systems transparent and effective?

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17a. In practice, there is a clear and transparent system of voter registration.

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Comments:
There have been problems with registration and many objections were dealt with by the Committee after complaints by the political parties.

References:
http://www.scer.org.ye/english/generalelectionslaw.htm and its by laws
http://www.yementimes.com/article.shtml?i=948&p=local&a=1

100: There is a transparent system of voter registration that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote.

75:

50: There is a transparent voter registration system that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote but there are some problems. Voters may have not access to registration lists with sufficient time to correct errors before voting or registration lists may at times be inaccessible.

25:

0: The system of voter registration is incomplete or does not exist. Government may routinely falsify registration lists to affect voting patterns and limit access to the polls. Double voting and ghost* voting by non-existent voters is common.

17b. In law, election results can be contested through the judicial system.
YES: A YES score is earned if citizens or political parties can challenge allegedly fraudulent election results through the courts or other judicial mechanisms.

NO: A NO score is earned if there is no legal right for citizens or political parties to challenge allegedly fraudulent election results in the courts or other judicial mechanisms.

17c. In practice, election results can be effectively appealed through the judicial system.

| 100 | 75 | 50 | 25 | 0 |

Comments:
There have been cases that were accepted by the courts, but often were subject to political influence.

References:
http://yementimes.com/article.shtml?i=972&p=front&a=1

100: The electoral appeals mechanism takes cases from both candidates complaining of flaws in the electoral process as well as citizens bringing complaints related to denial of suffrage or registration errors. There is an expedited process for resolving such complaints to avoid delaying a timely announcement of electoral results.

75:

50: The electoral appeals mechanism takes complaints from both candidates and voters but may not always act on complaints promptly. The appeals mechanism may be abused at times by parties or candidates seeking to delay the announcement of electoral results.

25:

0: The electoral appeals mechanism rarely or never acts on complaints brought by candidates or citizens. Citizens may not be able to bring complaints related to denial of suffrage or voter registration errors.

17d. In practice, the military and security forces remain neutral during elections.

| 100 | 75 | 50 | 25 | 0 |

Comments:
There have always been complaints, even by military men, of their forced involvement in influencing the voting.

References:
http://www.yementimes.com/article.shtml?i=971&p=front&a=1
The military, military officers, and other security forces refrain from overtly supporting or opposing political candidates or commenting on elections. The military or security forces refrain from physically interfering with political campaigns, rallies, or voting.

The military, military officers, and security forces may be known to unofficially support or oppose particular candidates or parties. The military or security forces generally refrain from the use of force to support or oppose particular candidates or parties but there are exceptions.

The military or other security forces are an active and explicit player in politics and overtly support or oppose particular candidates or parties. The military or security forces routinely exercise the use of force to support or oppose parties or candidates.

17e. In law, domestic and international election observers are allowed to monitor elections.

**YES** | **NO**

Comments:
Foreign and domestic monitors have been present in all elections.

References:
General Elections Law and By-Laws

YES: A YES score is earned if domestic and international election observers are allowed to monitor the electoral process.

NO: A NO score is earned if there are any legal or regulatory prohibitions on the monitoring of the electoral process by domestic or international election observers.

17f. In practice, election observers are able to effectively monitor elections.

100 | 75 | 50 | 25 | 0

Comments:
Observers are free to carry out their roles in the major cities and towns, but in the countryside it is different.

References:
Election Law and By-Laws

100: Election observers have unfettered access to polling sites, counting stations, and voters themselves. The government does not interfere with the observers' activities.

75:

50: Election observers generally have access to polling sites, counting stations, and voters but encounter restrictions in certain areas. The government may impose burdensome regulatory or bureaucratic requirements on observers to discourage their involvement.

25:

0: Election observers' movements are significantly limited by the government and many polling and counting sites are restricted or barred from observers. The government imposes so many bureaucratic or regulatory burdens on the observers that their mission is rendered ineffective.
18. Are there regulations governing political financing?

18a. In law, there are regulations governing private contributions to political parties.

| YES | NO |

**Comments:**
The regulations are very weak and only restrict foreign funding of candidates.

**References:**
General Election Law and By-Laws
http://www.yementimes.com/99/iss31/tview.htm

**YES:** A YES score is earned if there are any formal rules (by law or regulation) controlling private contributions to political parties.

**NO:** A NO score is earned if there is no regulation of private contributions to political parties.

18b. In law, there are limits on individual donations to candidates and political parties.

| YES | NO |

**Comments:**
The President received some $5 million dollars in contributions from the private sector before he even announced his candidacy for the 2006 Presidential Elections. He later decided to donate it to the Palestinians and Lebanese after Lebanon was attacked by Israel.

Each candidate for the Presidency also received YR 25 million (US$1=YR 198.7) from the Government.

**References:**
General Elections Law (13?2001) and By-Laws
http://www.yemenmirror.com/index.php?action=showDetails&Id=42

**YES:** A YES score is earned if there are any limits, regardless of size, on individual contributions to political candidates and political parties. A YES score is earned if individual contributions are prohibited.

**NO:** A NO score is earned if there are no limits on contributions from individuals. A NO score is also earned if limits are applied by the government on opposition parties/candidates in a discriminatory manner.

18c. In law, there are limits on corporate donations to candidates and political parties.
YES | NO

Comments:
There are no limits, except that funds cannot be obtained from foreign contributors.

References:

YES: A YES score is earned if there are any limits, regardless of size, on corporate contributions to political candidates and political parties. A YES score is earned if contributions are prohibited.

NO: A NO score is earned if there are no limits on corporate contributions to candidates or political parties. A NO score is also earned if limits are applied by the government on opposition parties/candidates in a discriminatory manner.

18d. In law, there are limits on total political party expenditures.

YES | NO

References:
General Elections Law and By-Laws

YES: A YES score is earned if there are any limits, regardless of size, on political party expenditures. A YES score is earned if all party expenditures are prohibited.

NO: A NO score is earned if there are no limits on political party expenditures. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

18e. In law, there are requirements for disclosure of donations to political candidates and parties.

YES | NO

Comments:
There is little talk of donations, except some regarding presidential candidates, except that any donations should be put in a bank account.

References:
General Elections Law (article 75) and By-Laws
Political Parties Law
http://www.arabelectionlaw.net/search_eng.php?mainid=188

YES: A YES score is earned if there are any requirements mandating the disclosure of financial contributions to political parties or candidates.

NO: A NO score is earned if there are no requirements mandating the disclosure of contributions to political parties or candidates, existing regulations do not require a donor’s name or amount given, or the regulations allow for anonymous donations.
18f. In law, there are requirements for the independent auditing of the finances of political parties and candidates.

YES | NO

Comments:
It is required to disclose contributions to political parties over YR 100,000 according to the Law of Political Parties (see third source).

References:
General Elections Law and By Laws [http://www.scbr.org.ye/english/generalelections.htm]

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of candidate and party finances. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of political parties and candidates or if such requirements exist but allow for candidates or parties to self-audit.

19. Are the regulations governing political financing effective?

0

19a. In practice, the limits on individual donations to candidates and political parties are effective in regulating an individual’s ability to financially support a candidate or political party.

100 | 75 | 50 | 25 | 0

Comments:
There are no limits on contributions to candidates and exposure limits for parties only.

References:
Election Law and By-Laws
Political Parties and Organizations Law

100: Existing limits represent the full extent to which an individual can directly or indirectly financially support a candidate or political party. Limits are reasonably low enough in the context of the total costs of running a campaign.

75:

50: Existing limits generally represent the full extent to which an individual can directly or indirectly financially support a candidate or political party. However, exceptions and loopholes exist through which individuals can indirectly support candidates or political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate or party; unregulated loans to candidates or parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The vast majority of individual contributions to a candidate or political party are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

19b. In practice, the limits on corporate donations to candidates and political parties are effective in regulating a company’s ability to financially support a candidate or political party.
Comments:
There are no clear cut rules governing contributions and financing.

References:
Elections Law and By-Laws
Political Parties Law

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100: Existing limits represent the full extent to which a company can directly or indirectly financially support a candidate or political party. Limits are reasonably low enough in the context of the total costs of running a campaign to be meaningful.

75:

50: Existing limits generally represent the full extent to which a company can directly or indirectly financially support a candidate or political party. However, exceptions and loopholes exist through which companies can indirectly support candidates or political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate or party; unregulated loans to candidates or parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The majority of corporate contributions to a candidate or political party are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

19c. In practice, the limits on total party expenditures are effective in regulating a political party’s ability to fund campaigns or politically-related activities.

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Comments:
Some parties are even known to have obtained foreign funding, such as the Ba’ath Party (both Syria and Iraq), Islah Party (Saudi Arabia), but no one talks about them.

References:
Elections Law and By-Laws
Political Parties Law

100: Existing limits represent the full extent to which political parties are able to finance their activities. Limits are reasonably low enough in the context of the total costs of running a party to be meaningful.

75:

50: Existing limits generally represent the full extent to which a political party can finance its activities. However, exceptions and loopholes exist through which parties can generate revenue or finance their activities beyond the scope of existing regulations. Such loopholes could include taking loans that are outside of the scope of regulations covering direct donations; links to revenue-generating business activities that are beyond the scope of electoral or campaign-related regulations; or accepting in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a party.

25:

0: Existing limits are routinely bypassed or willfully ignored. The majority of expenditures are made outside of the formal limitation system. Limits are so high that they are meaningless in the context of the overall costs of running a party.
19d. In practice, when necessary, an agency or entity monitoring political financing independently initiates investigations.

| Score | 100 | 75 | 50 | 25 | 0 |

**Comments:**
There has never been an audit conducted by any specialized agency that is assigned to monitor and control the finances of candidates and political parties.

**References:**
- Election Law and By-Laws
- Political Parties Law

100: The agency or entity aggressively starts investigations into allegations of wrongdoing with respect to political financing. The agency is fair in its application of this power.

75:

50: The agency or entity will start investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, thought limited in effectiveness, is still fair in its application of power.

25:

0: The agency or entity rarely investigates on its own, or the agency or entity is partisan in its application of this power.

19e. In practice, when necessary, an agency or entity monitoring political financing imposes penalties on offenders.

| Score | 100 | 75 | 50 | 25 | 0 |

**Comments:**
From experience in the political and social arena, we have not heard of any violations being penalized, or even reported.

**References:**
No sources

100: When rules violations are discovered, the agency or entity is aggressive in penalizing offenders.

75:

50: The agency or entity enforces rules, but is limited in its effectiveness. The agency or entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency or entity does not effectively penalize offenders. The agency or entity may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency or entity may be partisan in its application of power.

19f. In practice, contributions to political parties and candidates are audited.
Comments:
There are no legal requirement for such audits.

References:
Elections Law and By-Laws
Political Parties Law

100: Political party and candidate finances are regularly audited using generally accepted auditing practices. This includes the auditing of nominally independent financial organizations that act as financial extensions of the party.

75:

50: Political party and candidate finances (as defined) are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions. Contributions to the political party or candidate may be sufficiently audited, but the auditing of nominally independent extensions of the party may not be.

25:

0: Party and candidate finances are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

20. Can citizens access records related to political financing?

0

20a. In practice, political parties and candidates disclose data relating to financial support and expenditures within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:
There are no legal requirements for such audits. No published public disclosure report has ever been seen for any political organization or candidate.

References:
Political Parties Law
Election Law and By-Laws

100: Political parties and candidates disclose their sources of funding and expenditures at least every quarter.

75:

50: Political parties and candidates disclose their sources of funding and expenditures only one or two times per year. Delays may occur when sensitive political information is involved.

25:

0: Political parties and candidates never publish their sources of funding or expenditures or publish that information only rarely with more than a year in between publication. Politically sensitive information is regular withheld from public disclosure.

20b. In practice, citizens can access the financial records of political parties and candidates within a reasonable time period.
### Comments:
No one has reported asking for such records or information, even within their own parties.

### References:
The Elections Law and By-Laws  
Political Parties Law  

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**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take two to four weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.

### Comments:
Citizens have yet to develop the culture to seek such disclosure.

### References:
Election Law and By Laws  
Political Parties Law

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.
21. In law, can citizens sue the government for infringement of their civil rights?

100

YES  |  NO

References:
Yemeni Constitution (Article 50)
http://jurist.law.pitt.edu/world/yemen.htm
http://www.yementimes.com/98/iss32/3d.htm

YES: A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) can receive compensation or redress through the courts for civil rights violations committed by the government, such as failure to follow due process of law when detaining suspected criminals.

NO: A NO score is earned if any group of citizens is excluded from the right to sue the government, or no such mechanism exists.

22. Can the chief executive be held accountable for his/her actions?

50

22a. In practice, the chief executive gives reasons for his/her policy decisions.

100  |  75  |  50  |  25  |  0

Comments:
Critical questions may only be presented to the Prime Minister and below. Presidential press conferences are usually kept at a low tone and are granted to selected (mostly official) press organs, with occasional interviews with Arab and foreign journalists.

References:
http://www.mhryemen.org/archive/archive_en.php (Bajammal Press Conference)

100: The chief executive and/or cabinet ministers give formal explanations of all policy matters. The chief executive regularly takes critical questions from journalists or an opposition party, usually at least once a month. There is no censoring of such sessions.

75:

50: The chief executive and/or cabinet ministers give explanations of policy, but not always in a timely or complete way. The chief executive occasionally takes critical questions from journalists or an opposition party, but not in a regular or formalized process. Particular issues of political sensitivity may be censored by government broadcasters.

25:

0: The chief executive and/or cabinet ministers do not give substantial justifications for policy. Public appearances by the chief executive offer no exposure to critical questions. The government and government-run media routinely censor such sessions.
22b. In law, the judiciary can review the actions of the executive.

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**Comments:**
So far none has ever been to trial.

**References:**

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YES: A YES score is earned if there is a formal process by which the judiciary can pass judgments on the legality or constitutionality of actions taken by the executive.

NO: A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exemptions exist with respect to executive actions that are reviewable (a national security exemption, for example).

22c. In practice, when necessary, the judiciary reviews the actions of the executive.

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**Comments:**
The Supreme Judicial Council is now headed by the Head of the Supreme Court, but is still incapable of bringing any senior government officials for review.

**References:**
[http://lcweb2.loc.gov/frd/cs/profiles/Yemen.pdf](http://lcweb2.loc.gov/frd/cs/profiles/Yemen.pdf) (page 18)

100: When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing executive actions and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power.

75:

50: The judiciary will review executive actions, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

25:

0: The judiciary does not effectively review executive policy. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power. It must rely on instructions from the executive in order to initiate a legal or constitutional review.

22d. In practice, the chief executive limits the use of executive orders for establishing new regulations, policies, or government practices.

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**Comments:**
The executive has considerable power. For example: … Prime Minister, who is supposedly an educated and future-oriented man, issued an order forbidding any government or quasi government institution or company to advertise in non-governmental local
media. They can advertise in the international non-Yemeni media, but not in the local papers which criticize him and his government”; the quote is from the second link shown above.

References:
http://www.yementimes.com/article.shtml?i=898&p=front&a=1
http://www.yementimes.com/99/iss12/focus.htm

100: The chief executive utilizes executive orders only when there is no constitutional or legal requirement for official legislative action or approval. Executive orders are limited in number and narrow in scope.

