

Overall Score:

**33 - Very Weak**

Legal Framework Score:

**44 - Very Weak**

Actual Implementation Score:

**15 - Very Weak**

Category 1. Non-Governmental Organizations, Public Information and Media

---

### 1.1. <sup>27</sup>Anti-Corruption Non-Governmental Organizations

---

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

67

01a. In law, citizens have a right to form NGOs focused on anti-corruption or good governance.

Yes | **No**

**Comments:**

The law had declared such organizations to be legal: Article 3, Item 3, of the Law of Associations and Foundations, 2001: <http://www.icnl.org/knowledge/library/showRecords.php?country=Yemen&subCategory=1>. This is for all legislation on Yemeni nongovernmental organizations.

It also states: "Provision of the guarantees that will ensure that the associations and foundations will exercise their activities in full freedom and independence and in keeping with their social responsibility."

However, the Government has countered any movement that seeks relief from religious persecution (such as the Houthis in Sa'ada Governorate) or seeks secession due to economic and political inequality and corruption, such as the Southern Secessionist Movement.

Both the Houthis and Secessionists claim that they have exhausted all peaceful means to obtain favorable government responses. The excessive use of force renders all legal frameworks inoperative in this respect and, thus, a "no" answer is in order.

**References:**

<http://www.icnl.org/knowledge/library/files/Yemen/1-2001-En.pdf>

<http://www.icnl.org/knowledge/library/files/Yemen/Reg-1-2001-En.pdf>

**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. Non-governmental organizations (NGOs) are defined here as any organized group that is separate from the state working on issues of governance, transparency, and/or anti-corruption.

**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.

01b. In law, anti-corruption/good governance NGOs are free to accept funding from any foreign or domestic sources.

Yes | No

**Comments:**

The approval of the Ministry of Social Affairs is required for receiving outside assistance. The matter becomes sometimes selective, as the government will use the outside assistance as an excuse to move against an opposition force or movement.

The Houthis (and the Southern Opposition) are being accused of getting support from Iran and other sources, but no proof has been given whatsoever to support the claim.

In an interview in a local independent paper, a governor of Sa'ada (whose brother is a reputable arms dealer) denied that the Houthis in Sa'adda were receiving Iranian arms assistance.

According to the Time magazine Article cited above, it is not certain that Iran is actually involved in the conflict. "There just isn't any evidence," says Gary Sick, a Persian Gulf expert at Columbia University. He says that waving the Iran card is a useful propaganda ploy in the Arab Middle East. "Although they may have had some evidence of Iranian rhetorical support for the Houthis, I think they took advantage of that limited amount of evidence and blew it up into something bigger to, in effect, justify their own actions."

It would obviously not be looked upon favorably for any NGO or anti-corruption organization to receive external support, although the source of such support would have an influence on the government's attitude.

For example, support by large international donors to Yemen may be allowed to a certain extent (National Democratic Institute (NDI), United Nations Development Programme (UNDP) and support from foreign government donors such as the EU, Dutch, Danish and others).

What is important to realize that no matter what support may have been obtained by NGOs from abroad, there is nothing to substantiate that such support has led to any concrete civil society oversight of governance and anti-corruption measures.

In the case of the fighting in Sa'ada, ironically, it was the Government that was the beneficiary of substantial support from Saudi Arabia (and to a certain degree, the United States, according to some claims of tactical support provided to the Government by Drone attacks).

**References:**

1) Article 23 of Law of Associations and Foundations – <http://www.icnl.org/knowledge/library/files/Yemen/1-2001-Ar.pdf>

References: Law No.1 2001, on Associations and Foundations – <http://www.icnl.org/knowledge/library/files/Yemen/1-2001-En.pdf>

2) Law No. 66 1991- <http://www.al-bab.com/yemen/gov/off3.htm>

3) Executive Procedures Law 1 2000 – <http://www.icnl.org/knowledge/library/files/Yemen/Reg-1-2001-En.pdf>

<http://www.time.com/time/world/article/0,8599,1947623,00.html#ixzz15OOud2Gm>

<http://www.csmonitor.com/World/terrorism-security/2009/1221/Saudi-air-strike-kills-Yemen-rebels-as-US-drawn-into-fight>

**Yes:** A YES score is earned if anti-corruption/good governance NGOs 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 NGOs focused on anti-corruption or good governance.

01c. In law, anti-corruption/good governance NGOs are required to disclose their sources of funding.

Yes | No

**Comments:**

Article 23 of Law No.1 of 2001 requires the Ministry of Social Affairs and Labor to have knowledge and provide approval depending on nature of the resources.

There are no provisions for disclosure to the public at large.

Article 17 of the bylaws only stipulates knowledge of Ministry of Foreign Assistance and does not indicate whether their approval is required.

Article 18 and Article 20 (Items 6 & 7) of Bylaws requires informing and obtaining approval of Ministry of Social Affairs and Labor for foreign-designated tasks or missions from abroad.

**References:**

Article 23 of Law No.1 of 2001 Concerning Associations and Foundations

Link: <http://www.icnl.org/knowledge/library/showRecords.php?country=Yemen&subCategory=1>

Executive Procedures (Bylaws) of Law 1 of 2001 Concerning Associations and Foundations (

Link: <http://www.icnl.org/knowledge/library/showRecords.php?country=Yemen&subCategory=1>

Note: Go to Link for each particular document

Document 1: <http://www.icnl.org/knowledge/library/downloadfile.php?ref=http://www.icnl.org/knowledge/library/showRecords.php?country=Yemen&subCategory=1&file=Yemen/yemen-101-en.pdf>

Document 2: <http://www.icnl.org/knowledge/library/dlogin.php?ref=http://www.icnl.org/knowledge/library/showRecords.php?country=Yemen&file=Yemen/yemen-impl-en.pdf>

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

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

---

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

17

02a. In practice, the government does not create barriers to the organization of new anti-corruption/good governance NGOs.

100 | 75 | 50 | 25 | 0

**Comments:**

Most NGO activity in governance and anti-corruption centers on disseminating awareness and holding seminars and conferences. Some groups try to bring problems to the attention of responsible senior officials.

There were also many CSOs and independent and partisan press organs that tried to play advocacy roles in the war in Sa'ada, but they were unable to even visit the areas to reveal the extent of suffering and report on the performance of providers of assistance to internally displaced civilians.

Even the operations of the International Red Cross and the United Nations High Commission on Refugees was directed to deal with official or quasi-official agencies when trying to deliver assistance, unless the CSOs were favorable to, or favored by, the government. These included the Islah Islamic Charity or Al-Saleh Foundation (President's Foundation), or the Yemeni Red Crescent (a quasi government cso).

The efforts of CSOs to halt the bombing of civilians in Sa'ada and the excessive use of force in the south are reasons for the weakness of civil society governance and anti-corruption organizations in achieving any of their declared objectives.

NGOs have been more aggressive on exposing human rights and civil liberties abuses, as the National Rights Department (HOOD) is doing (See third link) and other coalitions of NGOs

The second source states:

"The Ministry of Social Affairs and Labor has suspended issuing work licenses to civil community organizations and associations since July 2006, as the ministry proposed a field survey on all the working organizations. Dr. Mohamed Ali al-Maqtari, Executive Director of the Yemen Human Rights Observatory, attributed NGOs' ineffectiveness to the absence of an institutional framework, the limitations of their legislation, and the lack of government's support."

On the other hand the third source states:

"For example, in recent years, the Yemeni Ministry of Labor and Social Affairs has established a yearly re-registration requirement through implementing regulations (even though this is not provided for in the NGO law itself) and, according to the U.S. Department of State, has used this requirement to "harass NGOs critical of the government by denying their annual registration."

**References:**

1) Law No.1 of 2001 and its Executive By-laws:

<http://www.icnl.org/knowledge/library/files/Yemen/1-2001-En.pdf>

<http://www.icnl.org/knowledge/library/files/Yemen/Reg-1-2001-En.pdf>

2) <http://www.yobserver.com/reports/10011661.html>

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

3) [http://www.hoodonline.org/news\\_details.php?sid=2576](http://www.hoodonline.org/news_details.php?sid=2576) (Arabic)

4) <http://www.icnl.org/knowledge/globaltrends/globaltrends1-1.htm> – Some informal measures that work to hinder NGOs.

**100:** NGOs 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:** NGOs 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 NGO. Some unofficial barriers, such as harassment of minority groups, may occur.

**25:**

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

02b. In practice, anti-corruption/good governance NGOs actively engage in the political and policymaking process.

100 | 75 | 50 | 25 | 0

#### Comments:

Activities of NGOs that advocate for good governance find that their public exposure is limited to a very small segment of the population, with little or no coverage accorded to them in the larger scope that is reached by the Government-controlled press and broadcast media. Such limited public access limits NGOs' advocacy efforts.

The independent and partisan press does not reach more than 300,000 people at best and even most Internet users have little interest or knowledge about seeking their news, since they are not brought up in terms of education or cultural to look for news on governance and anti-corruption.

Bear in mind that access to media channels is limited to mostly television and radio, both of which are state-owned. The circulation of the printed press remains far below half a million in a population of well over 23 million. Literacy is below 40 percent.

Even the printed press is accessible to 200,000 people by the best estimates, and advocacy issues are almost never covered by the latter, except for minor cases involving mid-level or lower level bureaucrats.

Except for issues of human rights, NGOs have yet to establish themselves as effective institutional anti corruption mechanisms.

The link above includes the following recommendation (Moghran Report):

"Providing capacity — building and implementing support to NGOs in coalition building, advocacy and lobbying, public awareness campaigns, legal support for victims of corruption, and monitoring of government."

Despite the date of the report, there is little to show that any considerable effort has been launched to effectively carry out these recommendations, except as mentioned in earlier questions (i.e., conducting awareness campaigns, workshops, etc. See Yemen Times link), and even then this was mainly at a central level, without hardly any filtering out to the local level.

#### References:

Interviews with journalists: informal discussions on various dates with different journalists in office or in social gatherings.

<http://www.u4.no/training/in-country-open/yemen-docs/political-culture-corruption-yemen-abdomoghran.pdf>

[http://www.yementimes.com/DefaultDET.aspx?SUB\\_ID=34980](http://www.yementimes.com/DefaultDET.aspx?SUB_ID=34980) – English Newspaper published 1-10-2010 on Workshop on increasing anti-corruption awareness

<http://armiesofliberation.com/archives/2009/03/11/funding-for-ngo-program-in-yemen/>: on cloning of NGOs

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

**75:**

**50:** Anti-corruption/good governance NGOs are active, but may not be relevant to political decisions or the policymaking process. Those NGOs 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 NGOs are effectively prohibited from engaging in the political process. Those NGOs are unwilling to take positions on political issues. They are not relevant to changes in public opinion.

02c. In practice, no anti-corruption/good governance NGOs have been shut down by the government for their work on corruption-related issues during the study period.

Yes | **No**

**Comments:**

The above-cited report points out several cases where NGOs were prevented in one way or another from carrying out their advocacy work, either by cloning, delays or refusal to register them or other means:

"Some NGOs limited their activities to avoid negative government attention. Some ministries reportedly harassed NGOs critical of the government by delaying the procedures required for annual registration and licensing and through bureaucratic funding criteria. In 2007 the Ministry of Social Affairs and Labor (MSAL) refused to reissue the license for the Arab Sisters Forum for Human Rights due to its criticism of the government for limiting media freedom. (The group received a temporary two-year license from the government during the year.)