75:

50: The chief executive sometimes relies on executive orders to implement policies and regulations opposed by the legislature. Some executive orders are overly broad in scope and are designed to circumvent constitutional or legal requirements for legislative action or approval.

25:

0: The chief executive routinely abuses executive orders to render the legislature practically useless. Executive orders are the norm, not the exception, and directly contravene constitutional or legal requirements for legislative action or approval.

23. Is the executive leadership subject to criminal proceedings?

100

23a. In law, the heads of state and government can be prosecuted for crimes they commit.

YES | NO

Comments:
Although the Constitution does explicitly give the Supreme Court the right to prosecute senior executives, this has yet to happen and is unlikely to happen, because the Judiciary is very weak.

References:
Article 151 fo the Yemeni Constitution.
http://www.yementimes.com/article.shtml?i=946&p=opinion&a=1

YES: A YES score is earned if the heads of state and government can be investigated, charged or prosecuted for criminal allegations.

NO: A NO score is earned if either the head of state or government cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on the heads of state or government.

23b. In law, ministerial-level officials can be prosecuted for crimes they commit.

YES | NO

Comments:
There is a law requiring all public officials from President to Director General level to make a declaration of assets and the National Committee for Combating Corruption shall implement the law and supposedly bring the official to proceedings accordingly.
24. Are there regulations governing conflicts of interest by the executive branch?

24a. In law, the heads of state and government are required to file a regular asset disclosure form.

| YES | NO |

Comments:
There is a law requiring all public officials from President to Director General level to make a declaration of assets and the National Committee for Combating Corruption shall implement the law.

References:
Law No. 30 for 2006 Concerning Declaration of Assets of Public Officials issued 19 August 2006
http://www.26seo.net/narticle.php?sid=17792

YES: A YES score is earned if the heads of state and government are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form need not be publicly available to score a YES.

NO: A NO score is earned if either the head of state or government is not required to disclose assets.

24b. In law, ministerial-level officials are required to file a regular asset disclosure form.

| YES | NO |

Comments:
The law was just issued recently.

References:
Law No. 30 for 2006 Concerning Declaration of Assets of Public Officials issued 19 August 2006
http://www.26seo.net/narticle.php?sid=17792

YES: A YES score is earned if ministerial-level officials, or their equivalents, are all required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets.

NO: A NO score is earned if ministers are not required to disclose assets. A NO score is earned if some ministers must disclose assets, but other ministers are not required.

24c. In law, there are regulations governing gifts and hospitality offered to members of the executive branch.
There is no specific mention of gifts or hospitality in text of law.

References:
http://www.26sep.net/narticle.php?sid=17792
Declaration of Assets Law No. 30 for 2006

YES: A YES score is earned if there are formal guidelines regulating gifts and hospitality offered to members of the executive branch of government.

NO: A NO score is earned if there are no guidelines or regulations with respect to gifts and hospitality offered to members of the executive branch. A NO score is earned if the guidelines are overly general and do not specify what is and is not appropriate.

24d. In law, there are requirements for the independent auditing of the executive branch asset disclosure forms (defined here as ministers and heads of state and government).

YES | NO

Comments:
The Higher National Anti-Corruption Committee was formed by a Presidential Decree.

References:
http://www.26sep.net/narticle.php?sid=17792
Declaration of Assets Law No. 30 for 2006 (Arabic)

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of executive branch asset disclosures. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of executive branch asset disclosures or if such requirements exist but allow for self-auditing.

24e. In law, there are restrictions on heads of state and government and ministers entering the private sector after leaving the government.

YES | NO

Comments:
Many officials who have left previous senior government office are engaged in private sector enterprises of their own or with established businesses

References:
Personal experience

YES: A YES score is earned if there are regulations restricting the ability of heads of state/government and ministers to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.
NO: A NO score is earned if no such restrictions exist.

24f. In practice, the regulations restricting post-government private sector employment for heads of state and government and ministers are effective.

100 75 50 25 0

Comments:
Many officials who have left previous senior government office are engaged in private sector enterprises of their own or with established businesses.

References:
Not applicable, because there are no such restrictions

100: The regulations restricting post-government private sector employment for heads of state/government and ministers are uniformly enforced. There are no or few cases of those officials taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain sectors, heads of state/government or ministers are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Heads of state/government or ministers routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

24g. In practice, the regulations governing gifts and hospitality offered to members of the executive branch are effective.

100 75 50 25 0

Comments:
There are no explicit restrictions in this regard.

References:
Not applicable because there are no such formal restrictions

100: The regulations governing gifts and hospitality to members of the executive branch are regularly enforced and sufficiently restrict the amounts of gifts and hospitality that can be given. Members of the executive branch never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to members of the executive branch are generally applied though exceptions exist. Some ministers in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations governing gifts and hospitality to members of the executive branch are routinely ignored and unenforced. Ministers and other members of the executive branch routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.
24h. In practice, executive branch asset disclosures (defined here as ministers and above) are audited.

100  |  75  |  50  |  25  |  0

Comments:
The law is just days old, so no records yet exist of such audits.

References:
Law is new, not tried yet

100: Executive branch asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: Executive branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: Executive branch asset disclosures are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

25. Can citizens access the asset disclosure records of the heads of state and government?

0

25a. In law, citizens can access the asset disclosure records of the heads of state and government.

YES  |  NO

Comments:
Declarations may only be submitted to the National Anti Corruption Committee and must be kept confidential; penalties are imposed on those who expose contents of declaration to anyone outsed the Committee (including jail time).

References:
http://www.26sep.net/narticle.php?sid=17792
Declaration of Assets Law No. 30 for 2006
Article (14)

YES: A YES score is earned if the heads of state and government file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

NO: A NO score is earned if there is no asset disclosure for either the head of state or government. A NO score is earned if the form is filed, but not available to the public.

25b. In practice, citizens can access the asset disclosure records of the heads of state and government within a reasonable time period.
**Comments:**
Declarations may only be submitted to the National Anti Corruption Committee and must be kept confidential; penalties are imposed on those who expose contents of declaration to anyone outsed the Committee (including jail time).

**References:**
See answer to previous question

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<td><strong>100:</strong> Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.</td>
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<td><strong>50:</strong> Records take around two weeks to obtain. Some additional delays may be experienced.</td>
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<td><strong>0:</strong> Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.</td>
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25c. In practice, citizens can access the asset disclosure records of the heads of state and government at a reasonable cost.

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<td><strong>100:</strong> Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.</td>
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<tr>
<td><strong>50:</strong> Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.</td>
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<tr>
<td><strong>0:</strong> Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.</td>
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**26. In practice, is the ruling party distinct from the state?**

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Comments:
Government resources have been used to back the President for his re-election bid even before he announced his candidacy for another seven years (after the 28 years that have passed). Incidentally, the Yemeni Socialist Party, to which the interviewed politician cited in the reference belonged, was also guilty of the same when the YSP was still a member of the ruling coalition (1990 – 1994), but most likely could have been willing to go non-government had the PGC shown greater good faith in implementing the unification agreement between North and South Yemen (the latter was the Yemeni Socialist Party’s home turf).

References:
http://www.yementimes.com/01/iss04/l&d.htm (Interview with a late prominent dignitary and leading member of an opposition party).

100: Clear rules are followed distinguishing state functions from party activities. Government funds are never used for party activities. The civil service is completely distinct from party bureaucracy.

75:

50: The ruling party is, in principal, separate from the state, but exceptions to this standard sometimes occur. Examples may be use of civil servants to organize political rallies, use of government vehicles on campaign trips, or use of government funds for party purposes.

25:

0: The government is an extension of the ruling party. There are few boundaries between government and party activities. Government funds, equipment and personnel are regularly used to support party activities.

III-2. Legislative Accountability

27. Can members of the legislature be held accountable for their actions?

83

27a. In law, the judiciary can review laws passed by the legislature.

YES | NO

Comments:
The Supreme Court will consider the constitutionality of a law, by-laws and other legislation through cases or suits brought to its attention. There has never been a ruling on any law or statute being unconstitutional or any provision thereof since the Republic of Yemen was formed in 22 May 1990 (the unification of North and South Yemen).

References:

YES: A YES score is earned if there is a formal process by which the judiciary or constitutional courts can pass judgments on the legality or constitutionality of laws passed by the legislature.

NO: A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exceptions exist exempting certain legislative actions from being reviewed (a national security exemption, for example).
27b. In practice, when necessary, the judiciary reviews laws passed by the legislature.

Comments:
There has not been any law that is declared unconstitutional by the Supreme Court. In fact the Supreme Court has upheld some unconstitutional statutes or proceedings such as the establishment of special security courts.

References:

100: When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing laws passed and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power.

75:

50: The judiciary will review laws passed, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

25:

0: The judiciary does not effectively review laws passed. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power.

27c. In law, are members of the national legislature subject to criminal proceedings?

YES | NO

Comments:
A member of Parliament could lose immunity from proceedings if under investigation for a severe crime after the approval of simple majority of members of the House of Representatives. This loss of immunity lasts three months, unless the extension is approved by the House. There have been cases when immunity was removed from Parliamentary members for political reasons and there are mechanisms that allow for removal of immunity, sometimes for political reasons, as in the case of Hussein Bad Al-Din Al-Houthi in the Sa'da Rebellion.

References:
Artifcles 204-207 of Internal By-Laws of Parliament
Law No. 12 for 1994 Crimes and Penalties
General Elections Law No. 14 of 1992 and the amendments thereto

YES: A YES score is earned if all members of the legislature can, in law, be investigated and prosecuted for criminal allegations.

NO: A NO score is earned if any member of the legislature cannot, in law, be investigated and prosecuted for criminal proceedings.

28. Are there regulations governing conflicts of interest by members of the national legislature?

YES | NO

Notes:

28a. In law, members of the national legislature are required to file an asset disclosure form.
Comments:
MPs are left out of the list of officials who must file. However, the employees of Parliament (not the elected reps) must file asset disclosures.

References:
Law No. 30 for 2006 on Declaration of Assets

YES: A YES score is earned if all members of the legislature are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

NO: A NO score is earned if any member of the legislature is not required to disclose assets.

28b. In law, there are restrictions for national legislators entering the private sector after leaving the government.

Comments:
Article 60 of Elections Law only demands that candidates should resign from all government employment, while their will still continue to accrue. There is no mention of quitting private sector employment or engagement with the private sector as candidates, as elected members or after leaving. In fact, there are some members who are still engaged in private sector activities, even as members of Parliament (Hameed Al-Ahmar – a son of the current Speaker, Mohammed Abdo Sa’eed – is a member of the Hayel Sa’eed Group, the largest trading house in Yemen, just to name a few).

References:
Elections Law 2001 Article 60

YES: A YES score is earned if there are regulations restricting national legislators’ ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

NO: A NO score is earned if no such restrictions exist.

28c. In law, there are regulations governing gifts and hospitality offered to members of the national legislature.

Comments:
There is no explicit mention in any relevant legislation.

References:
Internal By-laws of Parliament

YES: A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the legislature.
NO: A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the legislature. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

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28d. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national legislature.

**Comments:**
There is no mention of MPs in the Asset Declaration Law.

**References:**
Law 30 for 2006 on Declaration of Assets
Internal By-Laws of Parliament

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of legislative branch asset disclosures. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of legislative branch asset disclosures or if such requirements exist but allow for self-auditing.

28e. In practice, the regulations restricting post-government private sector employment for national legislators are effective.

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**Comments:**
No such restriction exist.

**References:**
By-Laws of Parliament

100: The regulations restricting post-government private sector employment for national legislators are uniformly enforced. There are no or few cases of legislators taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain sectors, legislators are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

28f. In practice, the regulations governing gifts and hospitality offered to national legislators are effective.
**Comments:**
No such regulations exist.

**References:**

**100:** The regulations governing gifts and hospitality to national legislators are regularly enforced and sufficiently restrict the amounts of gifts and hospitality that can be given to legislators. Legislators never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to national legislators are generally applied though exceptions exist. Some legislators in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

**25:**

**0:** The regulations governing gifts and hospitality to national legislators are routinely ignored and unenforced. Legislators routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

**28g. In practice, national legislative branch asset disclosures are audited.**

**Comments:**
There is no such requirement for legislators.

**References:**
Internal By-Laws of Parliament
Law 30 for 2006 on Declaration of Assets

**100:** Legislative branch asset disclosures are regularly audited using generally accepted auditing practices.

**75:**

**50:** Legislative branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

**25:**

**0:** Legislative branch asset disclosures are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

**29. Can citizens access the asset disclosure records of members of the national legislature?**

**0**

**29a. In law, citizens can access the asset disclosure records of members of the national legislature.**
YES: A YES score is earned if members of the national legislature file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

NO: A NO score is earned if there is no asset disclosure for members of the national legislature. A NO score is earned if the form is filed, but not available to the public.

29b. In practice, citizens can access these records within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:
There is no such requirement for legislators.

References:
Internal By-Laws of Parliament
Law No. 30 for 2006

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75: 

50: Records take around two weeks to obtain. Some delays may be experienced.

25: 

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

29c. In practice, citizens can access these records at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:
There is no such requirement for legislators.

References:
Internal By-Laws of Parliament
Law No. 30 for 2006
100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

30. Can citizens access legislative processes and documents?

0

30a. In law, citizens can access records of legislative processes and documents.

YES | NO

Comments:
Sessions of Parliament are aired in television, with some cutting and censorship. Minutes are drawn up and a summary is distributed to the press. Even the Parliament’s website does not offer any information on sessions.

References:
Constitution of Republic of Yemen
Internal By-Saws of Parliament (Articles 113 – 117)

YES: A YES score is earned if there is a general legal right to access records of legislative proceedings including voting records. A YES score can still be given if there are formal rules for specific exemptions to the right to disclosure (special secret sessions related to national security).

NO: A NO score is earned if there is no general right to access documents recording legislative proceedings. A NO score is earned if there exemptions to the general right that are not clearly defined by formal rules.

30b. In practice, citizens can access these records within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:
There is no formal mechanism cited for obtaining detailed information on sessions. But one would think it possible to obtain a copy of the summary issued to press from the Secretariat of the Parliament within reasonable time and cost, or through the press.

References:
Constitution of the Republic

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:
50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

30c. In practice, citizens can access these records at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:
There is no formal mechanism cited for obtaining detailed information on sessions. But one would think it possible to obtain a copy of the summary issued to press from the Secretariat of the Parliament within reasonable time and cost, or through the press.

References:
Constitution
Internal By-Laws of Parliament

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

III-3. Judicial Accountability

31. Are judges appointed fairly?

17

31a. In practice, there is a transparent procedure for selecting national-level judges.

YES | NO

Comments:
Final decision on appointment of judges lies with the Higher Judicial Council, with nominations coming from the Minister of Justice. No formal ratification from the legislature is stipulated.

References:
Constitution of the Republic
Law of the Judiciary
YES: A YES score is earned if there is a formal process for selecting national level justices. This process should be public in the debating and confirmation stages.

NO: A NO score is given if there is no formal process of selection or the process is conducted without public oversight.