The government requires NGOs to register annually or be declared illegal, but NGOs that were not granted licenses continued to operate during the year. In some instances, the government reportedly registered a pro-government clone version of an NGO, recognizing the clone as the legitimate NGO, thereby preventing the original NGO from renewing its registration under its original name. In such cases, registration applications must be resubmitted under a new name. The government reportedly did not process some registration applications and placed unofficial freezes on new licenses ahead of the 2007 by-elections.

The government monitored NGO finances. The government reportedly used financial reviews as a pretext to harass or close NGOs, and some NGOs allegedly kept less than transparent records." (U.S. Department of State 2009 HR Report)

The second link shows repressive measures against press entities or individuals for advocacy activities.

The last link gives an indication of the many steps taken to transgress against press freedom and other civil liberties.

**References:**

US Department of State 2009 HR Report (<http://www.state.gov/g/drl/rls/hrrpt/2009/nea/136083.htm>)

[http://www.thefreelibrary.com/Corruption+triggers+media+repression+\(Report\)-a0192270229](http://www.thefreelibrary.com/Corruption+triggers+media+repression+(Report)-a0192270229) – Yemen Times Article Jan 2009

<http://www.hrw.org/en/node/87738>

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

**No:** A NO score is earned if any NGO 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 NGO's work may not be explicit, however the burden of proof here is low. If it seems likely that the NGO 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 anti-corruption/good governance NGO activists safe when working on corruption issues?

0

03a. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been imprisoned.

Yes | **No**

**Comments:**

The above references and various other press reports show that there were many abuses against advocates of good governance and anti-corruption, including the arrest of Al-Qirni (see second link).

On safety, one is guided by the following (Human Rights Watch 2009 Report):  
"Other arrests targeted perceived leaders of the Southern Movement. In early June, police stopped Walid Shu'aibi, the head of the Union of Southern Youth in al-Dhali', and dragged him into their car as he was walking from his student housing in Aden. Lawyer Muhammad Hasani, on May 7, tried to represent detainees, but was arrested and detained at the Criminal Investigation Division for six days instead. On July 2, ahead of the planned July 7 protest, authorities arrested two leaders of the Southern Movement, Qasim al-Da'iri and Ali al-Sa'di, who remain in detention at this writing."

**References:**

- 1) Interviews with many fellow journalists in various places and circumstances, Anonymity promised.
  - 2) [http://www.ifex.org/yemen/2008/04/14/director\\_of\\_women\\_s\\_ngo\\_receives/](http://www.ifex.org/yemen/2008/04/14/director_of_women_s_ngo_receives/) – Article 19 Press Release – 14 April 2008 (Not used before)
  - 3) <http://www.state.gov/g/drl/rls/hrrpt/2009/nea/136083.htm> – US State Department Report for 2009 issued 11 March 2010
- <http://www.hrw.org/en/node/87738> 2009 Human Rights Watch Report (issuance date unknown)

**Yes:** A YES score is earned if there were no NGO activists imprisoned because of their work covering corruption. YES is a positive score.

**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 person 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. "Imprisoned" is defined here as detention by the government lasting more than 24 hours.

03b. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been physically harmed.

Yes | **No**

**Comments:**

Individuals or organizations may be subject to arrest, harassment or violence on mere suspicion of being opponents of government policy or performance. They may also be subject to institutional measures (cloning, government employment). There are many who have been arrested without due process on account of the Southern Protests or the Sa'ada Insurrection.

In addition, innocent civilians have become victims of government bombings and shellings aimed at countering both movements. These attacks mostly are in response to calls for equity and civil liberties from the Southern Protests as well as in the Sa'ada case.

The third link provides some insight in regard to both conflicts and points out the human rights issues involved.

Fourth link shows arrests of human rights defenders within study period.

The second link shows how the government has even allowed informal institutional mechanisms to do its repressive work.

**References:**

- [http://www.news-yemen.net/en/view\\_news.asp?sub\\_no=3\\_2010\\_09\\_02\\_40135](http://www.news-yemen.net/en/view_news.asp?sub_no=3_2010_09_02_40135) – 2-9-2010 News Yemen website
- <http://www.examiner.com/yemen-headlines-in-national/tribal-anarchy-yemen-the-tragedy-al-jasheen-ibb> – Examiner Website March 27th, 2010
- <http://www.perspectivesonglobalissues.com/conflict-in-yemen/> January 12, 2010– Online Journal
- <http://www.hrw.org/en/node/87738> – Human Rights Report for 2009 – no date of issuance, but issued in 2010 for sure
- <http://www.frontlinedefenders.org/node/1776> Internet website for NGO – Posted on 2009/01/23

**Yes:** A YES score is earned if there were no documented cases of NGO 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. YES is a positive score.

**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.

03c. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been killed.

Yes | No

**Comments:**

From the Human Rights Watch Report for 2009:

"When they (Southern protesters) came to within meters of riot police blocking the road, police fired first into the air, but then at the protesters, killing Awwad Baram. The government held no inquiry into the fatal shooting."

From an Amnesty International article describing many gross excessive assaults by the government on "suspected" insurrectionists, terrorists, secessionists, etc.:

"Amnesty International published a report on August 25, 2010 entitled: "Yemen: Cracking Down Under Pressure," which documented a catalog of human rights violations including unlawful killings of those accused of links to al-Qa'ida and Southern Movement activists; arbitrary arrests, torture and unfair trials, all occurring in the name of security."

**References:**

1) <http://www.hrw.org/en/node/87738> – Human Rights Watch Report for 2009 (issued 2010)

2) <http://www.amnestyusa.org/document.php?id=ENGNAU2010092218721> &rss=recentnews – Alert by Amnesty International – 22 September 2010

**Yes:** A YES score is earned if there were no documented cases of NGO activists being killed because of their work covering corruption in the specific study period. YES is a positive score.

**No:** A NO score is earned if there were any documented cases during the study period where a person was killed related to a corruption trial, scandal or investigation. The relationship between a mysterious death and an individual's history may not be clear, however the burden of proof here is low. If it is reasonable 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.

---

#### 4. Can citizens organize into trade unions?

13

04a. In law, citizens have a right to organize into trade unions.

Yes | No

**Comments:**

Government employees are banned from forming labor unions.

From last link in source: "The union also has a problem with a law that bans forming any unions in the ministries and high authorities. This article violates the constitution, which allows any Yemeni person organize a union."

Deputy Chairman General Federation of Labor Unions (Quasi-governmental organization) in interview with Yemen Times on April 16, 2009): Refers to Article 3 of Labor Law and and Articles 4 and 5 of the Labor Unions Law.

Workers in Associations and Foundations (NGOs) and cooperative associations are also banned from organizing.

Article 3 of the Labor Law makes the Labor Law inapplicable to Government Administration and some forms of NGOs.

Article 4 of Labor Union Law makes the law inapplicable to:

- 1) NGOs;
- 2) Senior Government positions and ministerial staff;
- 3) cooperatives and cooperative societies.

**References:**

Law No. 35, 2002, Concerning the Regulation of Labor Unions (Arabic)  
<http://www.lugmanlegal.com/Docs/35-2002%20Labour%20Unions%20Law.doc>

**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.

04b. In practice, citizens are able to organize into trade unions.

100 | 75 | 50 | 25 | 0

**Comments:**

From both the 2003 and 2009 State Department Human Rights Report:

“The Constitution and Labor Law provide that citizens have the right to form and join unions; however, this right was restricted in practice. The Government sought to place its own personnel in positions of influence inside unions and trade union federations.”

The continued interference in labor organizations and restrictions continues to create obstacles against the organization of unions. The above link states:

“The politicization of unions and professional associations continued to hamper the right of association. In some instances, the ruling General People’s Congress (GPC) party attempted to control professional associations by influencing internal elections or placing its own personnel, usually tied to the government, in positions of influence in unions and professional associations. For example, there were two distinct teachers’ unions during the year; one was tied to the ruling GPC party and the other was linked to the opposition Joint Meeting Parties (JMP) coalition. The parties worked separately, and sometimes at odds, on issues affecting teachers.”

This increasing interference works to restrict unions from carrying out the purposes for which they were effectively created; and, for all intents and purposes, the unions are unable to serve the interests of their membership, which, by definition, means that there is a lack of effective labor associations, even if they were permitted to exist on paper.

The 25 score is given with great reluctance, since organization by itself does not necessarily entail effectiveness.

**References:**

1) State Department 2002 HR Report, <http://www.state.gov/g/drl/rls/hrrpt/2003/27942.htm>

2) State Department 2009 HR Report: issued March 11, 2010  
<http://www.state.gov/g/drl/rls/hrrpt/2009/nea/136083.htm>

**100:** Trade unions are common and are an important part of 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.

---

## 1.2. Media's Ability to Report on Corruption

---

### 5. Are media and free speech protected?

05a. In law, freedom of the media is guaranteed.

Yes | **No**

**Comments:**

The above link states (April 2009):

"Last week the government suspended the publication of eight papers, including Al Ayyam — and if that weren't enough, Al Ayyam's editor, Hisham Bashrahel, claimed that government-controlled militias were getting busy putting truckloads of papers to the torch."

It was almost guaranteed that any press media (publication or Internet) was bound to face confiscation, suspension of publication and/or arrest of their journalists if they reported on the War in Sa'ada, the Southern insurrection or violated the Ministry of Information's rules. The above links describe some of the Government's repressive acts.

Press reports, such as the one in the last link, give a dismal picture of the circumstances under which the independent press operates, or is prevented from operating in various ways, including physical assault, arrests, etc.:

In a steady decline since May 2009, when the government forcibly shut down at least eight newspapers, Yemen's press freedom landscape has continued to shrink. The Committee to Protect Journalists (CPJ) concluded that a visit to the country was urgently needed in order to closely examine the tactics employed by the government to hamstring independent and opposition media.

"I was in Yemen to report in particular on the government's specialized press court, proposed amendments to the press law and the penal code, and a new bill in parliament designed to control online, television, and radio journalism. It quickly became clear that the oft-repeated observation that the margin for free expression is as narrow as it has been since the early 1990s is an accurate one. During my week in Yemen, a journalist was abducted by government operatives — an all too common occurrence in Yemen — and authorities continued their no-holds-barred persecution of Al-Ayyam, formerly the country's highest circulation independent daily."

The ban on independent broadcast (audio and video) remains in effect as well. (All above sources)

From the State Department Human Rights Report 2009:

"The Ministry of Information influenced the media through control of printing presses, subsidies to newspapers, and ownership of the country's sole television and radio outlets."

An early analysis of the current Press and Publications Law (1990) (last link above) is worth noting:

"Finally, the new unofficial press, despite its achievement in widening the scope of debate and occasionally embarrassing the government, made a limited impact on the Yemeni public. Most newspaper readers continued to buy the government dailies, which were little changed by the new climate of freedom, either in structure or content. Suggestions that they should be privatized or turned into journalists' co-operatives came to nothing. With an illiteracy rate estimated at 60 percent, the majority of Yemenis had no use for newspapers, either government-owned or independent, and relied on radio or television for their daily news. The 13 radio stations and two TV channels (Sana'a and Aden) were all state-owned and in effect controlled by the ruling parties." This is still mostly true to this day.

**References:**

<http://adnationme.com/news/media-news/yemen-smacks-down-press-freedom.html>

All international NGOs concerned with Press Freedom, including the Committee to Protect Journalists, all Human Rights Reports (State, HRW, Amnesty International), eg.