31b. In practice, there are certain professional criteria required for the selection of national-level judges.

100 | 75 | 50 | 25 | 0

Comments:
The last source above gives the minimum requirements for selecting judges.

References:
Constitution of the Republic
Law of the Judiciary
Formation of the Higher Judicial Council

YES: National-level judges selected have relevant professional qualifications such as formal legal training, experience as a lower court judge or a career as a litigator.

75:

50: Most national-level judges selected meet these qualifications, with some exceptions.

25:

0: National-level judges are often unqualified due to lack of training or experience.

31c. In law, there is a confirmation process for national-level judges (i.e. conducted by the legislature or an independent body).

YES | NO

Comments:
There is no formal, independent review of appointments.

References:
Law of the Judiciary
Formation of the Higher Judicial Council

YES: A YES score is earned if there is a formal process establishing a review of national-level judicial nominees by an agency independent from the body appointing the judges.

NO: A NO score is earned if there is no formal review. A NO score is earned if the review is conducted by a body directed by the body appointing the judges (such as review by the head of police if judges are appointed by the executive).
32. Can members of the judiciary be held accountable for their actions?

50

32a. In law, members of the national-level judiciary are obliged to give reasons for their decisions.

YES | NO

Comments:
Judges are required explain the reasons behind their decisions in detail and record them in the judgement or verdict decree. Whether the explanation is sound or not may be another matter.

References:
Law of Judiciary
Law of Litigation

YES: A YES score is earned if there is a formal and mandatory process for judges to explain their decisions.

NO: A NO score is earned if justices are not required to explain decisions. A NO score is earned if there is a general exemption from explaining some decisions (such as national security).

32b. In practice, members of the national-level judiciary give reasons for their decisions.

100 | 75 | 50 | 25 | 0

Comments:
Decisions must be given clear and detailed reasoning according to law, but there are cases when such reasoning may be influenced by external factors, such as the Dallami and Miftah trials and the trial of Abdulkarim Al-Khaiwani (see last two sources)

References:
Judicial Authority Act (no. 1/1990)
Civil Code (no. 19/1992)
Personal Status Act 1992 (no. 20/1992)
http://www.amnestyusa.org/countries/yemen/index.do
http://www.cpj.org/protests/04ltrs/Yemen16sept04pl.html

100: Judges are formally required to explain their judgments in detail, establishing a body of precedent. All judges comply with these requirements.

75:

50: Judges are compelled to give substantial reasons for their decisions, but some exceptions exist. These may include special courts, such as military courts or tribunals.

25:

0: Judges commonly issue decisions without formal explanations.

32c. In law, there is an ombudsman (or equivalent agency or mechanism) for the national-level judicial system.
Comments:
Under Law No. 1991, there is a Judicial Inspection Authority that reviews court rulings and procedures and handles complaints. It is appointed by the Minister of Justice with the approval of the Higher Judicial Council.

References:
Judicial Authority Act (no. 1/1990)
Civil Code (no. 19/1992)
Personal Status Act 1992 (no. 20/1992)

YES: A YES score is earned if there is an ombudsman or equivalent mechanism for the judicial system. A judicial ombudsman is defined here as an agency or mechanism specifically mandated to investigate breaches of procedure, abuses of power or other failures of the judiciary.

NO: A NO score is earned if no agency or mechanism is specifically mandated to act as a judicial ombudsman.

32d. In law, the judicial ombudsman (or equivalent agency or mechanism) is protected from political interference.

Comments:
Under the Minister of Justice (and the Higher Judicial Council, which must decide on the disciplinary action to take against erroneous judges), the authority of the committee is bound to be under the influence of the Executive branch.

References:

YES: A YES score is earned if there are formal rules establishing that the judicial ombudsman is operationally independent from political interference by the executive, legislative or judicial branches.

NO: A NO score is earned if there are no formal rules establishing the independence of the judicial ombudsman. A NO score is given if the judicial ombudsman function is carried out by an inherently subordinate organization, such as an executive ministry or legislative committee.

32e. In practice, when necessary, the judicial ombudsman (or equivalent agency or mechanism) initiates investigations.

Comments:
They are, in theory, able to do that. When Judge Ahmed Al-Nu’umy (a member of the Judicial Inspection Authority) was asked about this, he says that they are given the right to initiate inspections and they undertake an inspection of all judges at least once a year.

References:
100: The ombudsman aggressively starts investigations — or participates fully with cooperating agencies’ investigations — into judicial misconduct. The ombudsman is fair in its application of this power.

75:

50: The ombudsman will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The ombudsman, thought limited in effectiveness, is still fair in its application of power.

25:

0: The ombudsman rarely investigates on its own or cooperates in other agencies’ investigations, or the ombudsman is partisan in its application of this power.

32f. In practice, when necessary, the judicial ombudsman (or equivalent agency or mechanism) imposes penalties on offenders.

Comments:
The Inspectors present their findings to the Minister of Justice and the Higher Judicial Council, who decide on disciplinary measures based on recommendation of Minister of Justice.

References:

100: When rules violations are discovered, the ombudsman is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

75:

50: The ombudsman enforces rules, but is limited in its effectiveness. The ombudsman may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

25:

0: The ombudsman does not effectively penalize offenders. The ombudsman may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The ombudsman may be partisan in its application of power.

III-4. Budget Processes

33. Can the legislature provide input to the national budget?

0

33a. In law, the legislature can amend the budget.
Comments:
Almost every year, one will find the initial draft budget and the final approved budget the same, even after the legislators have reviewed it.

References:
By-laws of Parliament 1995, Articles (169-175)

YES: A YES score is earned if the legislature has the power to add or remove items to the national government budget.

NO: A NO score is earned if the legislature can approve, but not change details of the budget. A NO score is earned if the legislature has no input into the budget process.

33b. In practice, significant public expenditures require legislative approval.

100  |  75  |  50  |  25  |  0

Comments:
Once the budget is approved, the Parliament has no further oversight, except when reviewing the Final Accounts after expenditures have been completed. There were substantial expenditures made from the excess oil revenues under a loophole that allows for expenditures for development projects" from any excess revenues.

References:
By-laws of Parliament
Once the budget is approved, no approvals are required for any expenditures of any size
draft Budget for 2005
Approved budget for 2005
Actual expenditures 2005
http://www.yementimes.com/article.shtml?i=901&p=local&a=10

100: All significant government expenditures (defined as any project costing more than 1% of the total national budget), must be approved by the legislature. This includes defense and secret programs, which may be debated in closed hearings.

75:

50: Most significant government expenditures (as defined) are approved by the legislature, but some exceptions to this rule exist. This may include defense programs, an executive's personal budget, or other expenses.

25:

0: The legislature does not have the power to approve or disapprove large portions of the government budget, or the legislature does not exercise this power in a meaningful way.

33c. In practice, the legislature has sufficient capacity to monitor the budget process and provide input or changes.

100  |  75  |  50  |  25  |  0

Comments:
Once the budget is approved, the Parliament has no further oversight, except when reviewing the Final Accounts after expenditures have been completed. There were substantial expenditures made from the excess oil revenues under a loophole that allows for expenditures for development projects" from any excess revenues.
34. Can citizens access the national budgetary process?

34a. In practice, the national budgetary process is conducted in a transparent manner in the debating stage (i.e. before final approval).

| 100 | 75 | 50 | 25 | 0 |

Comments:
There is only public debate after the Budget Committee has completed its closed-door review. The budget is put in the website listed in the references (last source), but so far that occurs after approval and it has become law, after which it is announced and the figures are published in the press.

References:
By-laws of Parliament
Sana’a TV

100: Budget debates are public and records of these proceedings are easily accessible. Authors of individual budget items can easily be identified. Nearly all budget negotiations are conducted in these official proceedings.

75:

50: There is a formal, transparent process for budget debate, but major budget modifications may be negotiated in separate, closed sessions. Some items, such as non-secret defense projects, may be negotiated in closed sessions. Authors of individual line items may be difficult to identify.

25:

0: Budget negotiations are effectively closed to the public. There may be a formal, transparent process, but most real discussion and debate happens in other, closed settings.

34b. In practice, citizens provide input at budget hearings.

| 100 | 75 | 50 | 25 | 0 |

Comments:
There is no stipulation in any of the relevant documents that explicitly gives the public access to provide input.
References:
Financial Law (Law No. 8 for 1990 and its subsequent amendments)
Yearly invitations for the preparation of the budget
By-Laws of Parliament

| 100: Citizens, usually acting through CSOs, can provide information or commentary to the budget debate through a formal process. This information is essential to the process of evaluating budget priorities. |
|---|---|---|---|---|
|75: |
|50: Citizens or CSOs can provide input, but this information is often not relevant to budget decisions. |
|25: |
|0: Citizens or CSOs have no formal access to provide input to the budget debate. |

34c. In practice, citizens can access itemized budget allocations.

| 100 | 75 | 50 | 25 | 0 |

References:
Financial Law
Newspaper reports (See answers to questions of part 33.

| 100: Citizens, journalists and CSOs can access itemized lists of budget allocations. This information is easily available and up to date. |
|---|---|---|---|---|
|75: |
|50: Citizens, journalists and CSOs can access itemized lists of budget allocations but this information may be difficult to access, incomplete or out of date. |
|25: |
|0: Citizens cannot access an itemized list of budget allocations, due to secrecy, prohibitive barriers or government inefficiency. |

35. In law, is there a separate legislative committee which provides oversight of public funds?

| 100 |

35. In law, is there a separate legislative committee which provides oversight of public funds?

| YES | NO |

Comments:
There is a parliamentary committee that oversees the government finance, but is powerless to undertake any action to effectively provide prudent oversight. It can call the Prime Minister/Minister of Finance for questioning.

References:
By Laws of Parliament
YES: A YES score is earned if there is a dedicated legislative committee (or equivalent group located in the legislature) that oversees the expenditure of public funds.

NO: A NO score is earned if no such body exists. A NO score is earned if there is a body executing this function but it is not under the direction of the legislature.

36. Is the legislative committee overseeing the expenditure of public funds effective?

38

36a. In practice, department heads regularly submit reports to this committee.

| 100 | 75 | 50 | 25 | 0 |

Comments:
Parliament may ask a head of an agency or even the Prime Minister for a report on certain financial impropriety or on reports of extraordinary activity by the department or agency, but there is no formal reporting mechanism in place, except the Final Accounts at year-end.

The IMF has introduced the GFS (Government Financial Statistics) reporting system to Yemen in 2005, which were supposed to produce at least semi-annual reports of government revenues and expenditures, and they should be placed in the Ministry of Finance web site, but the only such report appearing is the one for the year ending 2004 which is in the last link listed with the references. I worked with the IMF mission that came to train Ministry of Finance staff how to prepare GFS reports, but the one shown is the one that was prepared during this mission (by the MOF staff themselves).

The Ministry of Finance has a web site for presenting the budget but the only budget appearing on it is the one for 2005.

References:
By-Laws of Parliament

100: Heads of ministry- or cabinet-level agencies submit regular, formal reports of expenses to a budget oversight committee.

75:

50: Agency heads submit reports to a budget oversight committee, but these reports are flawed in some way. The reports may be inconsistently delivered, or lacking important details.

25:

0: There is no budget oversight committee or equivalent, or heads of agencies do not submit meaningful reports to the agency.

36b. In practice, the committee acts in a non-partisan manner with members of opposition parties serving on the committee in an equitable fashion.

| 100 | 75 | 50 | 25 | 0 |

References:
By-laws of Parliament
The committee is comprised of legislators from both the ruling party (or parties) and opposition parties in a roughly equitable distribution. All members of the committee — including opposition party members — are able to fully participate in the activities of the committee and influence the committee’s work to roughly the same extent as any other member of the committee.

The committee is comprised of legislators from both the ruling party (or parties) and opposition parties although the ruling party has a disproportionate share of committee seats. The chairperson of the committee may be overly influential and curb other members’ ability to shape the committee’s activities.

The committee is dominated by legislators of the ruling party and/or the committee chairperson. Opposition legislators serving on the committee have in practice no way to influence the work of the committee.

In practice, this committee is protected from political interference.

Comments:
Efforts are made to have representations of all parties that have members in Parliament, but the majority on the floor will dominate in the committee as well.

References:
By-laws of Parliament

This committee operates independently of the political process, without incentive or pressure to render favorable judgments on politically sensitive issues. Investigations are rarely praised or criticized by political figures.

This committee is usually independent but is sometimes influenced by negative or positive political incentives. This may include public praise or criticism by the government.

This committee is commonly influenced by personal or political forces or incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties that ultimately influence the committee’s behavior and decision-making. Negative incentives may include threats, harassment or other abuses of power by the government.

In practice, when necessary, this committee initiates independent investigations into financial irregularities.

Comments:
The committee may call relevant officials but really cannot take effective measures to correct or remedy any impropriety.

References:
By-laws of Parliament

When irregularities are discovered, the committee is aggressive in investigating the government.
The committee starts investigations, but is limited in its effectiveness. The committee may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

The committee does not effectively investigate financial irregularities. The committee may start investigations but not complete them, or may fail to detect offenders. The committee may be partisan in its application of power.

Category IV. Administration and Civil Service

IV-1. Civil Service Regulations

37. Are there national regulations for the civil service encompassing, at least, the managerial and professional staff?

100

37a. In law, there are regulations requiring an impartial, independent and fairly managed civil service.

YES | NO

Comments:
The Law for the Strategy of Salaries and Wages of 2006 has only recently been passed.

References:
Civil Service Law No. 19 for 1991
Law No. 43 for 2005 Concerning Employment, Wages and Salaries
Law for the Strategy of Salaries and Wages of 2006

YES: A YES score is earned if there are specific formal rules establishing that the civil service carry out its duties independent of political interference.

NO: A NO score is earned if there are no formal rules establishing an independent civil service.

37b. In law, there are regulations to prevent nepotism, cronyism, and patronage within the civil service.

YES | NO

Comments:
In law, yes. However, there is still a flagrant disregard for these regulations, especially the higher one goes up the administrative ladder

References:
Civil Service Law No. 19 of 1991
The by-laws of the various ministries and agencies.
YES: A YES score is earned if there are specific formal rules prohibiting nepotism, cronyism, and patronage in the civil service. These should include competitive recruitment and promotion procedures as well as safeguards against arbitrary disciplinary actions and dismissal.

NO: A NO score is earned if no such regulations exist.

37c. In law, there is an independent redress mechanism for the civil service.

YES | NO

Comments:
The Ministry of Civil Service and the courts

References:
Law of Civil Service
Law of the Judiciary

YES: A YES score is earned if there is a mechanism to which civil servants and applicants for the civil service can take grievances regarding civil service management actions. Civil servants are able to appeal the mechanism's decisions to the judiciary.

NO: A NO score is earned if no such mechanism exists.

37d. In law, civil servants convicted of corruption are prohibited from future government employment.

YES | NO

Comments:
However, chances are that they will be transferred to a better position!

References:
Civil Service Law No. 19 of 1991
Civil Service Reform Program

YES: A YES score is earned if there are specific rules prohibiting continued government employment following a corruption conviction.

NO: A NO score is earned if no such rules exist.

38. Is the law governing the administration and civil service effective?

36

38a. In practice, civil servants are protected from political interference.
Comments:
One would be surprised to find how many civil servants are getting paid for doing nothing, just so they can keep away from causing difficulties to those that are running the show in many a government agency.

References:
Civil Service Law
Law No. 43 for 2005
Concerning Employment, Wages and Salaries

100: Civil servants operate independently of the political process, without incentive or pressure to render favorable treatment or policy decisions on politically sensitive issues. Civil servants rarely comment on political debates. Individual judgments are rarely praised or criticized by political figures. Civil servants can bring a case to the courts challenging politically-motivated firings.

75:

50: Civil servants are typically independent, yet are sometimes influenced in their judgments by negative or positive political or personal incentives. This may include favorable or unfavorable treatment by superiors, public criticism or praise by the government, or other forms of influence. Civil servants may bring a case to the judicial system challenging politically-motivated firings but the case may encounter delays or bureaucratic hurdles.

25:

0: Civil servants are commonly influenced by political or personal matters. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. Civil servants are unable to find a remedy in the courts for unjustified or politically-motivated firings.

38b. In practice, civil servants are appointed and evaluated according to professional criteria.

100 | 75 | 50 | 25 | 0

Comments:
There are really no solid standards in place, when you realize that all the leading military and civilian positions are almost monopolized along family lines or within a tribe and their relations.

References:
Law No. 43 for 2005
Concerning Employment, Wages and Salaries
amid the Civil Service Law No. 19 of 1991
Civil Service
Ex[perience

100: Appointments to the civil service and their professional evaluations are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments and professional assessments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

25:

0: Appointments and professional assessments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

38c. In practice, civil service management actions (e.g. hiring, firing, promotions) are not based on nepotism, cronyism, or patronage.
Employment in the public sector was seen to be obtained through nepotism, favoritism, personal relations, special ties and contacts and bribery. The Yemen Observer was told by civil service job applicants, who preferred to remain nameless, that due to fierce competition in the public sector, applicants resorted to unethical means of securing a position, particularly those who did not meet employment criteria.

References:
The administrative organizational chart of the Government and the security apparatus.
http://unpan1.un.org/intradoc/groups/public/documents/UN/UNPAN021301.htm#GSIME03

100: Nepotism (favorable treatment of family members), cronyism (favorable treatment of friends and colleagues), and patronage (favorable treatment of those who reward their superiors) are actively discouraged at all levels of the civil service. Hirings, firings, and promotions are based on merit and performance.

75:

50: Nepotism, cronyism, and patronage are discouraged, but exceptions exist. Political leaders or senior officials sometimes appoint family member or friends to favorable positions in the civil service, or lend other favorable treatment.

25:

0: Nepotism, cronyism, and patronage are commonly accepted principles in hiring, firing and promotions of civil servants.

38d. In practice, civil servants have clear job descriptions.

100:

75:

50:

25:

0:

38e. In practice, civil servant bonuses constitute only a small faction of total pay.
Comments:
There are many ways that senior officials find ways to express their gratitude to their loyal subordinates.

References:
Salary and wages Law
Civil Service Salary and Wage strategy

100: Civil servant bonuses constitute no more than 10% of total pay and do not represent a major element of take-home pay.

75:

50: Civil servant bonuses are generally a small percentage of total take-home pay for most civil servants though exceptions exist where some civil servants’ bonuses represent a significant part of total pay.

25:

0: Most civil servants receive bonuses that represent a significant amount of total take-home pay. In some cases bonuses represent the majority of total pay to civil servants.

38f. In practice, the government publishes the number of authorized civil service positions along with the number of positions actually filled.

References:
For project managers or for highly technical jobs: Yemen Times, Yemen Observer and Althawra Newspaper and other government newspaper vacancy announcements, print versions.

100: The government publishes such a list on a regular basis.

75:

50: The government publishes such a list but it is often delayed or incomplete. There may be multiple years in between each successive publication.

25:

0: The government rarely or never publishes such a list, or when it does it is wholly incomplete.

38g. In practice, the independent redress mechanism for the civil service is effective.

Comments:
Most people who might need redress would be just willing to continue receiving their salaries, while functionally not serving any position. Litigation would be exhaustive and sometimes dangerous. The ordeal is quite long and agonizing.
### References

- No cases found
- Own experience

### 100: The independent redress mechanism for the civil service can control the timing and pace of its investigations without any input from the bodies that manage civil servants on a day-to-day basis.

### 75:

### 50: The independent civil service redress mechanism can generally decide what to investigate and when but is sometimes subject to pressure from the executive or the bodies that manage civil servants on a day-to-day basis on politically sensitive issues.

### 25:

### 0: The civil service redress mechanism must rely on approval from the executive or the bodies that manage civil servants on a day-to-day basis before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

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### Comments:
Lately salary payments have improved since most government agencies have used the Postal banking system to pay their staff, which is relatively efficient and timely.

### References:
- No reports of non-payment or delayed payment.

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### 100: In the past year, no civil servants have been paid late.

### 75:

### 50: In the past year, some civil servants have been paid late.

### 25:

### 0: In the past year, civil servants have frequently been denied due pay.

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### Comments:
Convictions are rare and even then, one still keeps the salary.

### References:
- Own experience

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### 100: A system of formal blacklists and cooling off periods is in place for civil servants convicted of corruption. All civil servants are subject to this system.

### 75:
39. Are there regulations addressing conflicts of interest for civil servants?

YES | NO

39a. In law, there are requirements for civil servants to recuse themselves from policy decisions where their personal interests may be affected.

YES: A YES score is earned if there are requirements for civil servants to recuse themselves from policy decisions where their personal interests, including personal financial interests as well as those of their family and friends, are affected.

NO: A NO score exists if no such requirements exist in regulation or law.

39b. In law, there are restrictions for civil servants entering the private sector after leaving the government.

YES | NO

Comments:
There are not really that many jobs open with the economy so badly managed.

References:
Civil Service Law No. 19 of 1991

YES: A YES score is earned if there are regulations restricting civil servants' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

NO: A NO score is earned if no such restrictions exist.

39c. In law, there are regulations governing gifts and hospitality offered to civil servants.

YES | NO

References:
Civil Service Law No. 19 for 1991
Law of Crimes and Penalties of 1994
References:
Civil Service Law has no such clause

YES: A YES score is earned if there are formal guidelines regarding gifts and hospitality given to civil servants.

NO: A NO score is earned if there are no such guidelines or regulations.

39d. In practice, the regulations restricting post-government private sector employment for civil servants are effective.

References:
Non-existent

100: The regulations restricting post-government private sector employment for civil servants are uniformly enforced. There are no or few cases of civil servants taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain sectors, civil servants are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Civil servants routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

39e. In practice, the regulations governing gifts and hospitality offered to civil servants are effective.

References:
Non-existent

100: The regulations governing gifts and hospitality to civil servants are regularly enforced and sufficiently restrict the amounts of gifts and hospitality that can be given to civil servants. Civil servants never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to civil servants are generally applied though exceptions exist. Some civil servants in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations governing gifts and hospitality to the civil service are routinely ignored and unenforced. Civil servants routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.
39f. In practice, the requirements for civil service recusal from policy decisions affecting personal interests are effective.

100 | 75 | 50 | 25 | 0

References:
Civil Service Law
Individual by-laws of the government agency involved
Financial Law No. 8 of 1990

100: The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are routinely followed by most or all civil servants.

75:

50: The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are followed by most civil servants though exceptions exist. In certain sectors, civil servants are known to routinely participate in policy decisions where their personal interests are affected.

25:

0: Most civil servants routinely ignore recusal requirements and continue to participate in policy decisions where their personal interests are affected.

40. Can citizens access the asset disclosure records of senior civil servants?

0

40a. In law, citizens can access the asset disclosure records of senior civil servants.

YES | NO

Comments:
Declarations are confidential and cannot be disclosed.

References:
Asset Declaration Law 30 of 2006

YES: A YES score is earned if laws or regulations guarantee that citizens can access the asset records of senior civil servants.

NO: A NO score is earned if senior civil servants do not file an asset disclosure. A NO score is earned if senior civil servants file an asset disclosure, but it is not available to the public.

40b. In practice, citizens can access the asset disclosure records of senior civil servants within a reasonable time period.

100 | 75 | 50 | 25 | 0
Comments:
No one has filed them yet as the law is still new and the Committee that will oversee it has yet to be formed. Access is denied by law.

References:
Asset Disclosure Law No. 30 for 2006

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

40c. In practice, citizens can access the asset disclosure records of senior civil servants at a reasonable cost.

Comments:
Same as previous, besides the law has not been tested with any declarations filed yet under it.

References:
Same as previous.

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

IV-2. Whistle-blowing Measures

41. Are employees protected from recrimination or other negative consequences when reporting corruption (i.e. whistle-blowing)?

38

41a. In law, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.
YES | NO

Comments: It would probably be better to seek the protection of one's tribe

References:
Financial Law No. 8 of 1991
Civil Service Law
Judiciary Law of 1991

YES: A YES score is earned if there are specific laws against recrimination against public sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

NO: A NO score is earned if there are no legal protections for public-sector whistleblowers.

41b. In practice, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | 50 | 25 | 0

Comments: Why report, when one knows almost for sure that no action will be taken against the perpetrator? So it is not fear of reprisal, but lack of action for reporting that discourages reporting.

References:
Own experience

100: Public sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

75:

50: Public sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Public sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

41c. In law, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

YES | NO

Comments: The Labor Law is very weak when it comes to upholding workers/employees of the private sector.
YES: A YES score is earned if there are specific laws against recrimination against private sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

NO: A NO score is earned if there are no legal protections for private-sector whistleblowers.

41d. In practice, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | 50 | 25 | 0

Comments:
It depends on how they are reporting; there may be some informal protections in practice on an ad hoc basis.

References:
The Labor Law (5) of 1995

100: Private sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

75:

50: Private sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Private sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

42. Is there an effective internal mechanism (i.e. phone hotline, e-mail address, local office) where civil servants can report corruption?

44

42a. In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:
The mechanism would be the Ministry of Civil Service, the Central Organization for Control and Auditing, but it depends on what the infraction entails. Perhaps one might also go to the Prosecution for Public Property.

References:
Civil Service Law No. of 1991

100: The agency/entity has staff sufficient to fulfill its basic mandate.

75:
50: The agency/entity has limited staff, a fact that hinders its ability to fulfill its basic mandate.

25:

0: The agency/entity has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

42b. In practice, the internal reporting mechanism for public sector corruption receives regular funding.

100  75  50  25  0

Comments:
There are adequate funds for these agencies.

References:
Government Budget allocations for the relevant mechanism agency (COCA, Prosecution, etc.)

100: The agency/entity has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency/entity has a regular source of funding but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

42c. In practice, the internal reporting mechanism for public sector corruption acts on complaints within a reasonable time period.

100  75  50  25  0

References:
Law of Public Asset Courts
Law of Indictment and Trial of Senior Government Authority Personnel No. 6 of 1995

100: The agency/entity acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency/entity acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

42d. In practice, when necessary, the internal reporting mechanism for public sector corruption initiates investigations.
Comments:
The Public Asset Courts are slow and lack the experience since they were only formed a decade ago.

References:
Law for the Central Organization for Control and Auditing

100: When irregularities are discovered, the agency/entity is aggressive in investigating the government or in cooperating with other agencies’ investigations.

75:

50: The agency/entity starts investigations, but is limited in its effectiveness. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other investigative agencies, or occasionally unable to enforce its judgments.

25:

0: The agency/entity does not effectively investigate. The agency/entity may start investigations but not complete them, may refuse to cooperate with other investigative agencies, or may fail to detect offenders. The agency/entity may be partisan in its application of power.

---

IV-3. Procurement

43. Is the public procurement process effective?

53

43a. In law, there are regulations addressing conflicts of interest for public procurement officials.

YES | NO

Comments:
There is no specific conflict of interest clause in the current law, and the new draft law makes some mention of possible conflict of interest situations, especially with respect to disclosing information on tender bids or evaluation.

References:
Law No.3 for 1997 Concerning Government Tenders, Auctions and Stores
Draft Revised Law for Government Tenders, Auctions and Stores

YES: A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private gain for public procurement officials.

NO: A NO score is earned if no such rules exist.
43b. In law, there is mandatory professional training for public procurement officials.

YES  |  NO

Comments:
Most government entities do not provide any formal regular and systematic training of staff (for any jobs), except in some donor financed projects. The word training is not to be found in the law above or it's by-laws.

References:
Procurement Law No. 3 for 1997

YES: A YES score is earned if public procurement officials receive regular mandatory training to ensure professional standards in supervising the tendering process.

NO: A NO score is earned if there is no regular required training of public procurement officials or if training is sporadic, inconsistent, or voluntary.

43c. In practice, the conflicts of interest regulations for public procurement officials are enforced.

100  |  75  |  50  |  25  |  0

Comments:
This source was from a newspaper supported by the ruling party. If there was enforcement, it would not have been so readily noticeable, even by an international agency.

References:
http://www.yobserver.com/cgi-bin/yobserver/exec/view.cgi/1/7887

100: Regulations regarding conflicts of interest for procurement officials are aggressively enforced.

75:

50: Conflict of interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from regulations.

25:

0: Conflict of interest regulations do not exist, or are consistently ineffective.

43d. In law, there is a mechanism that monitors the assets, incomes and spending habits of public procurement officials.

YES  |  NO

Comments:
There is a committee that will be set up to supposedly undertake this task. No track-record exists yet because the committee has not even been formed.
YES: A YES score is earned if there is a formal mandate to some agency to monitor the assets, incomes and spending habits of public procurement officials, such as an inspector general, or ombudsman.

NO: A NO score is earned if no such mandate exists.

43e. In law, major procurements require competitive bidding.

YES | NO

References:
Procurement Law No. 3 of 1997

YES: A YES score is earned if all major procurements (defined as those greater than 0.5% of GDP) require competitive bidding.

NO: A NO score is earned if competitive bidding is not required by law or regulation for major procurement (greater than 0.5% of GDP).

43f. In law, strict formal requirements limit the extent of sole sourcing.

YES | NO

Comments:
There is also a Procurement Manual to standardize procedures. There are forms for tendering and competitive bidding.

References:
Procurement Law (1997) and its by-laws.

YES: A YES score is earned if sole sourcing is limited to specific, tightly defined conditions, such as when a supplier is the only source of a skill or technology.

NO: A NO score is earned if there are no prohibitions on sole sourcing. A NO score is earned if the prohibitions on sole sourcing are general and unspecific.

43g. In law, unsuccessful bidders can instigate an official review of procurement decisions.

YES | NO

Comments:
Article 6 states:
All the entities are to ensure that there is equitable and fair treatment of all the competitors in the tenders, and a bidders is entitled to appeal to the Chairman of the Entity or his superiors or to resort to the Courts, if he is subjected to any injustice or damage, in accordance with the provisions herein stipulated and of the provisions of the regulations and procedures for its execution.
### References

Article 6 of Procurement Law No. 3 of 1997

**YES:** A YES score is earned if there is a formal appeal process for unsuccessful bidders.

**NO:** A NO score is earned if no such process exists.

---

#### 43h. In law, unsuccessful bidders can challenge procurement decisions in a court of law.

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
</table>

**Comments:**

Article 6 states:

All the entities are to ensure that there is equitable and fair treatment of all the competitors in the tenders, and a bidders is entitled to appeal to the Chairman of the Entity or his superiors or to resort to the Courts, if he is subjected to any injustice or damage, in accordance with the provisions herein stipulated and of the provisions of the regulations and procedures for its execution.