<http://www.state.gov/g/drl/rls/hrrpt/2009/nea/136083.htm>

<http://www.anhri.net/en/reports/2009/pr0531.shtml> (Arab Network for Human Rights Information)

<http://www.ethiopianreview.com/news/164537>

<http://www.al-bab.com/yemen/media/bwmed.htm>

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

**No:** A NO score is earned if any specific publication relating to government affairs 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.

05b. In law, freedom of speech is guaranteed.

Yes | **No**

**Comments:**

Article 4 of Law No. 25/1990 states:

"Article 3: Freedom of knowledge, thought, the press, expression, communication and access to information are rights of the citizen which enable him/her to express his/her thoughts orally, in writing or in pictorial or in drawing form or by any other means of expression. These rights are guaranteed to every citizen by the Constitution and by the provisions of this law."

The new Press and Publications Law, which is assessed by the second link in detail, makes the last clause a matter of history and would render freedom of expression obsolete in Yemen.

Most international human-rights advocacy groups and all independent, and even government, press organs are calling for revision of the draft new law (see second link).

The last link (Committee to Protect Journalists) states:

"Extrajudicial abductions, intimidation, threats, and crude censorship have marked the government's record of repression for more than a decade, the Committee to Protect Journalists has found, but in the past two years, Saleh's administration has quietly moved to erect an elaborate legal structure intended to further restrict news coverage and provide a veneer of legitimacy for its brutal actions."

That says a lot about legal guarantees for press freedom and freedom of speech.

Since the Courts are not upholding the existing legal guarantees for freedom of speech and thereby asserting the right of the Government to render such guarantees worthless, a "no" answer is hereby warranted.

From the last link:

"The government also imposed informal censorship, imposing 'red lines' that included publishing interviews with Southern Movement leaders and gory pictures of injured or killed southern protesters, and mentioning the names of the organizations behind the protests."

Moreover, the Ministry of Information has set out 'red lines' that may not be crossed by the press (e.g., speaking against the President and family, publishing the names of corrupt officials, etc.) as cited by above reports.

**References:**

Yemeni Constitution

Press and Publications Law No. 25 1990:

<http://www.al-bab.com/yemen/gov/off4.htm>

<http://www.article19.org/pdfs/analysis/draft-yemen-press-and-publications-law.pdf> – August 2005 – Memorandum analyzing the draft new press Law issued in August 2005 not yet passed

<http://cpj.org/reports/2010/09/in-yemen-brutal-repression-cloaked-in-law.php> – Committee to Protect Journalists – Special Report – Published September 29, 2010

**Yes:** A YES score is earned if freedom of individual speech is guaranteed in law, including to 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 print media entities?

31

06a. In practice, the government does not create barriers to form a print media entity.

100 | 75 | 50 | 25 | 0

**Comments:**

Licensing for printing presses is usually done by the Ministry of Culture, thus a newspaper with its own printing press requires two licenses.

The second link is noteworthy for the following:

"<http://www.al-bab.com/yemen/media/bwmed.htm>: Finally, the new unofficial press, despite its achievement in widening the scope of debate and occasionally embarrassing the government, made a limited impact on the Yemeni public. Most newspaper readers continued to buy the government dailies, which were little changed by the new climate of freedom, either in structure or content. Suggestions that they should be privatized or turned into journalists' co-operatives came to nothing. With an illiteracy rate estimated at 60 percent, the majority of Yemenis had no use for newspapers, either government-owned or independent, and relied on radio or television for their daily news. The 13 radio stations and two TV channels (Sana'a and Aden) were all state-owned and in effect controlled by the ruling parties."

In addition to greater financial restrictions for print entities (capital of Yrls 5,000,000 (US\$23,446) among other restrictions (see 2006 GIR Scorecard 2010), the second link indicates that there will be other qualification restrictions:

"The existence of qualification requirements for print media professionals. Both drafts restrict certain professions, such as owner of a newspaper, editor-in-chief or journalist, to persons who possess certain academic qualifications and have attained a specified age. These qualification requirements are at odds with the idea that freedom of expression is a right which belongs to everyone without discrimination, not just those over 21 and with a university degree. They will also make it very difficult for talented young Yemenis to enter the print media sector and develop their skills."

Despite many local and international requests to revise the draft law without its burdensome restrictions, there is no indication that any such revision could be expected.

The fourth link (Freedom House Report on freedom of the press in Yemen) also gives a vivid update on the hardships faced by the Yemeni media and notes this about the print media:

"The MOI (Ministry of Information) exerts influence over the print media in part by controlling nearly all printing presses and manipulating advertising subsidies. In December, Prime Minister Ali Mohammed Mujur issued a ban on publishing state advertisements in independent media outlets."

**References:**

- 1) <http://www.al-bab.com/yemen/gov/off4.htm> (Law of Press and Publications 1990) Date of Law Issuance 22 December 1990)
- 2) <http://www.al-bab.com/yemen/media/bwmed.htm> Good analysis of above existing law — Last revised on 29 April, 2001
- 3) <http://www.article19.org/pdfs/analysis/draft-yemen-press-and-publications-law.pdf> — Article 19 August 2005
- 4) <http://www.unhcr.org/refworld/docid/4cab06161e.html> (Report by Freedom House — Issued on 5 October 2010 for UN Commission on on Humanitarian Relief)

**100:** Print media entities can freely organize with little to no interaction with the government. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

**75:**

**50:** Formation of print 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.

**25:**

**0:** Print media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

06b. In law, where a print media license is necessary, there is an appeals mechanism if a license is denied or revoked.

Yes | No

**Comments:**

In both press media and printing presses, appeals should be made through the courts, even if the licensing entity (Ministry of Information for press organs, and Ministry of Culture for printing presses) completes processing license applications within thirty days.

From the Yemen Times' experience, it took several months to get a license for the printing press. But this was done without resorting to the court, even after thirty-day deadline had passed.

**References:**

Law of Press Publications of 1990 (<http://www.al-bab.com/yemen/gov/off4.htm>).

**Yes:** A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied print media license, including through the courts. A YES score is also earned if no print license is necessary.

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

06c. In practice, where necessary, citizens can obtain a print media license within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The third source above is just one of many illustrative reports:

"The government tightly controls licensing for newspapers and magazines. The outlets must apply annually for license renewal, which requires a payments of Yrls 700,000 (US\$3,400) in operating capital. Preferential treatment is given to pro-government publications, with opposition-oriented media facing undue bureaucratic obstacles in their licensing efforts."

There is no urgency in granting licenses to independent or suspected anti-government press entities.

From Fourth source:

"Press law specifies that newspapers and magazines must apply annually to the government for licensing renewal and that they must show continuing evidence of approximately Yrls 700,000 (US\$4,375) in operating capital. There were reports that the authorities made the registration process bureaucratically impossible for opposition figures or organizations, such as the NGO Women Journalists Without Chains (WJWC), which attempted for months to unsuccessfully obtain a license for a newspaper."

In its 2009 Report (fourth link), the State Department stated:

"After many months of denials, authorities finally renewed WJWC's license in March. Both National Rights Department (HOOD) and WJWC are frequently critical of the government."

**References:**

Press and Publications Law of 1990 – 22 December, 199 – <http://www.al-bab.com/yemen/gov/off4.htm>

Article 19 Report (<http://www.article19.org/pdfs/analysis/draft-yemen-press-and-publications-law.pdf>) – August 2005

Freedom of the Press 2010 Yemen by Freedom House for UNHCR – 5 October 2010 <http://www.unhcr.org/refworld/docid/4cab06161e.html>

<http://www.state.gov/g/drl/rls/hrrpt/2007/100610.htm>

<http://www.state.gov/g/drl/rls/hrrpt/2009/nea/136083.htm>

**100:** Licenses are not required or licenses can be obtained within two months.

**75:**

**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.

06d. In practice, where necessary, citizens can obtain a print media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

There has been no significant change since last GI Report. However, the new Press Law, which is now going through the legislative process, will have the following proposed financial requirements:

"the capital requirements are fixed at Yrls 2 million (US\$10,920) for a daily newspaper, Yrls 700,000 (US\$3,820) for a weekly paper, Yrls 1.2 million (US\$6,550) for a weekly magazine or a periodical, and Yrls 100,000 (US\$545) for an advertisement bulletin."

It is worth noting that draft legislation is seldom subject to significant changes by the legislative bodies once the Cabinet has approved them.

In the last link (Financial Requirements under draft Media Law):

"The Ministry draft contains revised figures for newspapers and magazines. Persons applying for a license to publish a magazine or newspaper will have to present proof of having deposited no less than Yrls 3 million (about US\$16,400) in a Yemeni bank (Article 5-1-6). This amount must be further raised to Yrls 7 million (over US\$38,000) upon the commencement of publication (Article 5-1-7). In addition, owners of newspapers or magazines are required to have a private bank account with a balance of at least Yrls 5 million (around US\$27,300); if the owner is a legal person, this rises to Yrls R15 million (almost US\$82,000) (Article 5-1-30)."

**References:**

Press and Publications Law of 1990 — 22 December, 199 — <http://www.al-bab.com/yemen/gov/off4.htm>

Article 19 Report (<http://www.article19.org/pdfs/analysis/draft-yemen-press-and-publications-law.pdf>) — August 2005

Freedom of the Press 2010 Yemen by Freedom House for UNHCR — 5 October 2010 <http://www.unhcr.org/refworld/docid/4cab06161e.html>

**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 citizens able to form broadcast (radio and TV) media entities?

0

07a. In practice, the government does not create barriers to form a broadcast (radio and TV) media entity.

100 | 75 | 50 | 25 | 0

**Comments:**

From first link:

The government maintained its complete monopoly over terrestrial broadcast media, with two television channels and two national and four regional radio channels.

There are 3 satellite TV channels that are owned by pro-government, ruling party or social dignitaries who are closely associated with the ruling establishment. They are relatively noncompetitive with the Government's terrestrial stations. Ham radios and Internet radios are still forbidden.

While the new Media Law stipulates allowing broadcast media, it is not clear what procedures they must overcome from a technical standpoint (e.g., wavelength and other air wave requirements).

**References:**

Press and Publications Law of 1990 — 22 December, 1990 — <http://www.al-bab.com/yemen/gov/off4.htm>

Article 19 Report (<http://www.article19.org/pdfs/analysis/draft-yemen-press-and-publications-law.pdf>) — August 2005

Freedom of the Press 2010 Yemen by Freedom House for UNHCR — 5 October 2010 <http://www.unhcr.org/refworld/docid/4cab06161e.html>

**100:** Broadcast 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. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

**75:**

**50:** Formation of broadcast 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:** Broadcast media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear. This score is appropriate if the division of broadcast bandwidth is widely viewed to be used as a political tool.

07b. In law, where a broadcast (radio and TV) media license is necessary, there is an appeals mechanism if a license is denied or revoked.

Yes | **No**

**Comments:**

There are no licenses issued for any broadcast media in Yemen, as the government maintains a monopoly on all terrestrial broadcasts and has control over two of the semi-independent satellite stations (Saba and Iman, which broadcast from outside Yemen). There is one Islah Party satellite channel (Suhail). Ham radio operations are also banned.

From the link above:

"The government maintained its complete monopoly of all broadcast media, with two television channels, and two national and four regional radio channels, despite a statement of intention by the Minister of Information in June to introduce a licensing mechanism for private broadcast media."

**References:**

[http://www.hoodonline.org/news\\_details.php?sid=1497](http://www.hoodonline.org/news_details.php?sid=1497) — Freedom House-Hood online — 12 May 2008

**Yes:** A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied broadcast media license, including through the courts. A YES score is also earned if no broadcast license is necessary.

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

07c. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license within a reasonable time period.

100 | 75 | 50 | 25 | **0**

**Comments:**

Not applicable, because the Government is not permitting the formation of any broadcast media.

From second link:

"The government maintained its complete monopoly over terrestrial broadcast media, with two television channels and two national and four regional radio channels."

**References:**

Freedom House-Hood online — 5 May 2008 — [http://www.hoodonline.org/news\\_details.php?sid=1497](http://www.hoodonline.org/news_details.php?sid=1497)

Freedom of the Press 2010 Yemen by Freedom House for UNHCR — 5 October 2010 <http://www.unhcr.org/refworld/docid/4cab06161e.html>

**100:** Licenses are not required or licenses can be obtained within two months.

**75:**

**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.

07d. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license at a reasonable cost.

100 | 75 | 50 | 25 | **0**

**Comments:**

There is no licensing of independent audio-visual media broadcasts, nationally or locally.

"Unlike newspapers and electronic websites, the official authorities still maintain a complete monopoly of TV satellite channels. This prompted different businessmen and parties, after failing to convince authorities, to seek establishing new TV satellite channels and to telecast their programs from outside the country, as is the case with Al-Saeeda and Saba, due to be launched soon" (from Yemen Post link).

**References:**

<http://www.yemenpost.net/19/Reports/20082.htm> — Yemeni English Newspaper – March 3 2008

**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.

---

## 8. Can citizens freely use the Internet?

0

08a. In practice, the government does not prevent citizens from accessing content published on-line.

100 | 75 | 50 | 25 | 0

**Comments:**

The editor-in-chief of the Al-Eshteraki Net Website, Mohammed Al-Maqalih, was abducted and held in secret for several months. Reason: Publishing reports and photos of civilian casualties in Sa'ad War (Sixth Round). Al-Maqalih is also a member of the Politburo of the Yemeni Socialist Party.

In addition, the Government continues to block websites that it deems hostile to its policies and actions, without legal due process. In addition, there are various indirect factors that lead to limited access to the internet, economic and social as well as political (See third link for a detailed report on internet access in Yemen).

Sometimes, websites are blocked for being portals for other news sources, such as the case of Yemenportal, of Yemen media pioneer Walid Al-Saqqaf, former editor-in-chief of the Yemen Times and Administrator of Yemenportal, who has come up with ways to overcome intentional blocks put by the Government to websites that it deems unfavorable. This is done at the whims of the Government officials involved.

See third link for detailed review of Yemeni Government policy on internet access.

**References:**

Various News Reports:

<http://www.amnesty.org/en/library/asset/MDE31/015/2009/en/1eae752c-7813-4151-946b-f54e3c3eae1d/mde310152009en.html> — Amnesty International Report – October 22, 2009

[http://en.rsf.org/yemen-yemeni-media-and-journalists-20-04-2010\\_37080.html](http://en.rsf.org/yemen-yemeni-media-and-journalists-20-04-2010_37080.html) — Report by Reporters without Borders — 21 May 2010

<http://old.openarab.net/en/node/365> — This report precedes the 2011 report issued by the same organization (the NGO the Initiative for an Open Arab Internet (IOAI), which advocates for an uncensored Internet in the Arab World), but the relevant report on Yemen bears no date although the report came out in 2010 or earlier, since all reports by IOAI) in 2011 do not have links to earlier reports.

**100:** The government does not prevent Internet users from accessing online content. While some forms of content may be illegal to download or own (such as child pornography), the government does not manipulate networks to prevent access to this information. This indicator addresses direct government intervention in the transfer of information, not indirect deterrents such as intimidation, surveillance or technical difficulties in countries with poor infrastructure.

**75:**

**50:** Internet users are prevented by the government from reaching online content in some cases. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

**25:**

**0:** Internet users are routinely prevented from accessing online content. Government restrictions are in place at all times for certain topics. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

08b. In practice, the government does not censor citizens creating content on-line.

100 | 75 | 50 | 25 | 0

**Comments:**

The Government persists in censoring or blocking sites that are deemed unfavorable or opposed to its policies and actions, especially sites belonging to the Southern Movement and the Houthis of Sa'ada, Yemenportal and many others.

**References:**

<http://oid.openarab.net/en/node/365> — This report precedes the 2011 report issued by the same organization (the NGO Initiative for an Open Arab Internet (IOAI), which advocates for uncensored Internet in the Arab World, but the relevant report on Yemen bears no date although the report came out in 2010 or earlier, since all reports by IOAI in 2011 do not have links to earlier reports.

**100:** The government never removes online information or disables servers due to their political content. All political speech is protected with limited exceptions, such as legitimate intellectual property restrictions; direct calls to violence; or pornography.

**75:**

**50:** In some cases, the government restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting restricted content, or indirectly through threats or intimidation against the persons posting political content.

**25:**

**0:** The government regularly restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting the restricted content, or indirectly through threats or intimidation against the persons posting political content.

---

## 9. Are the media able to report on corruption?

8

09a. In law, it is legal to report accurate news even if it damages the reputation of a public figure.

Yes | No

**Comments:**

The Government has made it clear in more ways than one that the press should not be explicit when discussing any violations by Government officials, especially those committed by the top echelons of the regime. Nor can they report on Government errors in the War on Terror.

First link:

"Committee to Protect Journalists (CPJ) contends there are unwritten but firm rules on censorship in Yemen — so-called red lines that the news media must not cross. These would include any reports on topics, including official corruption and Yemen's inability to contain al-Qaida militants."

Second Link:

"Lawmakers are seeking stricter press restrictions, including increasing the maximum prison time for insulting the president to five years, expanding the definition of insult to anything that is "unbefitting or invites sarcasm, mockery, slander or injury" and erecting "prohibitive financial barriers for broadcast and online news outlets," the CPJ said.

These would be in addition to Yemen's unwritten "red lines" prohibiting coverage of the war with Houthi rebels, the repression of the opposition Southern Movement, failure to contain al-Qaida and widespread corruption, the watchdog group reported.

"Taken together, the government's longstanding practice of violent repression and its new legalistic tactics are creating the worst climate for press freedom since the country's unification in 1990, CPJ's examination has found."

"The law places vague prohibitions on the types of news that can be published. Yemeni authorities have used the law's article 103 to censor the independent press. It prohibits criticism of the head of state as well as the publication of any articles that "might spread a spirit of dissent and division among the people," or that "leads to the spread of ideas contrary to the principles of the Yemeni revolution, [or is] prejudicial to national unity or the image of the Yemeni, Arab, or Islamic heritage." ]

Third Source:

"Red Lines": Government-Imposed Self-Censorship

Violations of media freedom in Yemen involve not only the seizure of newspapers, arrests of journalists, and other such forms of persecution, but also efforts to ensure that the media practice self-censorship and do not cross "red lines" — topics that are off-limits and which will lead to the confiscation of the issue, or even arrest and prosecution of the journalist or editor. Such "red lines," which are not always written down, are well-known to journalists and editors and are not limited to events in southern Yemen.

One editor told Human Rights Watch how officials from the National Security service wrote to journalists and editors in 2004, ordering them to refrain from criticizing the president or members of his family (many of whom hold government office or prominent positions in the economy), reporting on official abuse of power and the question of who will succeed President Saleh [156]."

#### References:

- 1) <http://www.voanews.com/english/news/middle-east/CPJ-Decries-Lack-of-Press-Freedom-in-Yemen--104087674.html> — Voice of America — September 30, 2010
- 2) <http://news.blogs.cnn.com/2010/10/01/watchdog-yemens-press-repression-cloaked-in-law/> — CNN Cable News Network — October 1, 2010
- 3) <http://www.buzzle.com/articles/gangster-ali-abdallah-saleh-of-yemen-to-face-charges-at-the-international-court-of-justice.htm> News Blog — Dec. 27, 2009
- 4) Article 103 (l) of The Press and Publications Law No. 25 of 1990 — <http://www.al-bab.com/yemen/gov/off4.htm>

**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.

09b. In practice, the government or media owners/distribution groups do not encourage self-censorship of corruption-related stories.

100 | 75 | 50 | 25 | 0

#### Comments:

From Human Rights Watch:

In addition to informal and formal repressive measures, Government officials are unabashed at using bribery.

Second source:

"The Yemeni government also uses bribery to silence its critics. According to a credible source, the president's office has offered newspaper editors 'support payments,' amounting to thousands or even tens of thousands of dollars per month, in order to toe a pro-government line in their newspapers. One independent editor explained to Rights Watch that even though he had continued to refuse such bribes, officials in the president's office continued to call him, reminding him of the large sums of money which were 'accumulating' in his account.[Footnote 157]: Human Rights Watch interview with newspaper editor, place and date withheld."

#### References:

- 1) [http://www.hrw.org/sites/default/files/related\\_material/yemen\\_0.pdf](http://www.hrw.org/sites/default/files/related_material/yemen_0.pdf) — Human Rights Report — January 2010
- 2) <http://www.buzzle.com/articles/gangster-ali-abdallah-saleh-of-yemen-to-face-charges-at-the-international-court-of-justice.htm> News Blog — Dec. 27, 2009

**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.

09c. In practice, there is no prior government restraint (pre-publication censoring) on publishing corruption-related stories.

100 | 75 | 50 | 25 | 0

#### Comments:

There have been isolated incidents of prior censorship of reports before going out to print when writing for Government media. Depending on what official is heading the media outlet, some writers could be formally or informally subject to prior censorship in Government media. Some media is subject to censorship prior to going to market, such as the Al-Ayyam Newspaper (Human Rights Watch):

"Information Minister Hasan al-Luzi on May 4 announced a ban on the distribution of eight of Yemen's leading independent daily and weekly newspapers, Al-Ayyam, Al-Masdar, Al-Watani, Al-Diyar, Al-Mustaqilla, Al-Nida, Al-Shari', and Al-Ahali, for publishing articles 'against national unity and the country's highest interests' and 'incit[ing] violations of law and order, spreading hatred and enmity among the united people of Yemen."

The government also imposed informal censorship, imposing "red lines" that included publishing interviews with Southern Movement leaders and gory pictures of injured or killed southern protesters, and mentioning the names of the organizations behind the protests. Pressure by authorities on media outlets extended to physical attacks on Al-Ayyam, Yemen's oldest and largest independent newspaper. On May 1, armed individuals stopped Al-Ayyam's delivery van in the Milah area of Lahj governorate and burned 16,500 copies."

Blocking of websites is viewed as prior censorship, as the third source states:

"It is against the Yemeni constitution to close a media website. This is an act against press freedom," said Khaled al-Anesi, the general manager of the Allawo Corporation for advocates. Al-Anesi said that is normal that people accuse the government of such acts, though they are not obvious due to the control by the political security and the other bodies. "These acts are not happening for the first time," he said.

Daniel Simons, a British lawyer, who is against these acts, says, "It is understandable in a conservative society that many people are worried about the kind of materials that can be found on the Internet," he said. "However, it is not justifiable in a democracy for the government to decide for people which websites they can visit and which ones they can't," he said. He added that the UN Special Rapporteur on Freedom of Expression warned in 2005 that "filtering systems which are not end-user controlled — whether imposed by a government or commercial service provider — are a form of prior-censorship and cannot be justified."