---

### References

Article 6 of Procurement Law No. 3 of 1997

**YES:** A YES score is earned if unsuccessful bidders can use the courts to appeal a procurement decision.

**NO:** A NO score is earned if no such process exists.

---

#### 43i. In law, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
</table>

**Comments:**

There is no such clause in the law, but it states that the contractor should be ordered to stop and his guarantees (retention) confiscated.

---

### References

Procurement Law (1997)

**YES:** A YES score is earned if there are formal procurement blacklists, preventing convicted companies from doing business with the government.

**NO:** A NO score is earned if no such process exists.

---

#### 43j. In practice, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
</table>
Comments:
There is no specific stipulation of this.

References:
Procurement Law (1997)

100: A system of formal blacklists and cooling off periods is in place for companies convicted of corruption. All companies are subject to this system.

75:

50: A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some procurements or companies may not be affected by the system, or the prohibitions are sometimes not effective.

25:

0: There is no such system, or the system is consistently ineffective in prohibiting future hiring of blacklisted companies.

44. Can citizens access the public procurement process?

58

44a. In law, citizens can access public procurement regulations.

YES | NO

Comments:
The tenders are usually advertised in the leading official papers (with all the relevant requirements) and the procurement law can be obtained from the Ministry of Legal Affairs or Ministry of Public Works.

References:
Official Gazette
Tender invitations

YES: A YES score is earned if procurement rules are, by law, open to the public.

NO: A NO score is earned if procurement rules are officially secret for any reason or if there are no procurement rules.

44b. In law, the government is required to publicly announce the results of procurement decisions.

YES | NO

Comments:
There is no such requirement in the law, but the bidders are informed of the award or to ask them to come and pick up their tender bonds.
YES: A YES score is earned if the government is required to publicly post or announce the results of the public procurement process. This can be done through major media outlets or on a publicly-accessible government register or log.

NO: A NO score is earned if there is no requirement for the government to publicly announce the results of the public procurement process.

44c. In practice, citizens can access public procurement regulations within a reasonable time period.

<table>
<thead>
<tr>
<th></th>
<th>100</th>
<th>75</th>
<th>50</th>
<th>25</th>
<th>0</th>
</tr>
</thead>
</table>

References:
Procurement Law
Own experience

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75: Records take around two weeks to obtain. Some delays may be experienced.

50: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

44d. In practice, citizens can access public procurement regulations at a reasonable cost.

<table>
<thead>
<tr>
<th></th>
<th>100</th>
<th>75</th>
<th>50</th>
<th>25</th>
<th>0</th>
</tr>
</thead>
</table>

Comments:
They are publicly announced and published in the press and the only cost one would have to bear is in purchasing tender documents.

References:
Tender announcements
Bidding invitations
Procurement Law (1997)

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

50: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.
44e. In practice, major public procurements are widely advertised.

References:
Procurement Law (1997)

100: There is a formal process of advertising public procurements. This may include a government Web site, newspaper advertising, or other official announcements. All major procurements are advertised in this way.

75:

50: There is a formal process of advertisement but it is flawed. Some major procurements may not be advertised, or the advertising process may not be effective.

25:

0: There is no formal process of advertising major public procurements or the process is superficial and ineffective.

44f. In practice, citizens can access the results of major public procurement bids.

100 | 75 | 50 | 25 | 0

Comments:
The press has the right by law to obtain such information, but the Yemeni press is not interested in keeping track of such information.

References:
Procurement Law

100: Records of public procurement results are publicly available through a formal process.

75:

50: Records of public procurements are available, but there are exceptions to this practice. Some information may not be available, or some citizens may not be able to access information.

25:

0: This information is not available to the public through an official process.

IV-4. Privatization

45. Is the privatization process effective?
45a. In law, all businesses are eligible to compete for privatized state assets.

YES | NO

Comments:
The privatization process is slow because of opposition by Parliament and some interest groups, where Parliament refused to approve a World Bank loan of US$11 million to support the privatization process.

References:
Privatization Law (No 45 of 1999) Articles 4 and 5 and their subclauses
http://unpan1.un.org/intradoc/groups/public/documents/nispacee/unpan016212.pdf#search=%22Law%20No.%2045%201999%20Privatization%208%22

YES: A YES score is earned if all businesses are equally eligible to compete for privatized assets. A YES score is still earned if the government did not privatize any state-owned assets during the study period.

NO: A NO score is earned if any group of businesses (other than those blacklisted due to corruption charges) is excluded by law.

45b. In law, there are regulations addressing conflicts of interest for government officials involved in privatization.

YES | NO

References:

YES: A YES score is earned if there are formal regulations defining and regulating conflicts of interest for government officials involved in privatization.

NO: A NO score is earned if there are no such formal regulations.

45c. In practice, conflicts of interest regulations for government officials involved in privatization are enforced.

100 | 75 | 50 | 25 | 0

Comments:
There are numerous senior officials who have a stake in various enterprises or interests that are not facing any threats of legal actions. It is worth noting that no such conflict of interest cases have arisen on account of the conflict of interest.

References:
http://www.worldpress.org/Mideast/2439.cfm
http://worldpress.org/Mideast/2264.cfm

100: Regulations regarding conflicts of interest for privatization officials are aggressively enforced.
Conflict of interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from the regulations.

Conflict of interest regulations do not exist, or are consistently ineffective.

46. Can citizens access the terms and conditions of privatization bids?

YES | NO

46a. In law, citizens can access the terms and conditions of privatization bids.

YES: A YES score is earned if there is a formal process of publishing the details of privatization bids that makes information available to all citizens.

NO: A NO score is earned if there is no formal publication process, or if any citizens are excluded by law from accessing this information.

46b. In law, the government is required to publicly announce the results of privatization decisions.

YES | NO

References:
Law 45 of 1999 Privatization Law

YES: A YES score is earned if the government is required to publicly post or announce the results of the privatization process. This can be done through major media outlets or on a publicly-accessible government register or log.

NO: A NO score is earned if there is no requirement for the government to publicly announce the results of the privatization process.

46c. In practice, citizens can access the terms and conditions of privatization bids within a reasonable time period.

Comments:
In addition, there were announcements of possible companies that would be privatized in the official press and information on companies to be privatized can be obtained from the Privatization Technical Secretariat in relatively short time and little cost.
100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

46d. In practice, citizens can access the terms and conditions of privatization bids at a reasonable cost.

100  |  75  |  50  |  25  |  0

Comments:
In addition, there were announcements of possible companies that would be privatized in the official press and information on companies to be privatized can be obtained from the Privatization Technical Secretariat in relatively short time and little cost.

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

Category V. Oversight and Regulation

V-1. National Ombudsman

47. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

100
47. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

**Comments:**
The Central Organization for Control and Auditing is the official government organization that audits and checks the soundness of financial activities within the Government but it reports direct to the President's Office Manager.

The source listed is the law for defining the mandate of COCA and other regulatory conditions

**References:**
http://www.coca.gov.ye/ganon_aljhaz.pdf (Arabic) Law setting up Coca  

**YES:** A YES score is earned if there is a specific agency or set of agencies whose primary mandate is to investigate the actions of government on the behalf of common citizens. This agency or set of agencies should be specifically charged with seeking out and documenting abuses of power.

**NO:** A NO score is earned if no such agency or set of agencies exists, or that function is a secondary concern of a larger body, such as the legislature.

48. Is the national ombudsman effective?

48a. In law, the ombudsman is protected from political interference.

**Comments:**
The Central Organization for Control and Auditing is the official government organization that audits and checks the soundness of financial activities within the Government but it reports direct to the President's Office Manager.

The source listed is the law for defining the mandate of COCA and other regulatory conditions

**References:**
http://www.coca.gov.ye/ganon_aljhaz.pdf (Arabic) Law setting up Coca  

**YES:** A YES score is earned only if the agency (or set of agencies) has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

**NO:** A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

48b. In practice, the ombudsman is protected from political interference.
Comments:
COCA staff try to be independent but all their reports must be approved by the head of COCA. However there are sometimes when the organization will answer to reports or complaints by civil servants. I have tried this and came out with a report that pointed fingers at a leading official. Parliament is seeking to have COCA report to them, but that has yet to happen.

References:

COCA http://www.merip.org/mero/mero040306.html (Use find COCA)

100: This agency (or set of agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

75:

50: This agency (or set of agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include public criticism or praise by the government. The ombudsman may not be provided with some information needed to carry out its investigations.

25:

0: This agency (or set of agencies) is commonly influenced by political or personal incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The ombudsman cannot compel the government to reveal sensitive information.

48c. In practice, the head of the ombudsman agency/entity is protected from removal without relevant justification.

Comments:
No such protection exists for the head of COCA, who can be removed by the President. One of the most promising heads of COCA (Ali Muqbil Ghuthaim) in the mid eighties, was reportedly removed because he wanted to make COCA effective. Those that followed him tried to be good but knew how far they could really go.

References:

100: The director of the ombudsman (or directors of multiple agencies) serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director of the ombudsman (or directors of multiple agencies) serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director of the ombudsman (or directors of multiple agencies) can be removed at the will of political leadership.

48d. In practice, the ombudsman agency (or agencies) has a professional, full-time staff.
Comments:
The program is still underway to develop the capacity of COCA staff. The staff do try to be as professional as they can, but sometimes run into conflict with the Ministry of Finance on who is the oversight body on financial affairs. The training as can be seen by the report is still inadequate to come up with the high-qualified staff COCA needs to do a meaningful job.

References:
Arabic (report on training Center of COCA)

100: The ombudsman agency (or agencies) has staff sufficient to fulfill its basic mandate.

75:

50: The ombudsman agency (or agencies) has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The ombudsman agency (or agencies) has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

48e. In practice, agency appointments support the independence of the ombudsman agency (or agencies).

Comments:
For most positions from General Manager and downwards this is true, but for the senior positions from Undersecretary or Deputy Chairman and above, political considerations come into play. However, politics can enter into play in appointments as shown by the second source above.

References:
See previous answers' sources.
http://www.yementimes.com/01/iss49/in.htm

100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

48f. In practice, the ombudsman agency (or agencies) receives regular funding.

Comments:
The agency is funded by government budget allocations and donor support.
### References
Government Budgets every year
http://www.u4.no/projects/project.cfm?id=144

**100:** The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

#### 48g. In practice, the agency (or agencies) makes publicly available reports.

<table>
<thead>
<tr>
<th></th>
<th>100</th>
<th>75</th>
<th>50</th>
<th>25</th>
<th>0</th>
</tr>
</thead>
</table>

**Comments:**
COCA’s law states that it should present its report to the relevant entities concerned, without specifying exactly who. Normally this would entail the head of agency reviewed, the supervising Ministry of that agency, the Presidential Office, the Prime Ministry, the MOF, Parliament (if COCA was asked to investigate a certain matter). A copy of the By-Laws could not be obtained.

**References:**
Experience in working with COCA on certain issues.
Various presss reports on matters (un)covered by COCA

**100:** The agency (or agencies) makes regular, publicly available, substantial reports either to the legislature or directly to the public outlining the full scope of its work.

**75:**

**50:** The agency (or agencies) makes publicly available reports to the legislature and/or directly to the public that are sometimes delayed or incomplete.

**25:**

**0:** The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

#### 48h. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) initiates investigations.

<table>
<thead>
<tr>
<th></th>
<th>100</th>
<th>75</th>
<th>50</th>
<th>25</th>
<th>0</th>
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</thead>
</table>

**Comments:**
COCA has initiated investigations after being advised of certain cases, as proven by the researcher himself when he presented a case to them.

**References:**
COCA Law
Personal Experience
<table>
<thead>
<tr>
<th>Score</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>100</td>
<td>The agency aggressively starts investigations — or participates fully with cooperating agencies’ investigations — into judicial misconduct. The agency is fair in its application of this power.</td>
</tr>
<tr>
<td>75</td>
<td></td>
</tr>
<tr>
<td>50</td>
<td>The agency will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power.</td>
</tr>
<tr>
<td>25</td>
<td></td>
</tr>
<tr>
<td>0</td>
<td>The agency rarely investigates on its own or cooperates in other agencies’ investigations, or the agency is partisan in its application of this power.</td>
</tr>
</tbody>
</table>

48i. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) imposes penalties on offenders.

<table>
<thead>
<tr>
<th>Score</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>100</td>
<td>When rules violations are discovered, the agency is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.</td>
</tr>
<tr>
<td>75</td>
<td></td>
</tr>
<tr>
<td>50</td>
<td>The agency enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.</td>
</tr>
<tr>
<td>25</td>
<td></td>
</tr>
<tr>
<td>0</td>
<td>The agency does not effectively penalize offenders. The agency may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.</td>
</tr>
</tbody>
</table>

48j. In practice, the government acts on the findings of the agency (or agencies).

**Comments:**

COCA only discloses infractions and reports them to the head of the relevant agency, which must respond in thirty days (or take appropriate action). Otherwise, it will present a copy of the report to the General Prosecution for referral to the Public Property Prosecutor for action. It can make recommendations for legal action to be taken. There is really no known case of offenders having been penalized for corruption related cases.

**References:**

COCA Law and by-Laws

**References:**

There are several articles that depict cases going to the prosecution, but personal experience in some of them has shown that minor action was taken on minor cases. No big issues ever went to court although there were reports of heavy manipulation in government tenders. The last source shows where the lines are drawn for actions to be taken against corrupt officials.

**References:**

Various Arabic and English Yemeni Newspapers.  
http://www.state.gov/g/drl/rls/hrrpt/2005/61703.htm  
http://yementimes.com/article.shtml?i=975&p=business&a=4  
### 100: Ombudsman’s reports are taken seriously, with negative findings drawing prompt corrective action.

**75:**

**50:** In most cases, ombudsman’s reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

**25:**

**0:** Ombudsman reports are often ignored, or given superficial attention. Ombudsman reports do not lead to policy changes.

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### 48k. In practice, the agency (or agencies) acts on citizen complaints within a reasonable time period.

<table>
<thead>
<tr>
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<th>100</th>
<th>75</th>
<th>50</th>
<th>25</th>
<th>0</th>
</tr>
</thead>
</table>

**Comments:**
Depending on the citizen, this could be faster or slower. My own experience was four months from the start to getting the COCA report out to the relevant concerned entities. It took some ten years after that to get a ruling from the Prosecution on the case, with no action taken against the perpetrator (a public official).

**References:**
- Personal Experience

---

### 100: The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

---

### 49. Can citizens access the reports of the ombudsman?

**25**

**49a. In law, citizens can access reports of the ombudsman(s).**

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
</table>

**Comments:**
While there are no specific guidelines on making reports public, it would take considerable effort for a common citizen to obtain a report. Newspapers manage to get some reports from time to time, most likely on an informal basis.

**References:**
- Newspaper articles on COCA reports (www.yementimes.com/article.shtml?i=905&p=report&a=1)

**YES:** A YES score is earned if all ombudsman reports are publicly available.
NO: A NO score is earned if any ombudsman reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute the reports.

49b. In practice, citizens can access the reports of the ombudsman(s) within a reasonable time period.

|   | 100 | 75 | 50 | 25 | 0 |

Comments:
While there are no specific guidelines on making reports public, it would take considerable effort for a common citizen to obtain a report. Newspapers manage to get some reports from time to time, most likely on an informal basis.

References:
Newspaper articles on COCA reports (www.yementimes.com/article.shtml?i=905&p=report&a=1)

100: Reports are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Reports take around two weeks to obtain. Some delays may be experienced.

25:

0: Reports take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

49c. In practice, citizens can access the reports of the ombudsman(s) at a reasonable cost.

|   | 100 | 75 | 50 | 25 | 0 |

Comments:
While there are no specific guidelines on making reports public, it would take considerable effort for a common citizen to obtain a report. Newspapers manage to get some reports from time to time, most likely on an informal basis.

References:
Newspaper articles on COCA reports (www.yementimes.com/article.shtml?i=905&p=report&a=1)

100: Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

75:

50: Reports impose a financial burden on citizens, journalists or CSOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving reports imposes a major financial burden on citizens. Reports costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.
### V-2. Supreme Audit Institution

50. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
</table>

**Comments:**
The answers to this and the following questions are similar to those for the national ombusman.

**References:**
Law of the Central Organization for Auditing and Control COCA
Law setting up Coca

**YES:** A YES score is earned if there is a specific agency whose primary mandate is to audit and track the movement of money through the government. This agency should be specifically charged to investigate and document the misuse of funds. A system of agencies located in each department is equivalent.

**NO:** A NO score is earned if no such agency exists, or that function is a secondary concern of a larger body, such as the executive.

51. Is the supreme audit institution effective?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
</table>

**Comments:**
The Chairman, Deputies and General Department Heads of COCA are assigned by Presidential Decree. While the law states that COCA is independent it is under the aegis of the Presidential Office.

**References:**
COCA Law
Law setting up Coca

**YES:** A YES score is earned only if the agency has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

**NO:** A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.
51b. In practice, the head of the agency is protected from removal without relevant justification.

Comments:
No such protection exists for the head of COCA, who can be removed by the President. One of the most promising heads of COCA (Ali Muqbil Ghuthaim) in the mid eighties, was reportedly removed because he wanted to make COCA effective. Those that followed him tried to be good but knew how far they could really go.

References:

100: The director of the agency serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director of the agency serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director of the agency can be removed at the will of political leadership.

51c. In practice, the agency has a professional, full-time staff.

Comments:
The program is still underway to develop the capacity of COCA staff. The staff do try to be as professional as they can, but sometimes run into conflict with Ministry of Finance on who is the oversight body on financial affairs. The training as can be seen by the report is still inadequate to come up with the high qualified staff COCA needs to do a meaningful job.

References:
Arabic (report on training Center of COCA)

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders it ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

51d. In practice, agency appointments support the independence of the agency.
Comments:
For most positions from General Manager and downwards this is true, but for the senior positions from Undersecretary or Deputy Chairman and above, political considerations come into play. However, politics can enter into play in appointments as shown by the second source above.

References:
See previous answers' sources, http://www.yementimes.com/01/iss49/in.htm

100: Appointments to the agency are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

51e. In practice, the agency receives regular funding.

Comments:
The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

References:
Government Budgets every year, http://www.u4.no/projects/project.cfm?id=144

100: The agency has a regular source of funding that is free of political considerations. However, funding may be pressured by cuts or threats of cuts to the agency budget.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

51f. In practice, the agency makes regular public reports.

Comments:
COCA’s law states that it should present its report to the relevant entities concerned, without specifying exactly who. Normally this
would entail the head of agency reviewed, the supervising Ministry of that agency, the Presidential Office, the Prime Ministry, the MOF, Parliament (if COCA was asked to investigate a certain matter). A copy of the By-Laws could not be obtained.

References:
Experience in working with COCA on certain issues.
Various presss reports on matters (un)covered by COCA

| 100: | The agency makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work. |
| 75: |
| 50: | The agency makes publicly available reports to the legislature and/or to the public directly that are sometimes delayed or incomplete. |
| 25: |
| 0: | The agency makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial. |

51g. In practice, the government acts on the findings of the agency.

100  75  50  25  0

Comments:
There are several articles that depict cases going to the prosecution, but personal experience in some of them has shown that minor action was taken on minor cases. No big issues ever went to court although there were reports of heavy manipulation in government tenders. The last source shows where the lines are drawn for actions to be taken against corrupt officials.

References:
Various Arabc and English Yemeni Newspapers.
http://www.state.gov/g/drl/rls/hrrpt/2005/61703.htm
http://yementimes.com/article.shtml?i=975&p=business&a=4

| 100: | Audit agency reports are taken seriously, with negative findings drawing prompt corrective action. |
| 75: |
| 50: | In most cases, audit agency reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies. |
| 25: |
| 0: | Audit reports are often ignored, or given superficial attention. Audit reports do not lead to policy changes. |

51h. In practice, the supreme audit institution is able to initiate its own investigations.

100  75  50  25  0

Comments:
COCA has initiated investigations after being advised of certain cases, as proven by this researcher himself when he presented a case to them.
**References:**
COCA law

<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
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<tbody>
<tr>
<td>100</td>
<td>The supreme audit institution can control the timing and pace of its investigations without any input from the executive or legislature.</td>
</tr>
<tr>
<td>75</td>
<td></td>
</tr>
<tr>
<td>50</td>
<td>The supreme audit institution can generally decide what to investigate, and when, but is subject to pressure from the executive or legislature on politically sensitive issues.</td>
</tr>
<tr>
<td>25</td>
<td></td>
</tr>
<tr>
<td>0</td>
<td>The supreme audit institution must rely on approval from the executive or legislature before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.</td>
</tr>
</tbody>
</table>

### 52. Can citizens access reports of the supreme audit institution?

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<th>17</th>
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**52a. In law, citizens can access reports of the agency.**

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
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</table>

**Comments:**
While there are no specific guidelines on making reports public, it would take considerable effort for a common citizen to obtain a report. Newspapers manage to get some reports from time to time, most likely on an informal basis.

**References:**
Newspaper articles on COCA reports (www.yementimes.com/article.shtml?id=905&p=report&a=1)

**YES:** A YES score is earned if all supreme auditor reports are available to the general public.

**NO:** A NO score is earned if any auditor reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute.

<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
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<tbody>
<tr>
<td>100</td>
<td>Reports are available on-line, or records can be obtained within two days. Reports are uniformly available; there are no delays for politically sensitive information.</td>
</tr>
<tr>
<td>75</td>
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</tbody>
</table>

**52b. In practice, citizens can access audit reports within a reasonable time period.**

<table>
<thead>
<tr>
<th></th>
<th>100</th>
<th>75</th>
<th>50</th>
<th>25</th>
<th>0</th>
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</thead>
</table>

**Comments:**
While there are no specific guidelines on making reports public, it would take considerable effort for a common citizen to obtain a report. Newspapers manage to get some reports from time to time, most likely on an informal basis.

**References:**
Newspaper articles on COCA reports (www.yementimes.com/article.shtml?id=905&p=report&a=1)
50: Reports take around two weeks to obtain. Some delays may be experienced.

25:

0: Reports take more than a month to acquire. In some cases, most reports may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

52c. In practice, citizens can access the audit reports at a reasonable cost.

100  75  50  25  0

Comments:
While there are no specific guidelines on making reports public, it would take considerable effort for a common citizen to obtain a report. Newspapers manage to get some reports from time to time, most likely on an informal basis.

References:
Newspaper articles on COCA reports (www.yementimes.com/article.shtml/?i=905&p=report&a=1)

100: Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

75:

50: Reports impose a financial burden on citizens, journalists or CSOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving reports imposes a major financial burden on citizens. Report costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

53. In law, is there a national tax collection agency?

100

53. In law, is there a national tax collection agency?

YES  |  NO

Comments:
The General Tax Authority is under the aegis of the Ministry of Finance and originated as the North Yemen Department of the Ministry of Finance in the early 1970s.

References:
Unification Agreement fo North and South Yemen merging all the institutions of government
Financial Law No. 8 of 1991
Income Tax Law No. 31 of 1990 and all subsequent tax laws up to the General Sales Tax No. 19 of 2001 and all their subsequent amendments.

**YES:** A YES score is earned if there is a national agency formally mandated to collect taxes.

**NO:** A NO score is earned if that function is spread over several agencies, or does not exist. A NO score is earned if national government ministries can collect taxes independently.

54. Is the tax collection agency effective?

54a. In practice, the tax collection agency has a professional, full-time staff.

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<tr>
<th>100</th>
<th>75</th>
<th>50</th>
<th>25</th>
<th>0</th>
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</table>

Comments:
The Tax Authority is poorly organized and staffed. Low salaries encourage corruption.

References:
By – Laws of the General Tax Authority
Interviews with some tax authority staff.

54b. In practice, the agency receives regular funding.

<table>
<thead>
<tr>
<th>100</th>
<th>75</th>
<th>50</th>
<th>25</th>
<th>0</th>
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</thead>
</table>

Comments:
The Tax Authority has a regular budget allocation from the Government budget and some donor support (Technical Assistance) such as the matrix shown in second link (pp. 3-5)

References:
Yemeni Public Budgets
http://www.ndi.org/EDF/transcripts/phc_room5/5.html

<table>
<thead>
<tr>
<th>100</th>
<th>75</th>
<th>50</th>
<th>25</th>
<th>0</th>
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</table>

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.
25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

55. In practice, are tax laws enforced uniformly and without discrimination?

<table>
<thead>
<tr>
<th>100</th>
<th>75</th>
<th>50</th>
<th>25</th>
<th>0</th>
</tr>
</thead>
</table>

Comments:
There is corruption on a grand scale that allows rich merchants to evade paying taxes with such loopholes as setting up overseas operations to circumvent their losing operations in Yemen. Meanwhile, tax collectors exaggerate their dedication to their job on the middle income, poor or small shopkeepers.

References:
http://www.asosai.org/R_P_government-revenues/chapter_27_yemen.htm
http://www.wspgroup.com/international/projects.asp?type=display&org=870

100: Tax laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade tax law than another.

75:

50: Tax laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade tax law. Some arbitrary and discriminatory tax rules exist.

25:

0: Tax law is unequally applied. Some groups of citizens are consistently more or less likely to evade tax law than others. Tax regulations are, as a rule, written to be discriminatory and/or arbitrary.

56. In law, is there a national customs and excise agency?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
</table>

References:
Law 14 of 1990 Concerning Customs and all the consecutive customs laws that followed.

YES: A YES score is earned if there is an agency formally mandated to collect excises and inspect customs.

NO: A NO score is earned if that function is spread over several agencies, or does not exist.

57. Is the customs and excise agency effective?
57a. In practice, the customs and excise agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:
Check out their website and the tax authority websites and you will see how effective they are in carrying out their mandate.

References:

100: The agency has staff sufficient to fulfill its basic mandate.
75:
50: The agency has limited staff that hinders its ability to fulfill its basic mandate.
25:
0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

57b. In practice, the agency receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:
However, salaries are not providing an incentive to discourage corruption.

References:
Yemen Yearly Public Budget Allocation

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.
75:
50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.
25:
0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

58. In practice, are customs and excise laws enforced uniformly and without discrimination?

25
Comments:
There are all kinds of methods to finagle with customs, including producing far lower priced invoices, than their real costs (I know a BMW agent some years back who was bringing in BMW 320 at the invoice cost of US$ 3,000, which is far below their cost to the importer.

References:

100: Customs and excise laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade customs than another.

75: Customs and excise laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade customs requirements.

50: Customs and excise laws are unequally applied. Some groups of citizens are consistently more or less likely to evade customs and excise laws than others.

0: Customs and excise laws are unequally applied. Some groups of citizens are consistently more or less likely to evade customs and excise laws than others.

V-4. Financial Sector Regulation

59. In law, is there a financial regulatory agency overseeing publicly listed companies?

YES | NO

59. In law, is there a financial regulatory agency overseeing publicly listed companies?

Comments:
There is talk of trying to establish a financial securities market and stock exchange, talk which began some twenty-five years ago when I was still employed with the banking sector.

References:
Not applicable as such institution does not exist.

YES: A YES score is earned if there is an agency tasked with overseeing publicly listed companies in the public interest and ensuring that disclosure rules are met.

NO: A NO score is earned if this function is spread over several agencies or does not exist.

60. Is the financial regulatory agency effective?
60a. In law, the financial regulatory agency is protected from political interference.

YES | NO

Comments:
Not applicable.

References:
Not applicable.

YES: A YES score is earned only if the agency has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

60b. In practice, the agency has a professional, full-time staff.

| 100 | 75 | 50 | 25 | 0 |

Comments:
Not applicable.

References:
Not applicable.

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

60c. In practice, the agency receives regular funding.

| 100 | 75 | 50 | 25 | 0 |

Comments:
Not applicable.

References:
Not applicable.
100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

60d. In practice, when necessary, the financial regulatory agency independently initiates investigations.

| 100 | 75 | 50 | 25 | 0 |

Comments:
Not applicable.

References:
Not applicable.

100: When irregularities are discovered, the agency is aggressive in investigating and/or in cooperating with other investigative bodies.

75:

50: The agency starts investigations, but is limited in its effectiveness or in its cooperation with other investigative agencies. The agency may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency does not effectively investigate financial irregularities or cooperate with other investigative agencies. The agency may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

60e. In practice, when necessary, the financial regulatory agency imposes penalties on offenders.

| 100 | 75 | 50 | 25 | 0 |

Comments:
Not applicable.

References:
Not applicable.

100: When rules violations are discovered, the agency is aggressive in penalizing offenders and/or in cooperating with other agencies that impose penalties.

75:

50: The agency enforces rules, but is limited in its effectiveness or reluctant to cooperate with other agencies. The agency may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.
61. Can citizens access the financial records of publicly listed companies?

0

61a. In law, citizens can access the financial records of publicly listed companies.

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
</table>

Comments:
This would only be so for banks up to now.

References:
Law No. 38 for 1998 for Banking
Law No. 21 for 1996 for Islamic Banking

| YES: A YES score is earned if the financial information of all publicly traded companies is required by law to be public. |
| NO: A NO score is earned if any category of publicly-owned or publicly-traded company is exempt from this rule, or no such rules exist. |

61b. In practice, the financial records of publicly listed companies are regularly updated.

100 | 75 | 50 | 25 | 0

Comments:
Not applicable.

References:
Not applicable.

| 100: Publicly traded companies always disclose financial data, which is generally accurate and up to date. |
| 75: |
| 50: Publicly traded companies disclose financial data, but it is flawed. Some companies may misstate financial data, or file the information behind schedule. |
| 25: |
| 0: Financial data is not available, or is consistently superficial or otherwise of no value to investors. |

61c. In practice, the financial records of publicly listed companies are audited according to international accounting standards.
100: Financial records of all public companies are regularly audited by a trained third party auditor using accepted international standards.