#### References:

- 1) Own experience as a journalist
- 2) <http://www.hrw.org/en/node/87738> Human Rights Watch — 2009 Report
- 2) The Center for Defending the Freedom of Journalists (CDFJ) calls the Yemeni government to stop violations against journalists: <http://www.menassat.com/?q=en/alerts/7274-center-defending-freedom-journalists-cdfj-calls-yemeni-government-stop-violations-again> — November 4, 2009
- 3) <http://armiesofliberation.com/archives/2007/05/24/yemen-denies-blocking-political-websites/> Yemen Blogger — 24 May 2007

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. This score is appropriate if in countries where illiteracy is high, 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. This score is appropriate even if the government restricts only politically damaging news while allowing favorable coverage.

10a. In law, print media companies are required to publicly disclose their ownership.

Yes | No

**Comments:**

Both the old and draft new law require disclosure of owners of media.

**References:**

Article 34 of Law No. 25 of 1990 for Press and Publication and Draft New Law (<http://www.al-bab.com/yemen/gov/off4.htm>).

**Yes:** A YES score is earned if print media companies are required by law to publicly 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 types of entities or agents from being publicly disclosed.

10b. In law, broadcast (radio and TV) media companies are required to publicly disclose their ownership.

Yes | No

**Comments:**

Only the Government owns terrestrial broadcast media, and there are only proposals for possible private sector/independent media ownership.

“Amman report also criticized the government for launching a satellite channel known as Saba, though the name has been reserved previously by Yemeni businessman Hamid Al-Ahmar. Ahmar considered this move to be a restriction on expression and freedom even when telecasting from outside.”

**References:**

1) <http://www.yobserver.com/reports/10018526.html> — English Newspaper — April 15, 2010

2) <http://www.yemenpost.net/23/Reports/20084.htm> — Newspaper Article on broadcast media — March 31, 2008

**Yes:** A YES score is earned if broadcast media companies are required by law to publicly 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 types of entities or agents from being publicly disclosed.

10c. In practice, journalists and editors adhere to strict, professional practices in their reporting.

100 | 75 | 50 | 25 | 0

**Comments:**

The by-laws of the Yemeni Journalist Syndicate (YJS) and professional journalism in Yemen has yet to come to terms on the organizational and professional attributes that govern the organization:

First Reference source:

“The lawsuit was made against the YJS by potential members who work in the online media, TV and radio,” Al-Asaadi explains. “The internal bylaw of the syndicate is an old one and has not been put forward for modification to absorb the new media outlets, such as online journalism in particular.”

Responsibility for journalistic professional conduct is still mainly at the individual's discretion and, for the most part, is not standardized for independent, partisan/ or government journalists.

In a relatively new democratic venue, where even Government conduct in regard to the free, independent and even government-run press, there are formidable challenges when it comes to freedom of the press. There are harsh repressive measures taken against journalists under the rationale of upholding ethical journalistic conduct. The Government is also seeking to set out rules of ethical conduct for journalists in the proposed press and publications law now being processed for enactment.

Second Reference:

"Binding code of ethics

Finally, we note that Article 2-2-14 of the Ministry draft binds journalists to the Syndicate's journalistic convention of honor, and threatens them with 'penal questioning' in case of non-compliance. ARTICLE 19 believes that self-regulation of the media should, indeed, be self-regulation, and should not be enforced by the government, as this carries the risk of politically motivated prosecutions."

#### References:

1) <http://www.arabpressnetwork.org/articlesv2.php?id=2486> – 29 July 2008 – Arab Press Network article

2) Article 19 Report (<http://www.article19.org/pdfs/analysis/draft-yemen-press-and-publications-law.pdf>) – August 2005

**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.

10d. In practice, during the most recent election, political parties or independent candidates received fair media coverage.

100 | 75 | 50 | 25 | 0

#### Comments:

Parliamentary elections for 2009 were postponed by House of Representatives to 2011, and provincial governors' elections that were held in 2008 were boycotted by the opposition parties.

For the provincial governors, the voting was carried out by local council members:

"Some 8,127 members of local councils, elected through universal suffrage elections in 2006, will cast their votes in the governors' elections.

A political coalition grouping of the main opposition parties said last week that it would boycott the planned election, saying that it contradicts the principle of free and direct elections."

See both sources above on latest elections.

Such an election would not involve significant campaigning, and a ruling party victory would be predictable.

#### References:

1) <http://www.reuters.com/article/idUSLQ148622> – Article by Reuters – Feb. 28, 2009

2) [http://www.earthtimes.org/articles/news/201669\\_yemens-saleh-calls-for-first-elections-of-regional-governors.html](http://www.earthtimes.org/articles/news/201669_yemens-saleh-calls-for-first-elections-of-regional-governors.html) – 27 April 2008 in Earth Times website

**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.

10e. In practice, political parties and candidates have equitable access to state-owned media outlets.

100 | 75 | 50 | 25 | 0

**Comments:**

In the provincial governors' election, there were no opposition party candidates and the elections did not attract significant attraction by the free press, which had scorned the method of electing governors via the local municipal councils and not the public. Most of the coverage came from the Government or ruling party press, with the independent and partisan press bringing out the results, with little analysis.

No major election is expected until the 2009 Parliamentary Elections.

From first source:

"Yemen's first governors' election in 2008 was a hasty process that rubber stamped General People's Congress (GPC) candidates. In the few cases where an independent won, the results were promptly overturned."

Source 3: Violations in Governor's elections in Dhale'a Governorate (Arabic). A journalist trying to photograph one of the violations cited in the article was warned not to do so and stopped.

**References:**

- 1) <http://worldpress.org/Mideast/3273.cfm> — Blogger site — November 21, 2008
- 2) <http://www.yemenpost.net/29/LocalNews/20086.htm> — Yemeni Newspaper — May 12, 2008
- 3) [http://www.aleshteraki.net/news\\_details.php?lng=arabic&sid=4045](http://www.aleshteraki.net/news_details.php?lng=arabic&sid=4045) Arabic — 19 May 2008 – Website of the mouthpiece of the Yemeni Socialist Party

**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. All parties and candidates are offered consistent and equivalent rates for campaign advertising on state-owned media outlets.

**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.

---

## 11. Are journalists safe when investigating corruption?

0

11a. In practice, in the past year, no journalists investigating corruption have been imprisoned.

Yes | No

**Comments:**

Source 1 illustrates the case of the abduction and arrest of Mohammed Al-Maqalih and the absence of due process of law in the repression of journalists.

Source 2: Another case of unlawful arrest, conviction and prison sentencing of a Anissa Uthman for criticizing the repression of a fellow journalist:

"Anissa 'Uthman, a journalist working for al-Wassat, a weekly newspaper, was prosecuted because of articles she wrote criticizing the arrest and imprisonment of human rights activists.

"The action taken against Anissa 'Uthman appears to reflect growing government intolerance of media and other peaceful criticism of the authorities, including human rights violations committed in the conflict in Sa'da Governorate and in response to ongoing protests in the south," said Malcolm Smart, Amnesty International's director for the Middle East and North Africa."

**References:**

- 1) <http://en.rsf.org/yemen-yemeni-media-and-journalists-20-04-2010.37080.html> — Reporters Without Borders — 20 April 2010
- 2) <http://www.amnestyusa.org/document.php?id=ENGNAU2010011915036> — Amnesty International Press Release, Feb 19, 2010

**Yes:** A YES score is earned if there were no journalists imprisoned related to work covering corruption during the study period. A YES score is positive.

**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. "Imprisoned" is defined here as detention by the government lasting more than 24 hours.

11b. In practice, in the past year, no journalists investigating corruption have been physically harmed.

Yes | **No**

**Comments:**

The sources above clearly show that the Government is unabashed at committing physical harm against journalists.

- 1) The first article points out a local NGO reports 60 physical attacks on journalists from 2004-2009.
- 2) Second source states that the case of the killing of journalist Mohammed Al-Rabo'iy (early 2010), who was alleged to have been killed by a water supply project official Al-Rabo'iy was investigating.

All sources point to different cases of physical assaults on journalists, including female journalists (Yemen Times. link 5).

**References:**

- 1) <http://al-tagheer.com/news8158.html> (Arabic). — 16 March 2009 — Arabic Newspaper
- 2) <http://www.state.gov/g/dri/rls/hrrpt/2009/nea/136083.htm> — US State Dept Human Rights Report — March 11, 2010
- 3) <http://www.jobserver.com/local-news/printer-10015655.html> — English Newspaper — Jan. 27, 2009
- 4) [http://www.yementimes.com/DefaultDET.aspx?SUB\\_ID=34975](http://www.yementimes.com/DefaultDET.aspx?SUB_ID=34975) — English Newspaper — 1 – 11 2010
- 5) <http://cpj.org/2009/06/months-long-assault-on-media-continues-in-yemen.php>

**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. A YES score is positive.

**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.

11c. In practice, in the past year, no journalists investigating corruption have been killed.

Yes | **No**

**Comments:**

First source reports on the case of the killing of journalist Mohammed Al-Rabo'iy (early 2010), who was allegedly killed by a water supply project official, who was being investigated by the journalist. The same case is described in English in the second source.

The third source describes an assault on a newspaper office that killed one person and injured eight others.

**References:**

- 1) [http://www.almasdaronline.com/index.php?page=news&article-section=1&news\\_id=5250](http://www.almasdaronline.com/index.php?page=news&article-section=1&news_id=5250) (Arabic) — 13-2-2010
- 2) [http://yementimes.com/defaultdet.aspx?SUB\\_ID=33612](http://yementimes.com/defaultdet.aspx?SUB_ID=33612) – English newspaper — 18-2-2010
- 3) <http://www.ifj.org/en/articles/ifj-calls-for-release-of-journalists-after-violent-siege-in-yemen> – International Federation of Journalists Call — 8 January 2010

**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. A YES score is positive.

**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.

---

11  
1.3. Public Requests for Government Information

---

12. Do citizens have a legal right to request information?

67

12a. In law, citizens have a right to request government information and basic government records.

Yes | No

**Comments:**

The Constitution, Existing Press and Publications Law and, supposedly, the draft Media Law under consideration by Parliament confirm this, but the third source states that the actual situation is otherwise:

"The director of the CDFJ (Center for the Defending Freedom of Journalists), Nidal Mansour, confirmed that what is happening is going beyond the borders of just preventing access to information, imposing prior censorship, prohibiting the practice of the profession and prosecuting and sentencing to the disappearance of journalists without informing anyone of what happened to them."

Article 19, the new Information Media Law, makes the access to information a formidable challenge and practically difficult, unless concrete changes are made in the Law on Access to Information.

**References:**

- 1) Law of Press and Publications (1990) Article 3 — <http://www.al-bab.com/yemen/gov/off4.htm>
- 2) Draft Media Law <http://www.yobserver.com/reports/10015712.html>
- 3) <http://www.menassat.com/?q=en/print/7274>
- 4) Article 19 — <http://www.article19.org/pdfs/analysis/yemen-memorandum-on-freedom-of-information-draft-law.pdf>

**Yes:** A YES score is earned if there is a formal right to request government documents, including constitutional guarantees. 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.

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

12b. In law, citizens have a right of appeal if a request for a basic government record is denied.