75:

50: Financial records of public companies are regularly audited, but exceptions may exist. Some companies may use flawed or deceptive accounting procedures, or some companies may be exempted from this requirement.

25:

0: Publicly traded companies are not audited, or the audits have no functional value. The auditors may collude with the companies in providing misleading or false information to the public.

61d. In practice, citizens can access the records of disciplinary decisions imposed by the government on publicly-listed companies.

100: These records are freely available to all citizens through a formal official process.

75:

50: These records are available to all citizens, with some exceptions.

25:

0: These records are generally not available through official processes.

61e. In practice, citizens can access the financial records of publicly listed companies within a reasonable time period.
100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

61f. In practice, citizens can access the financial records of publicly listed companies at a reasonable cost.

100

75

50

25

0

Comments:
Not applicable.

References:
Not applicable.

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

0

V-5. Business Licensing and Regulation

62. Are business licenses available to all citizens?

75

62a. In law, anyone may apply for a business license.

YES | NO
References:
Law 280 of 1992 Council of Minister’s Decree regulating money changing operations.
Law 1 of 1992 Foreign Trade.
Law 4 of 1993 Yemen Free Trade Zones.
The subsequent amendments thereto and finally Law 22 of 2002 Investment Law and other various trade laws.

YES: A YES score is earned if no particular group or category of citizens is excluded from applying for a business license, when required. A YES score is also earned if basic business licenses are not required.

NO: A NO score is earned if any group of citizens are categorically excluded from applying for a business license, when required.

62b. In law, a complaint mechanism exists if a business license request is denied.

YES | NO

Comments:
One can sue a government agency for not giving license.

References:
Yemeni Constitution
Law to the Judiciary

YES: A YES score is earned if there is a formal process for appealing a rejected license.

NO: A NO score is earned if no such mechanism exists.

62c. In practice, citizens can obtain any necessary business license (i.e. for a small import business) within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:
I recall when trying to set up a trading company some twenty years ago it took two days and when I was a Senior Manager of the International Bank of Yemen some 26 years ago it took exactly three months to set up the bank and start its operation. But, those were the good old days. Now it would be considerably more time consuming and costly, but not yet impossible.

References:
Law 280 of 1992 Council of Minister’s Decree regulating money changing operations.
Law 1 of 1992 Foreign Trade.
Law 4 of 1993 Yemen Free Trade Zones.
The subsequent amendments thereto and finally Law 22 of 2002 Investment Law and other various trade laws.

100: Licenses are not required, or licenses can be obtained within roughly one week.

75:

50: Licensing is required and takes around one month. Some groups may be delayed up to a three months.

25:
Licensing takes more than three months for most groups. Some groups may wait six months to one year to get necessary licenses.

62d. In practice, citizens can obtain any necessary business license (i.e. for a small import business) at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:
I recall when trying to set up a trading company some twenty years ago it took two days and when I was a Senior Manager of the International Bank of Yemen some 26 years ago it took exactly three months to set up the bank and start its operation. But, those were the good old days. Now it would be considerably more time consuming and costly, but not yet impossible.

References:
Law 280 of1992 Council of Minister’s Decree regulating money changing operations.
Law 1 of 1992 Foreign Trade.
Law 4 of 1993 Yemen Free Trade Zones.
The subsequent amendments thereto and finally Law 22 of 2002 Investment Law and other various trade laws.

100: Licenses are not required, or licenses are free. Licenses can be obtained at little cost to the organization, such as by mail, or on-line.

75:

50: Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

25:

0: Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

63. Do businesses receive equitable regulatory treatment from the government?

63

63a. In law, basic business regulatory requirements for meeting health, safety, and environmental standards are transparent and publicly available.

YES | NO

References:
Law No (46 ) of 1991 Concerning Fishing and Exploitation of Marine Life
Law No 37 of 1992 Concerning Practice of Health Professions
Law 28 of 1995 for Environmental Protection
and many other
Law of Public Health
Law to Local Authority

YES: A YES score is earned if basic regulatory requirements for meeting health, safety, and environmental standards are publicly accessible and transparent.

NO: A NO score is earned if such requirements are not made public or are otherwise not transparent.
63b. In practice, business inspections by the government are carried out in a uniform and even-handed manner.

Comments:
One does not get such important matters discussed in public and the local press has yet to cover this serious issue, much of which plagues most of the civil service. Furthermore environmental protection is relatively new to Yemen (mostly in the last 15 years), thanks to the prodding of donors and civil society.

References:
The By-laws of the various ministries involved.
http://www.persga.org/about/tour/Yemen.asp

100: Business inspections by the government (i.e. health, safety, or environmental inspections) are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

75:

50: Business inspections by the government (i.e. health, safety, or environmental inspections) are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

25:

0: Business inspections (i.e. health, safety, or environmental inspections) are routinely carried out by the government in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

Category VI. Anti-Corruption and Rule of Law

VI-1. Anti-Corruption Law

64. Is there legislation criminalizing corruption?

78

64a. In law, attempted corruption is illegal.

YES | NO

Comments:
Draft Anti-Corruption Law is being debated in Parliament and the Consultative Assembly (the latter appointed). The Law for Declaration of Assets has passed, but Higher Committee for Combating Corruption not yet formed.

References:
http://www.yementimes.com/article.shtml?i=966&p=front&a=1
YES: A YES score is earned if corruption laws include attempted acts.

NO: A NO score is earned if this is not illegal.

64b. In law, extortion is illegal.

| YES | NO |

Comments:
No leading officials have been prosecuted.

References:
Law No. 30 for 2006 Concerning Declaration of Assets
Crime and Penalty Law No. 12 of1994,
Law No. 6 of 1995 on the prosecution of persons holding high-ranking public office, Presidential Decree No. 3 of 1996 on Establishment and Terms of Reference of Public Property Courts,
Judiciary Act No. 1 of 1991
the draft law on financial responsibility and accountability

YES: A YES score is earned if corruption laws include extortion. Extortion is defined as demanding favorable treatment (such as a bribe) to withhold a punishment.

NO: A NO score is earned if this is not illegal.

64c. In law, offering a bribe (i.e. active corruption) is illegal.

| YES | NO |

References:
Law No. 30 for 2006 Concerning Declaration of Assets
Crime and Penalty Law No. 12 of1994,
Law No. 6 of 1995 on the prosecution of persons holding high-ranking public office, Presidential Decree No. 3 of 1996 on Establishment and Terms of Reference of Public Property Courts,
Judiciary Act No. 1 of 1991
the draft law on financial responsibility and accountability

YES: A YES score is earned if offering a bribe is illegal.

NO: A NO score is earned if this is not illegal.

64d. In law, receiving a bribe (i.e. passive corruption) is illegal.

| YES | NO |
References:
Law No. 30 for 2006 Concerning Declaration of Assets
Crime and Penalty Law No. 12 of 1994,
Law No. 6 of 1995 on the prosecution of persons holding high-ranking public office, Presidential Decree No. 3 of 1996 on
Establishment and Terms of
Reference of Public Property Courts,
Judiciary Act No. 1 of 1991
the draft law on financial responsibility and accountability

YES: A YES score is earned if receiving a bribe is illegal.

NO: A NO score is earned if this is not illegal.

64e. In law, bribing a foreign official is illegal.

YES | NO

Comments:
There is no explicit ruling, but one can say that illegally enriching others" could be deemed to include foreigners, as it states in
second source

References:
Penal Code
Law No. 30 for 2006

YES: A YES score is earned if bribing a foreign official is illegal.

NO: A NO score is earned if this is not illegal.

64f. In law, using public resources for private gain is illegal.

YES | NO

References:
Law No. 30 for 2006 Concerning Declaration of Assets
Crime and Penalty Law No. 12 of 1994,
Law No. 6 of 1995 on the prosecution of persons holding high-ranking public office, Presidential Decree No. 3 of 1996 on
Establishment and Terms of
Reference of Public Property Courts,
Judiciary Act No. 1 of 1991
the draft law on financial responsibility and accountability

YES: A YES score is earned if using public resources for private gain is illegal.

NO: A NO score is earned if this is not illegal.

64g. In law, using confidential state information for private gain is illegal.

YES | NO
References:
Law No. 30 for 2006 Concerning Declaration of Assets
Crime and Penalty Law No. 12 of 1994,
Law No. 6 of 1995 on the prosecution of persons holding high-ranking public office, Presidential Decree No. 3 of 1996 on
Establishment and Terms of
Reference of Public Property Courts,
Judiciary Act No. 1 of 1991
the draft law on financial responsibility and accountability

YES: A YES score is earned if using confidential state information for private gain is illegal.

NO: A NO score is earned if this is not illegal.

YES | NO

64h. In law, money laundering is illegal.

YES | NO

References:
Money Laundering Law No. (31) for 2003

YES: A YES score is earned if money laundering is illegal. Money laundering is defined as concealing the origin of funds to
hide wrongdoing or avoid confiscation.

NO: A NO score is earned if this is not illegal.

YES | NO

64i. In law, conspiracy to commit a crime (i.e. organized crime) is illegal.

YES | NO

References:

YES: A YES score is earned if organized crime is illegal.

NO: A NO score is earned if this is not illegal.

VI-2. Anti-Corruption Agency

65. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?
65. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

| YES | NO |

**Comments:**
The committee to combat corruption not yet formed. COCA has the authority to seek prosecution in cases of finding violations in an entity, in case the entity did not pursue COCA’s recommendations as such. However, very few minor cases have been fully prosecuted.

**References:**
http://www.demicoalition.org/pdf/SDC%20-%20Chapter%206.pdf#search=%22Formation%20of%20Corruption%20Yemen%22 page 6

Law No. 39 for 1992 for the Establishment of the Central Organization for Audit and Control
Article 11-7

**YES:** A YES score is earned if an agency is specifically mandated to address corruption. A YES score is earned if there are several agencies or entities with specific roles in fighting corruption, including special prosecutorial entities.

**NO:** A NO score is earned if no agency (or group of agencies/entities) is specifically mandated to prevent or prosecute corruption.

66. Is the anti-corruption agency effective?

31

66a. In law, the agency (or agencies) is protected from political interference.

| YES | NO |

**Comments:**
The Higher Anti Corruption Authority of Commission has yet to be formed and the Anti Corruption Law has yet to pass although it was passed to Parliament in January according to source listed. The mandate for the Committee has not been defined, except for the Asset Declaration Law, COCA is not independent but reports to President’s Office Manager.

**References:**
http://www.26sep.net/search.php?q=%DE%C7%E4%E6%E4+%E3%DF%C7%DD%CD%C9+%C7%E1%DD%D3%C7%CF

**YES:** A YES score is earned only if the agency (or agencies) has some formal organizational or operational independence from the government. A YES score is earned even if the agency/agencies is legally separate but in practice staffed by partisans.

**NO:** A NO score is earned if the agency (or agencies) is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department, in such a way that limits its operational independence.

66b. In practice, the agency (or agencies) is protected from political interference.
100: This agency (or agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

75:

50: This agency (or agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government, political appointments, or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

25:

0: This agency (or agencies) is commonly influenced by political or personal incentives. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The agency (or agencies) cannot compel the government to reveal sensitive information.

66c. In practice, the head of the agency (or agencies) is protected from removal without relevant justification.

100:

The director(s) cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director(s) can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director(s) can be removed at the will of political leadership.

66d. In practice, appointments to the agency (or agencies) are based on professional criteria.
Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

Appointments are often based on political considerations. Individuals appointed often have conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

In practice, the agency (or agencies) has a professional, full-time staff.

The agency (or agencies) has staff sufficient to fulfill its basic mandate.

The agency (or agencies) has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

The agency (or agencies) has no staff, or a limited staff, that is clearly unqualified to fulfill its mandate.

In practice, the agency (or agencies) receives regular funding.

They are allotted allocations from the government budget and are also beneficiaries of donor support to reform programs.

The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.
The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

0: The agency's funding sources are unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

In practice, the agency (or agencies) makes regular public reports.

Comments:
It is not clear how the Higher Anti Corruption Commission will work yet, but COCA submits its reports to the concerned relevant authority reviewed and to the President's Bureau Chief. Parliament is seeking to have COCA report to Parliament, but that has not occurred yet.

References:
personal knowledge
COCA Law Article (13)

The agency (or agencies) has sufficient powers to carry out its mandate.

Comments:
I personally know of cases that COCA has pursued unsuccessfully for prosecution involving government contracts

References:
COCA Law

The agency (or agencies) has powers to gather information, including politically sensitive information. The agency (or agencies) can question suspects, order arrests and bring suspects to trial (or rely on related agencies or law enforcement authorities to perform such functions).

0: The agency (or agencies) lacks significant powers which limit its effectiveness.
66. In practice, when necessary, the agency (or agencies) independently initiates investigations.

**Comments:**
I have known cases where COCA has initiated investigations of some tenders that were dubious in nature.

**References:**
COCA Law Article (11)

100: When irregularities are discovered, the agency (or agencies) is aggressive in investigating the government or in cooperating with other investigative agencies.

75:

50: The agency (or agencies) starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency (or agencies) may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency (or agencies) does not effectively investigate or does not cooperate with other investigative agencies. The agency (or agencies) may not investigate at all, or fail to detect offenders. The agency (or agencies) may be partisan in its application of power.

67. Can citizens access the anti-corruption agency?

50

67a. In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.

**Comments:**
I reported a case to COCA and they were able to complete the investigation in four months’ time, which is pretty good concerning the complexity of the case.

**References:**
personal experience

100: The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.
67b. In practice, citizens can complain to the agency (or agencies) without fear of recrimination.

Comments:
The case I was directly involved in led to issuance of favorable judicial ruling and no negative consequence.

References:
COCA law and personal experience

100: Whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers, or may be due to a culture that encourages disclosure and accountability.

75:

50: Whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

VI-3. Rule of Law

68. Is there an appeals mechanism for challenging criminal judgments?

50

68a. In law, there is a general right of appeal.

Comments:
There are also informal appeals mechanism as when people of goodwill pay blood money for those sentenced to death for murder.

References:
Yemeni Constitution
Judiciary Law of 1991

YES: A YES score is earned if there is a formal process of appeal for challenging criminal judgments.

NO: A NO score is earned if there is no such process.

68b. In practice, appeals are resolved within a reasonable time period.
Comments:
Know many cases that took many years to go through an appeal process for incorrectly condemned suspects including the cases of two Mosque sermoners, who were accused of being agents” for Iran.

References:
Judicial Authority Act (no. 1/1990).
Personal awareness (I helped solicit the appeal below)
http://www.amnestyusa.org/countries/yemen/index.do

100: Appeals are acted upon quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

75:

50: Appeals are generally acted upon quickly but with some exceptions. Some appeals may not be acknowledged, and simple cases may take years to resolve.

25:

0: Most appeals are not resolved in a timely fashion. Appeals may go unacknowledged for months or years and simple cases may never be resolved.

68c. In practice, citizens can use the appeals mechanism at a reasonable cost.

100:

75:

50:

25:

0:

Comments:
Even appealing case after having gone through a sentence is formidably costly, because the condemned has to pay back what they stole” before they can be released. See source articfie for examples.

References:
http://www.yementimes.com/article.shtml?i=893&p=front&a=1

100: In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge criminal judgments.

75:

50: In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge criminal judgments.

25:

0: The prohibitive cost of utilizing the appeals mechanism prevents middle class citizens from challenging criminal judgments.

69. In practice, do judgments in the criminal system follow written law?
69. In practice, do judgments in the criminal system follow written law?

100 | 75 | 50 | 25 | 0

Comments:
The two men involved in the article listed have been given a presidential waiver of sentence* and released (an election is up and coming and the sky is the limit for gaining votes any way you can).

References:
http://www.yementimes.com/article.shtml?i=901&p=opinion&a=1

100: Judgments in the criminal system are made according to established legal code and conduct. There are no exceptional cases in which individuals are treated by a separate process. Political interference, bribery, cronyism or other flaws are rarely factors in judicial outcomes.

75:

50: Judgments in the criminal system usually follow the protocols of written law. There are sometimes exceptions when political concerns, corruption or other flaws in the system decide outcomes.

25:

0: Judgments in the criminal system are often decided by factors other than written law. Bribery and corruption in the criminal judicial process are common elements affecting decisions.

70. In practice, are judicial decisions enforced by the state?

25

References:
http://www.hrw.org/wr2k1/mideast/yemen.html

100: Judicial decisions are enforced quickly regardless of what is being decided or who is appearing before the court. Failure to comply brings penalties enforced by the state.

75:

50: Judicial decisions are generally enforced by the state, with some exceptions. Certain areas of law may be ignored, or certain parties appearing before the courts may evade or delay enforcement.

25:

0: Judicial decisions are often ignored. The state lacks the will or capacity to consistently enforce these decisions.

71. Is the judiciary able to act independently?
71a. In law, the independence of the judiciary is guaranteed.

YES | NO

Comments:
However, the Higher Judicial Council was until recently chaired by the president. The Executive Branch has also established specialized courts at will, like the security courts that tried certain dissenters.

References:
Yemeni Constitution
Law of the Judiciary

YES: A YES score is earned if there are formal rules establishing that the judiciary is independent from political interference by the executive and legislative branches. Independence include financial issues (drafting, allocation and managing the budget of the courts).

NO: A NO score is earned if there are no formal rules establishing an independent judiciary.

71b. In practice, national-level judges are protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:
Judge Luqman was arrested because he passed a ruling against a leading icon of the president’s circle, who hails from the same district where the Judge worked. The second Arabic source shows some of the obvious reasons for his conviction. He has now been released (thanks to election time).

References:
http://www.yementimes.com/print_article.shtml?id=851&p=local&a=10
http://www.al-balagh.net/index.php?option=content&task=view&id=2941 Arabic

100: National level judges operate independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Judges never comment on political debates. Individual judgments are rarely praised or criticized by political figures.

75:

50: National level judges are typically independent, yet are sometimes influenced in their judgments by negative or positive political incentives. This may include favorable or unfavorable treatment by the government or public criticism. Some judges may be demoted or relocated in retaliation for unfavorable decisions.

25:

0: National level judges are commonly influenced by politics and personal biases or incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include demotion, pay cuts, relocation, threats or harassment.

71c. In law, there is a transparent and objective system for distributing cases to national-level judges.
Comments:
However, the Executive Branch intervenes and may even decide on the judges taking certain cases. It is too early to see how things have changed with the Chairman of the Higher or Supreme Judicial Council now being the Chairman of the Supreme Court.

References:

YES: A YES score is earned if there is an objective system that is transparent to the public that equitably or randomly assigns cases to individual judges. The executive branch does not control this process.

NO: A NO score is earned if the case assignment system is non-transparent or subjective where judges themselves have influence over which cases they adjudicate. A NO score is also earned if the executive branch controls this process.

71d. In law, national-level judges are protected from removal without relevant justification.

YES | NO

Comments:
Judge Luqman was not only kicked out of his courtroom, but was imprisoned and tried for dubious reasons, when the real reason was because he issued a ruling against a senior government official in the latter’s land dispute case with another citizen.

References:
Constitution of the Republic of Yemen
Law of the Judiciary
Judicial Procedures Law
http://www.yementimes.com/article.shtml?id=851&p=local&a=10

YES: A YES score is earned if there are specific, formal rules for removal of a justice. Removal must be related to abuse of power or other offenses related to job performance.

NO: A NO score is earned if justices can be removed without justification, or for purely political reasons. A NO score is earned if the removal process is not transparent, or not based on written rules.

72. Are judges safe when adjudicating corruption cases?

100

72a. In practice, in the last year, no judges have been physically harmed because of adjudicating corruption cases.

YES | NO

References:
No case exists for this year according to Judge Ahmed Al-Nu’umi of the Judicial Inspections Department in the Ministry of Justice.

YES: A YES score is earned if there were no documented cases of judges being assaulted because of their involvement in a corruption case during the specific study period.
NO: A NO score is earned if there were any documented cases of assault to a judge related to his/her participation in a corruption trial. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

72b. In practice, in the last year, no judges have been killed because of adjudicating corruption cases.

YES  |  NO

References:
No case exists for this year according to Judge Ahmed Al-Nu'umi of the Judicial Inspections Department in the Ministry of Justice.

YES: A YES score is earned if there were no documented cases of judges being killed related to their involvement in a corruption case during the study period.

NO: A NO score is earned if there were any documented cases where a judge was killed because of his/her participation in a corruption trial. The relationship between a mysterious death and a judge’s involvement in a case may not be clear, however the burden of proof here is low. If it is a reasonable assumption that a judge was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

73. Do citizens have equal access to the justice system?

42

73a. In practice, judicial decisions are not affected by racial or ethnic bias.

100  |  75  |  50  |  25  |  0

Comments:
The case against Hussein Al-Dailami and Mohammed Miftah were clearly a sectarian-oriented case against two prominent sermoners of the Zeidi sect, who were protesting the unusual armed assault against the Zeidi stronghold in Sa‘ada Governorate (the so called Houthi Rebellion).

References:
http://www.yementimes.com/article.shtml?i=903&p=local&a=1

100: Judicial decisions are not affected by racial or ethnic bias.

75:

50: Judicial decisions are generally not affected by racial or ethnic bias, with some exceptions. Some groups may be occasionally discriminated against, or some groups may occasionally receive favorable treatment.

25:

0: Judicial decisions are regularly distorted by racial or ethnic bias. Some groups consistently receive favorable or unfavorable treatment by the courts.

73b. In practice, women have full access to the judicial system.
Comments:
Women can go to court to sue for rights and many do, especially in pursuit of inheritance rights, or to annul marriages, often with the help of male relatives.

References:
Constitution of the Republic
Judiciary Law
http://yementimes.com/article.shtml?i=951&p=report&a=4

100: Women enjoy full and equal status in the eyes of the courts. There are no exceptions or practices in which women are treated differently by the judicial system.

75:

50: Women generally have use of the judicial system, with some exceptions. In some cases, women may be limited in their access to courts, or gender biases may affect court outcomes.

25:

0: Women generally have less access to the courts than men. Court decisions are commonly distorted by gender bias. Women may have to go through intermediaries to interact with the court, or are unable to present evidence.

73c. In practice, the state provides legal counsel for defendants in criminal cases who cannot afford it.

References:
Penal Code of 1994
Law of Judiciary of 1991

100: State-provided legal aid is basic, but well trained and effective in representing the rights of indigent defendants.

75:

50: State-provided legal aid is available, but flawed. Legal aid may be unavailable to some indigent defendants. Legal aid/public defenders may be sometimes unable or unwilling to competently represent all defendants.

25:

0: State-provided legal aid is unavailable to most indigent defendants. State legal aid/public defenders may be consistently incompetent or unwilling to fairly represent all defendants.

73d. In practice, citizens earning the median yearly income can afford to bring a legal suit.

Comments:
He has been freed from jail, but he is pursuing to obtain compensation from his former employer, who must compensate him for all his salaries and other benefits, which he lost and is entitled to according to the Labor Law, which his employer is refusing to abide by.
### References:

Personal (A friend who was accused wrongly of a crime had to sell all his non-fixed assets (including jewelry) because he could not afford to proceed with the legal costs required to uphold his innocence)

<table>
<thead>
<tr>
<th>100</th>
<th>In most cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance.</th>
</tr>
</thead>
<tbody>
<tr>
<td>75</td>
<td></td>
</tr>
<tr>
<td>50</td>
<td>In some cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. In other cases, the cost is prohibitive.</td>
</tr>
<tr>
<td>25</td>
<td></td>
</tr>
<tr>
<td>0</td>
<td>The cost of engaging the legal system prevents middle class citizens from filing suits.</td>
</tr>
</tbody>
</table>

| 73e | In practice, a typical small retail business can afford to bring a legal suit. |

### Comments:

Lawyer Mohammed Al-Dhahbali says that commercial people tend to try to speed up proceedings and thus their costs do not come to too much if the cases are straight through.

### References:

Law of Commercial Courts
Interview with Lawyer

<table>
<thead>
<tr>
<th>100</th>
<th>In most cases, the legal system is an affordable option to a small retail business seeking to redress a grievance.</th>
</tr>
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<tbody>
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<td>75</td>
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<td>50</td>
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</tr>
<tr>
<td>25</td>
<td></td>
</tr>
<tr>
<td>0</td>
<td>The cost of engaging the legal system prevents small businesses from filing suits.</td>
</tr>
</tbody>
</table>

| 73f | In practice, all citizens have access to a court of law, regardless of geographic location. |

### Comments:

While the source may be old, not much has changed to make rural people have easy access to courts.

### References:


<table>
<thead>
<tr>
<th>100</th>
<th>Courtrooms are always accessible to citizens at low cost, either through rural courthouses or through a system of traveling magistrates.</th>
</tr>
</thead>
<tbody>
<tr>
<td>75</td>
<td></td>
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</tbody>
</table>
VI-4. Law Enforcement

74. Is the law enforcement agency (i.e. the police) effective?

50: Courts are available to most citizens. Some citizens may be unable to reach a courtroom at low cost due to location.

25:

0: Courts are unavailable to some regions without significant travel on the part of citizens.

74a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

Comments:
Though the article is old, the situation has changed very little. In times of war, appointments are made based on merit, but once the fighting is over, the relatives are back in charge and the meritorious officers are given subsidiary or advisory” positions.

References:
http://www.yementimes.com/98/iss52/focus.htm

100 | 75 | 50 | 25 | 0

100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

74b. In practice, the agency (or agencies) has a budget sufficient to carry out its mandate.

Comments:
The budget allocations are substantial relative to other agencies, but there is so much misuse of funds. Military and security organs are not subject of any audits.

References:
http://www.yementimes.com/99/iss52/b&e.htm
Fifty Years Amidst Shifting Sands: The Memoirs of a former Prime Minister of Yemen, in which he gives a description of how the military and security apparatus have uncontrolled and unlimited funding.
The agency (or agencies) has a budget sufficient to fulfill its basic mandate.

The agency (or agencies) has limited budget, generally considered somewhat insufficient to fulfill its basic mandate.

The agency (or agencies) has no budget or an obviously insufficient budget that hinders the agency's ability to fulfill its mandate.

In practice, the agency is protected from political interference.

The political security is headed by a fellow tribesman of the President and the Central Security is headed by his nephew, whose father headed the force (and was Vice Minister of the Interior ever since the President took power until he died two years ago or so). His son is head of the Republican Guards and Special Forces among other positions (Home Security).

References:
http://www.yementimes.com/article.shtml?i=905&p=report&a=1

The agency (or agencies) operates independently of the political process and has operational independence from the government. All laws can be enforced regardless of the status of suspects or the sensitivity of the investigation.

The agency (or agencies) is typically independent, yet is sometimes influenced in its investigations or enforcement actions by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

The investigative and enforcement work of the agency (or agencies) is commonly influenced by political actors or the government. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power by the government.

Can law enforcement officials be held accountable for their actions?

In law, there is an independent mechanism for citizens to complain about police action.

References:
Constitution of the Republic
Law of the Judiciary
Law of Police
Penal Code of 1994
Law No.6 of 1995 Concerning Accusing and Trying Executive Authority Officials
http://www.yementimes.com/00/iss46/report.htm

YES: A YES score is earned if there is a formal process or mechanism by which citizens can complain about police actions.

NO: A NO score is earned if there is no such mechanism.

75b. In practice, the independent reporting mechanism responds to citizen's complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:
Very seldom has there been any cases handled, and then only when the respective officer has committed a serious crime, such as murder or if tribal allegiances become handy in getting support for the complainer.

References:
Same sources as previous question, especially the article.

100: The agency/entity responds to complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency/entity responds to complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take three to six months to resolve. Serious abuses are not investigated with any urgency.

75c. In law, there is an agency/entity to investigate and prosecute corruption committed by law enforcement officials.

YES | NO

Comments:
The courts are the formal area, as well as the complaint office of the Ministry of Interior, but there is none for political security and the other family’ security and military organs (headed by a fellow tribesman or relative of the President).

References:
Constituion of the Republic
Law of the Judiciary
Law No. 6 of 1995 for the Procedures for indicting ahd trying Executive Authority Officials

YES: A YES score is earned if there is an agency/entity specifically mandated to investigate corruption-related activity within law enforcement. This agency/entity is separate from the regular police department.

NO: A NO score is earned if no such agency/entity exists.
75d. In practice, when necessary, the agency/entity independently initiates investigations into allegations of corruption by law enforcement officials.

| 100 | 75 | 50 | 25 | 0 |

References:
Law of the Police
Constitution of the Republic
Law of the Judiciary
Law No. 6 of 1995 for the Procedures for indicting ahd trying Executive Authority Officials

100: When irregularities are discovered, the agency/entity is aggressive in investigating government law enforcement officials or in cooperating with other investigative agencies.

75:

50: The agency/entity starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency/entity does not effectively investigate or does not cooperate with other investigative agencies. The agency may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

75e. In law, law enforcement officials are not immune from criminal proceedings.

YES | NO

References:
Law of the Police
Constitution of the Republic
Law of the Judiciary
Law No. 6 of 1995 for the Procedures for indicting ahd trying Executive Authority Officials

YES: A YES score is earned if law enforcement officers are fully accountable for their actions under the law and can be investigated and prosecuted for their actions.

NO: A NO score is earned if law enforcement enjoys any special protection from criminal investigation or prosecution.

75f. In practice, law enforcement officials are not immune from criminal proceedings.

| 100 | 75 | 50 | 25 | 0 |

Comments:
Of course the higher up the ranks the less of a chance of getting prosecuted.
100: Law enforcement officers are subject to criminal investigation for official misconduct. No crimes are exempt from prosecution.

75:

50: Law enforcement is generally subject to criminal investigation but exceptions may exist where criminal actions are overlooked by the police or prosecutors. Some crimes may be exempt from prosecution, such as actions taken in the line of duty.

25:

0: Law enforcement enjoys a general protection from most criminal investigation. This may be due to a formal immunity or an informal understanding that the law enforcement community protects itself.