Yes | No

**Comments:**

A proposed Freedom of Information Law introduced by some members of Parliament has been under discussion now for more than two years, but it has yet to be enacted. Existing laws do not have explicit appeal provisions for not getting access to information, nor is such a right stipulated expressly.

Even the draft new media law has many shortfalls and deficiencies with regards to appeals.

From Second Source:

"In terms of setting up a system of appeals, the draft law falls short. In particular, the draft Law does not establish 'a right to appeal' as such. Furthermore, there is a complete absence of provisions elaborating on such matters as: the grounds on which a complaint or an appeal may be brought; the period within which an application for appeal should be decided; the grounds on which an appeal may be summarily rejected; the burden of proof in appeals; the remedies that may be granted (e.g., compensation); direct implementation of the decision of the independent administrative body; and the time period for filing an application for appealing a decision of the independent administrative body to the court system."

**References:**

- 1) <http://www.yemenpost.net/59/Reports/20082.htm> December 15, 2008 — Newspaper article calling for right of information law.
- 2) <http://www.article19.org/pdfs/analysis/yemen-memorandum-on-freedom-of-information-draft-law.pdf> — Report on the proposed press and media law by Article 19

**Yes:** A YES score is earned if there is a formal process of appeal for rejected information requests. A YES score can still be earned if the appeals process involves redress through the courts rather than administrative appeal.

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

12c. In law, there is an established institutional mechanism through which citizens can request government records.

Yes | No

**Comments:**

There is a National Center for Information (NIC), which is under the Presidency of the Republic, set up under Republican Decree No. 155 for 155, amended by RD 244 for 1998 and RD 412 for 1999 which states: ""Set up to build up and develop a national integrated information center that encompasses a broad set of sectoral and subsidiary information systems, with all of its units interconnected with national integrated information network" (translated from Arabic by researcher).

It is apparently an online source for all kinds of Government information and has the mandate to collect and share all information that flows into the center with anyone requesting such information.

Such information is mostly general information (e.g., laws, important developments and other broad information on the various national sectors). It is not clear how much this information would be of use to investigative and oversight activities.

**References:**

- <http://www.yemen-nic.net/NIC/about/detail.php?ID=1984>, Website in three languages (Arabic, English and French) — National Center for Information, created by Republican Decree 155, amended by Republican Decree 244 of 1998 and Republican Decree No 412 of 1999.

**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.

---

13. Is the right to information requests effective?

13a. In practice, citizens receive responses to information requests within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Many Yemeni institutions have their own websites. However, only a few of them have enough high-quality data and consistent updates on their website.

Getting the information is dependent on who is seeking it. Usually, officials tend to be cooperative to those who are from the donor community, depending on the extent of their support. Citizens would certainly need authorizations from the most senior management, especially for sensitive topics. Journalists often are suspect, and they may have to wait for the relevant official to obtain authorizations from higher authorities.

The third reference reports on the difficulties of any foreign media entities that try to obtain information.

When Thomas Friedman visited Yemen, he was of course guided to mostly information that favored the Government, and he hardly reported in his articles the real problematic development issues; for example, his report stated that the number of school-age children who are not enrolled in education was only 15 percent, whereas it is actually around 55 percent. There was also some other misinformation in his reports. Mr. Friedman relied only on government-supplied information or information supplied by pro-government organizations and sources.

**References:**

- 1) Own experience for personal purposes and when working with international organizations (World Bank, GTZ, IMF)
- 2) <http://www.escwa.un.org/wsis/reports/docs/Yemen-07-E.pdf> — National Profile of Information Society — August 2007
- 3) <http://www.yemenpost.net/Detail123456789.aspx?ID=3&SubID=2624&MainCat=2> — English Newspaper — October 4, 2010

**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.

13b. In practice, citizens can use the information request mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Both references note the following:

“Even though the Ministry of Telecommunication and Information Technology reduced communication tariffs, these charges remain high compared to the revenue per capita, which is considered low, which is why the poor, the disadvantaged and the rural population cannot access information.”

On another note, the Freedom of Information Law has yet to be enacted (Source 3), which could help to reduce costs and make access to information less costly. The Law has been discussed for three years, without any progress towards enacting it.

For rural people, access is more difficult and obviously more time consuming due to lack of infrastructure and lack of readily available nearby sources.

**References:**

- 1) <http://www.openarab.net/en/node/1636> — Initiative For an Open Arab Internet – undated but it is a report on Internet in Yemen for 2009

2) <http://www.escwa.un.org/wsis/reports/docs/Yemen-07-E.pdf> — August 2007 — ECONOMIC AND SOCIAL COMMISSION FOR WESTERN ASIA (ESCWA) — NATIONAL PROFILE OF THE INFORMATION SOCIETY IN YEMEN

3) <http://www.almotamar.net/en/3243.htm> — website of General People's Congress (ruling party)

**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 NGOs. 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 NGOs trying to access this information.

13c. In practice, responses to information requests are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

For a lot of technical information, the quality of information can be good, but accuracy may not be the rule. More political or sensitive information may be of extremely low quality. For example, access to war zones is often denied and thus, the official information obtained there may not be totally accurate.

Good quality information can be periodically obtained from the Central Statistics Organization (e.g., population, household budgets) and some financial information can be obtained from the Central Bank (Source 3 and 4).

There are data banks that are being set up to provide public access to general economic and financial indicators, with the support of donors. There is some problem with the reconciliation of data between different ministries, due to non-standardization of the programs used and a lack of cross-checking.

**References:**

1) Own experience with foreign donors and NGOs.

2) Own experience using NIC and other websites.

3) <http://www.cso-yemen.org/content.php?lng=english&pcat=131> — Central Statistics Organization — Statistical Yearbooks

4) <http://www.centralbank.gov.ye/newsletter.aspx?keyid=47&pid=46&=1&catttype=6>

**100:** Responses to information requests typically address the requestor's questions in full and are not redacted or edited to remove sensitive information.

**75:**

**50:** Information requests are sometimes met with sufficient responses, but responses to information requests may be vague or overly general when sensitive information is sought.

**25:**

**0:** The government rarely or never replies to information requests with meaningful responses. If and when responses are issued, they are so overly general or heavily redacted as to render them useless.

13d. In practice, citizens can resolve appeals to information requests within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

There are no reported cases of appeals for denials of information requests. It would be counterproductive to appeal to the courts regarding this issue, as the current Law of Press and Publications (1990) suggests that while the courts are the only avenue of

appeal in the law, it does not apply specifically for denial of access to information. Even the New Draft Information Law does not provide an appropriate avenue for appealing refusals of access to information.

From reference source (analysis of Draft Media Law):

“A full law on access to information should also set out the procedures by which access may be requested, along with time limits for responding to requests and the right to appeal any refusals to an independent body.”

**References:**

1) Article 19 Report (<http://www.article19.org/pdfs/analysis/draft-yemen-press-and-publications-law.pdf>) — August 2005

**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.

13e. In practice, citizens can resolve appeals to information requests at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

There are no prohibitive restrictions against denial of access to information in the current Press and Publications Law (1990) and even the proposed Law of the Media and Information does not provide for such an appeal mechanism.

First source suggests a need for the enactment of a freedom of information law.

**References:**

Article 19 Report (<http://www.article19.org/pdfs/analysis/draft-yemen-press-and-publications-law.pdf>) — August 2005

Interviews with fellow journalists (informal discussions)

**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.

13f. In practice, the government gives reasons for denying an information request.

100 | 75 | 50 | 25 | 0

**Comments:**

On a couple of occasions when processing an application for a certain private project, the project was refused without any substantial reasoning provided.

Law No. 25 for 1990 (Source 1) does not have any provision for such an explanation to be given. A new law is required relating to freedom of information. Such a law has yet to be passed despite three years of discussion (Source 3).

**References:**

Press and Publications Law of 1990 — 22 December, 199 — <http://www.al-bab.com/yemen/gov/off4.htm>

Own experience

Article 19 Report (<http://www.article19.org/pdfs/analysis/draft-yemen-press-and-publications-law.pdf>) — August 2005

**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 2. Elections

---

### 2.1. <sup>25</sup>Voting and Party Formation

---

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

0

14a. In law, universal and equal adult suffrage is guaranteed to all citizens.

Yes | **No**

**Comments:**

Although Law No 6 of 1990 on Yemeni Citizenship was amended in Article 3 of the Law of Nationality, no amendment was made to Article 23 of the law, which requires a probationary period of 14 years before any participation in political activity can be allowed for new citizens. Thus, suffrage continues to be denied to legal "citizens" accordingly:

Article 3, Elections Law (1992): "All Citizens who have attained 18 complete calendar years are entitled to vote except for naturalized persons who have not completed the legal period of time provided for in the Nationality Law."

Article 3 of Elections Law (2001):  
"Article (3): All citizens who have attained (18) complete calendar years are entitled to vote except naturalized persons who have not completed the waiting period required by Law following their naturalization."

**References:**

1) [http://www.unhcr.org/refworld/country\\_LEGAL,,LEGISLATION\\_YEM\\_4562d8cf2\\_3ae6b57b10\\_0.html](http://www.unhcr.org/refworld/country_LEGAL,,LEGISLATION_YEM_4562d8cf2_3ae6b57b10_0.html) — Law No. 6 of 1990 on Yemeni Nationality

2) <http://www.ye26.net/component/rssnews/?task=iframe&format=raw&id=83696> Arabic newspaper, 26 September dd 11 -1-2010

3) Elections Law No 13 of 2001 — <http://www.pogar.org/publications/other/laws/elections/genelec-referend-yem-01-e.pdf>

**Yes:** A YES score is earned if the right to vote is guaranteed to all citizens of the country (basic age limitations are allowed). 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.

14b. In law, there is a legal framework requiring that elections be held at regular intervals.

Yes | **No**

**Comments:**

Although Law No. 6 of 1990 on Yemeni Citizenship was amended in Article 3 of the Law of Nationality, no amendment was made to Article 23 of the Law, which requires a probationary period of 14 years before any participation in political activity can be allowed to new citizens. Thus, suffrage continues to be denied to legal "citizens" accordingly.

From the First Source:

"Description of electoral system:

•The President is elected by direct popular vote to serve a 7-year term;

•In the Shura Council, 111 members are appointed by the president. In the House of Representatives 301 members are elected by a plurality vote in single-member constituencies to serve six-year terms."

The second source:

"Constitutional amendments adopted in the summer of 2000 extended the presidential term by two years, creating a seven-year presidential term. The constitution provides that, henceforth, the president will be elected by popular vote from at least two candidates selected by the legislature. The amendments also extended the parliamentary term of office to a six-year term, with the next elections occurring in 2009."

Also from second source:

"Parliamentary elections scheduled for April 2009 were postponed until 2011 by a parliamentary vote extending the members' term in office to eight years."

In view of the absence of regularity in the terms of the electing officials, and the continuous changes in the lengths of their terms, this would have to be considered given a "no" answer.

It is noted that these changes are done by law, but they still do not provide for a regular framework and are almost designed to provide political advantage, rather than to incorporate a systematic and stable electoral process.

**References:**

1) <http://www.electionguide.org/election.php?ID=1039> Democracy assistance & elections news from the Consortium for Elections and Political Process Strengthening (CEPPS) — 20 September 2006

2) <http://www.state.gov/r/pa/ei/bgn/35836.htm> — Nov 19, 2010 — State Department Report

**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.

---

## 15. Can all citizens exercise their right to vote?

25

15a. In practice, all adult citizens can vote.

100 | 75 | 50 | **25** | 0

**Comments:**

The voting for the Governors (2008) represented a setback for the democratization process (see second link).

From third link:

"On the other hand, the opposition Joint Meeting Parties (JMPs) described the electing of governors as 'play.' They said the governor elections contradicted the principle of free and direct elections.

They demanded to issue a law allowing 'all people to elect the governors and district directors.'"

Third source:

"Yemeni parliament has approved on Wednesday, with a majority, a draft law amending some articles of the local authority concerning the election of province governors. The amendments have given the local councils the authority to elect governors from members of the local councils in the governorates.

The opposition Joint Meeting Parties (JMPs) announced earlier its boycott of the elections for governors.

Head of the Information Office of the General People's Congress (GPC) Tareq al-Shamy said the JMPs should abandon political bids with regard to the elections of governors.

Al-Shamy said that defining the election body by the elected members of the local councils will be a transitional stage until the move to local rule is done according to the electoral program of the GPC candidate."

**References:**

1) <http://www.ndi.org/node/67> – Election in Yemen a Test of Democracy by National Democratic Institute — 13 Sept. 2006

2) [http://www.uam.es/otroscentros/TEIM/election\\_watch/Yemen/electoral\\_news\\_Yemen.htm](http://www.uam.es/otroscentros/TEIM/election_watch/Yemen/electoral_news_Yemen.htm) – Election Watch Workshop of International Mediterranean Studies — August 20, 2008

3) [http://marebpress.net/news\\_details.php?lng=english&sid=10755](http://marebpress.net/news_details.php?lng=english&sid=10755) — 17 April 2008 — Yemeni Newspaper — English

**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.

15b. In practice, ballots are secret or equivalently protected.

100 | 75 | 50 | 25 | 0

**Comments:**

With the last public elections held in 2006, the following still stands from the 2008 Global Integrity Report:

There have been increasing reports of prepared ballots being given to military and even civilian voters, who were given handouts in return for their votes. Others report being forced to swear to a statement about how they would vote or had voted.

**References:**

1) <http://www.fas.org/sgp/crs/mideast/RS21808.pdf> – CRS Report to Congress — January 4, 2007

2) <http://www.nytimes.com/2006/09/24/world/middleeast/24yemen.html?fta=y> — Sept. 24, 2006

**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.

15c. In practice, elections are held according to a regular schedule.

**Comments:**

From the First Source:

"Description of electoral system:

•The President is elected by direct popular vote to serve a seven-year term;

•In the Shura Council, 111 members are appointed by the president. In the House of Representatives 301 members are elected by plurality vote in single-member constituencies to serve six-year terms."

The second source:

"Constitutional amendments adopted in the summer of 2000 extended the presidential term by 2 years, creating a seven-year presidential term. The constitution provides that henceforth the president will be elected by popular vote from at least two candidates selected by the legislature. The amendments also extended the parliamentary term of office to a six-year term, with the next elections occurring in 2009."

In view of the absence of regularity in the terms of electing officials, and the continuous changes in their terms, this would have to be given a "no" answer.

It is noted that the changes are done by law, but they still do not provide for a regular framework, and are almost designed to provide political advantage rather than to incorporate a systematic and stable electoral process.

Also, there is no fixed date for holding elections, although the Parliamentary elections have managed to be held on April 27; the intervals between each election were not consistent.

From third source:

"On February 20, 2001, a series of constitutional amendments were adopted by referendum. They dealt notably with the extension of the mandate of the president (from 5 to 7 years) and the deputies (from 4 to 6 years), and the extension of the Consultative Council competencies (appointed by the President). Hence, these elections involve important changes in the Yemenite political system."

From peer comment on the last GI Report on Yemen (2006), which is worth noting again here:

"To quote from the report on the 2006 elections prepared by the European Union Election Observation Mission: 'For the most part, procedures were followed properly although irregularities were observed, a disproportionate number of which occurred at female polling stations. Many polling stations were reported to have opened an hour late and, following an unclear instruction from SCER, three-quarters of polling stations delayed their closing by two hours even though it was unnecessary to do so.'"

**References:**

1) <http://www.electionguide.org/election.php?ID=1039>

Last Updated on 02/04/2010

Democracy assistance & elections news from the Consortium for Elections and Political Process Strengthening (CEPPS)

2) <http://www.state.gov/r/pa/ei/bgn/35836.htm> – November 19, 2010 — US State Department Report

3) <http://www.al-bab.com/yemen/pol/elections.htm> – Chronology and Bibliography of Elections in Yemen — Published 2010

**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.

## 16. Are citizens able to participate equally in the political process?

15

16a. In law, all citizens have a right to form political parties.

**Comments:**

From fourth source:

Article (3) of the Law of Political Parties and Organizations (1991) states:

"According to Article 39 of the Constitution of the Republic of Yemen, general liberties, including political pluralism and a party system based on constitutional legitimacy, are considered a right and a pillar of the political and social system of the Republic of Yemen. This right may not be canceled, limited or restrained, and no measure may be taken to hinder the freedom of citizens to exercise it (4)."

This comment is in the fourth reference:

"That was as clear and categorical a statement as anyone might wish for — except that other sections of the law attempted to regulate and restrain the activities of parties in ways that theoretically were forbidden by the law's own interpretation of the constitution."

The absence of a robust multiparty system that can effectively bring about a peaceful transformation of power through the ballot box is hindered by various contradictions in laws meant to guarantee political pluralism (Source 3 and 4) and the fact that the ruling party is allowed to continue to have unlimited access to the resources of the state to ensure the sustainability of its control of the Government (such as the use of military personnel votes to in its favor).

Note that many parties have either been dis-empowered or eliminated by either pressure from the Government or severe restrictions or registration procedures; thus, there are only five really effective parties: The General People's Congress (ruling party); Yemeni Socialist Party (a far weaker party than it was prior to the 1994 civil war); the Yemeni Congregation for Reform (a party with constantly switching alliances); the Nasserite Unionist Party; the Ba'ath Party.

There are of course several other parties that are literally powerless or institutionally weak, so they have little significant influence on any electoral process or political reorganization, while others are cloned by the regime to further increase the hardships facing any opposition parties that try to be aggressive.

From fifth source:

"While these elections (Presidential Elections) were procedurally fair, nevertheless, they were organized in such a way as to pose no significant threat to President Salih's rule."

**References:**

- 1) <http://www.al-bab.com/yemen/gov/con94.htm> — Constitution of 1994; amended again in 2001
- 2) <http://www.scer.org.ye/english/politicalpartieslaw.htm> — Law 66 of 1991: Law of Political Parties and Organization
- 3) [http://www.carnegieendowment.org/files/cp\\_80\\_phillips\\_yemen\\_final.pdf](http://www.carnegieendowment.org/files/cp_80_phillips_yemen_final.pdf)
- 4) <http://www.al-bab.com/yemen/gov/bwpol.htm>
- 5) <http://www.systemicpeace.org/polity/Yemen2008.pdf>

**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.

16b. In law, all citizens have a right to run for political office.

Yes | No

**Comments:**

"The nomination filing procedures were one of the more problematic areas in the recent elections. The National Democratic Institute (NDI) received credible reports of local officials, judges and main commission members who were not fulfilling their responsibilities in an independent and professional manner with regards to the nomination and withdrawal of candidacy procedures.

"As in previous elections, there were also credible reports of General People's Congress (GPC) efforts to force candidates to drop out, including women candidates. Only 13 women were accepted as candidates and by the time of the elections two women had dropped out of the race" (Third source).

Especially after the civil war of 1994, it is well known that many viable and pro-democracy candidates for Parliament were forced to withdraw their candidacies, sometimes in the face of threats of physical harm (Mr. Mohammed Al-Muta'a and Mohammed Abdulla Al-Fusayil).

For a similar context, see reference 6:

"Sa'da has been a trouble spot for San'a' for years. During local government polls on Feb. 20, 2001, Sa'da tribesmen fired on a military helicopter that was carrying ballot boxes and would not allow it to land. Tribesmen claimed the government had forced their candidates to withdraw in favour of Saleh's ruling GPC".

Needless to say, the Nationality Law has not been amended to remove the 15-year probationary period before participation in any political activity is allowed.

**References:**

- 1) Constitution of Yemen (2001) — <http://www.unhcr.org/refworld/category,LEGAL,,YEM,3fc4c1e94,0.html>
- 2) Political Parties and Organizations Law — <http://www.scer.org.ye/english/politicalpartieslaw.htm>
- 3) Elections Law of 2001 — <http://www.pogar.org/publications/other/laws/elections/genelec-referend-yem-01-e.pdf>
- 4) <http://www.ndi.org/files/Parl%20Elections%20Yemen%20part2.pdf>
- 5) Nationality Law — <http://www.unhcr.org/refworld/country,LEGAL,,LEGISLATION,YEM,4562d8cf2,3ae6b57b10,0.html>
- 6) <http://www.allbusiness.com/sector-21-mining/oil-gas-extraction-crude/1183280-1.html>

**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.

16c. In practice, all citizens are able to form political parties.

100 | 75 | 50 | 25 | 0

**Comments:**

As time goes by, the formation of political parties gets more complicated, and in fact, less meaningful as the General People's Congress continues to consolidate more power:

"The overall trend is thus toward the concentration of power in a single party — the GPC. The reasons for this are partly to be found in the evolution of the electoral law."

**References:**

- 1) [http://www.idea.int/publications/dem\\_yemen/upload/Yemen\\_country\\_report\\_English.pdf](http://www.idea.int/publications/dem_yemen/upload/Yemen_country_report_English.pdf)

**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.

16d. In practice, all citizens can run for political office.

100 | 75 | 50 | 25 | 0

**Comments:**

The National Democratic Institute (NDI) confirmed that the General People's Congress (GPC) tends to have greater discretion in determining who is allowed to be nominated from among the independents. If the party approves the nominees, they will either include them as GPC candidates or support their candidacy and later absorb them.

For example, Ahmed Al-Kohlani used to be independent and initially was supported by the GPC and then he eventually joined the GPC when he first ran for Parliament and before becoming a Governor (Sana'a Secretariat and Aden Governorate).

But as is shown in the referenced report, if the ruling party is not satisfied with a candidate, they will force them to withdraw their nomination.

**References:**

1) <http://www.ndi.org/files/Parl%20Elections%20Yemen%20part2.pdf> — Report on the 2006 Presidential and Local Council Elections in the Republic of Yemen (Last Election held)

**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. A system of party lists may discourage or prevent independent 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.

16e. In practice, an opposition party is represented in the legislature.

100 | 75 | 50 | 25 | 0

**Comments:**

First Source:

"The main parties were President Ali Abdullah Saleh's General People's Congress (GPC), the opposition Yemeni Congregation for Reform (Islah) of the Speaker of Parliament and the Yemeni Socialist Party. In the outgoing assembly, the GPC had 226 seats, Islah 62 seats, the opposition Nasserite party three seats and the Baath party two seats. Independents held eight seats while the Socialist Party had no representatives.

Although there are members of opposition parties in Parliament — mostly the Islah Party which sometimes has allied with the GPC on more than one occasion — the overwhelming number of GPC members renders the opposition ineffective.

From second source:

"Islah and the YSP are the most prominent opposition parties, with 46 and eight seats, respectively, although their influence remains limited because of the GPC's overwhelming majority.

"The GPC's overwhelming majority in the legislature enables the president and government to pass legislation without negotiating with the opposition.

"In August 2008 the GPC effectively defeated the Joint Meeting Parties (JMPs) proposed amendment, pushing through a vote to maintain the 2001 election law."

Third Source, showing the weakness of the opposition in Parliament:

"An amendment by Yemen's parliament to the electoral law sparked an opposition sit-in on Sunday and claims that the ruling party has violated a 2009 accord providing for dialogue on political reforms.

"The amendment, which was originally proposed along with various other political reforms in 2009, was passed on Saturday by a parliament heavily dominated by members and allies of Yemeni President Ali Abdullah Saleh's General People's Congress (GPC)."

**References:**

1) Interparliamentary Union Summary — Yemen — As of 2003 Extension — <http://www.ipu.org/parline/reports/2353.htm> —

2) <http://www.freedomhouse.org/uploads/ccr/country-7950-9.pdf> — Report by Freedom House — a human rights advocacy group — Freedom in the World 2010

3) <http://narrabyee-e.blogspot.com/2010/12/yemen-election-law-change-sparks.html> — blogspot 12-12-2010 — Blogger — News — Arab affairs

**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:**

**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:

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

---

## 2.2. Election Integrity

---

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

100

17a. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

Yes | No

**Comments:**

The Supreme Elections and Referendums Committee oversees all elections proceedings. Monitoring is also undertaken by candidates or their parties and by local and foreign monitors (NGOs and regional blocs, such as the European Union, local NGOs like the Polling Center and international organizations like the National Democratic Institute (NDI)).

**References:**

- 1) Law 13 of 2001 — Elections Law — <http://www.pogar.org/publications/other/laws/elections/genelec-referend-yem-01-e.pdf>
- 2) Observation Manual for Political Parties and Local and International NGOs — <http://www.scer.org.ye/english/observationmanual.htm>

**Yes:** A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to ensure the integrity of the election process.

**No:** A NO score is earned if no domestic agency or set of domestic agencies/entities exists that monitors elections. A NO score is earned if elections are only monitored by an agency informally, such as poll booth monitoring by the police, only by international observers, or only by NGOs. A NO score is earned if the domestic election agency or set of domestic agencies simply facilitates the process of voting but is not empowered to report violations or abuses.

---

18. Is the election monitoring agency effective?

10

18a. In law, the agency or set of agencies/entities is protected from political interference.

Yes | No

**Comments:**

Third source:

"Commissioners are appointed by the president of the republic from a list of 15 candidates proposed by a two-thirds majority of Parliament, for a six-year term. A secretary general, who is the chief electoral officer (CEO), is also appointed by the president from a list of three candidates proposed by the Supreme Committee for Elections and Referendums (SCER)."

The catch here is that the appointments are made by the President from 15 candidates "nominated by Parliament". The Secretary General of the SCER Secretariat is also appointed by a "Presidential Order."

On the other hand, the SCER is administratively and financially autonomous, which is a standard evasion of the word "independent," in the same way that the word "decentralization" used for the local councils also means "administratively and

financially autonomous.”

The third source also states:

“Opposition parties continued to criticize the lack of communication by the SCER and the too-close relationship with the governing party, which compromises its independence.”

Despite constant demands, meetings of the SCER are not public.

**References:**

1) Election Law of 2001 — <http://www.pogar.org/publications/other/laws/elections/genelec-referend-yem-01-e.pdf>

2) – SCER (Supreme Committee for Elections and Referendums) manual

— <http://www.scer.org.ye/english/observationmanual.htm>

**Yes:** A YES score is earned only if the agency or set of agencies/entities has some formal organizational independence from the bodies contesting 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 domestic election monitoring agency.

18b. In practice, agency (or set of agencies/entities) appointments are made that support the independence of the agency.

100 | 75 | 50 | 25 | 0

**Comments:**

From first link, it is obvious that political mitigating circumstances are at work when it comes to the formation of the Supreme Committee for Elections and Referendums (SCER):

“The differences were aggravated between political players over the last few months, which led Joint Meeting Parties (JMPs) members at parliament to boycott its sessions, especially after the constitutional amendments law was inserted in the parliament’s agenda without being agreed on by the political parties.”

It is widely known that the SCER has often shown favoritism to the sponsors of its members, and even the manual of the SCER does not have clear guidelines as to how to deal with unethical conduct by SCER members, or how to provide for a test to ensure the neutrality of chosen members. Given the fact that Parliament has always, and apparently will always be, dominated by the ruling party, even the nomination of the members will not necessarily be guided by professional and ethical standards.

From second source:

“President Ali Abdullah Saleh decided on Tuesday to form the Supreme Commission for Elections and Referendums mainly from ruling party staffers and three members of the Joint Meeting Parties (JMP). However, the three JMP members chosen declined the presidential appointment, accusing the ruling party of cheating democracy.

“They also claim that the ruling party acted illegally and breached previous agreements between Yemen’s political parties and organizations.

“In a statement Tuesday evening, the three who rejected the presidential appointment — former SCER deputy chairman Abdullah Al-Akwa’a, Abdullah Dahhan and Mohammed Saif Al-Sharabi — maintained that their being selected for the new commission lacked the appropriate legal procedures.

They continued, saying that choosing them this way adds a negative dimension to the electoral process and will not help conduct the upcoming parliamentary elections in April.

“The president’s political adviser, Abdulkarim Al-Eryani, warned against holding the elections amid the opposition’s absence, pointing out that doing so may negatively impact Yemen’s democratic experience.”

From Third Source:

“Nevertheless, there were real concerns at the partisanship within the SCER toward the ruling General People’s Congress (GPC) and there were instances where opposition representatives on election commissions were sidelined from decision-making. Women were significantly underrepresented as members of the election administration.”

**References:**

1) <http://www.yemenpost.net/43/Reports/20081.htm> -- August 18, 2008

2) <http://www.yementimes.com/DefaultDET.aspx?i=1185&p=local&a=1> Published: 28-08-2008

**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.

18c. In practice, the agency or set of agencies/entities has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

The ongoing problem over the membership and staffing of the Supreme Committee for Elections and Referendums since the last elections continues to cause political tensions, leading to postponement of elections for Parliament and the Presidency pending resolution of such problems.

Item 7 on the second link suggests that there is an integrity issue at stake as well with SCER.

The third source describes some of the complaints made by the coalition of opposition parties about the SCER membership and permanent staff. With the head of the SCER Secretariat appointed by Presidential Order, it is clear that there is a problem of impartiality on the part of the permanent staff of SCER, not to mention the fact that SCER members and senior officers take their oath in front of the President, instead of in front of Parliament as they should.

Fourth Source:

"Pivotal issues of electoral reform and appointment of the SCER Commissioners are at a critical point in furthering Yemen's democracy."

**References:**

- 1) <http://armiesofliberation.com/.../yemen-electoral-scer-committees-unwelcome>- expelled/ — Jane Fonda's Blog, November 8, 2008
- 2) <http://erc.undp.org/evaluationadmin/managereponse/view.html?evaluationid=3455> – UNDP Project Assessment — Issued before end of year but no date shown (source obtained before year 3rd 2010)
- 3) <http://www.cyemen.com/vb/showthread.php?99351-JMP-Chairman-Sultan-Al-Atwani-to-the-Yemen-Times-The-government-doesn-t-recognize> — 31 May 2009 Internet Forum.
- 4) <http://www.ifes.org/Content/Publications/Press-Release/2008/Will-Yemens-Democracy-Take-a-Step-Back.aspx>

**100:** The agency or set of agencies/entities has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency or set of agencies/entities has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

**25:**

**0:** The agency or set of agencies/entities has no staff, or such a limited staff that is clearly unqualified to fulfill its mandate.

18d. In practice, the agency or set of agencies/entities makes timely, publicly available reports following an election cycle.

100 | 75 | 50 | 25 | 0

**Comments:**

From the first source:

"Third, the SCER needs to deal with technical issues such as the counting and reporting processes and improving disabled people's access to the electoral process."

From the Second Source:

"The preliminary results of the presidential election, announced by the SCER on Sept. 23, declared the winning candidate to be the incumbent President Saleh. As no challenge was made within the prescribed time frame of 72 hours from the announcement of preliminary results, the presidential election results became final on Sept. 26.

"The final results contained significant differences from the partial results distributed to candidates and to the EU election observation missions (EU EOM) on Sept. 22 September. These included a drop in the number of votes won by candidates and a huge increase in the number of invalid votes. The total number of invalid votes was 10.7 percent; to provide some comparison, the proportion of invalid votes in the 2003 parliamentary elections in Yemen was around three per cent."

**References:**

1) <http://www.ifes.org/Content/Publications/Press-Release/2008/Will-Yemens-Democracy-Take-a-Step-Back.aspx> – International Foundation for Electoral Systems Report on Yemen — July 17, 2008 — IFES

2) [http://eeas.europa.eu/human\\_rights/election\\_observation/yemen/final\\_report\\_en.pdf](http://eeas.europa.eu/human_rights/election_observation/yemen/final_report_en.pdf) – European Union Election Observation Mission, Yemen 2006, FINAL REPORT

**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.

18e. In practice, when necessary, the agency or set of agencies/entities imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

The Supreme Committee for Elections and Referendums (SCER) would have to resort to the Courts for any penalty on violations of the Election Law.

In previous elections, outside observers noted (see second link):

"International and domestic election monitors and Yemeni unions noted that the ruling General People's Congress (GPC) party used state resources to influence the outcome of the vote. For example, the Ministry of Education allowed the use of schools for campaign activities (6). In certain parts of the country, government officials threatened teachers with transfer or the loss of their jobs if they did not help the GPC in its campaign (7).

"In addition, international election monitors noted that elements of the ruling GPC employed "heavy-handed and coercive measures" on Election Day (8). Although a provision exists in the law for public financing for campaigns, parties are also permitted to raise unregulated funds from private donors, a system that numerous analysts believe favors the ruling party. In addition, the GPC reportedly manipulates votes by arranging for military troops to vote in particular constituencies, even if they are not residents there."

Despite such obvious irregularities, the SCER did not even go to the Courts to seek conviction for such violations.

**References:**

1) Article 106 of the Elections Law of 2001 — <http://www.scer.org.ye/english/generalelectionslaw.htm>

2) <http://www.freedomhouse.org/modules/publications/ccr/modPrintVersion.cfm?edition=7&ccrpage=31&ccrcountry=143>

**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.

---

## 19. Are elections systems transparent and effective?

38

19a. In practice, there is a clear and transparent system of voter registration.

100 | 75 | 50 | 25 | 0

### Comments:

In view of the disagreement on the appointment of Supreme Committee for Elections and Referendums (SCER) members, Election Law amendments and other problems in the Election Process and the fact that there is no significant effort to correct the situation and thus carry out more accurate registration of voters, the system is dysfunctional and thus warrants a more critical rating.

The situation has not changed since the issuance of the referenced report, which also notes:

"While 73 percent of registering voters indicated that they perceived the general atmosphere of the voter registration period as stable, concentrated areas of instability likely had a negative impact on registration turnout and were a strong indication of public dissatisfaction with the registration process."

On a similar note the report also states:

**"Registration of Ineligible Persons:**

As in 2002 and 2006, monitors observed significant numbers of underage children being registered to vote. Nearly 40 percent of field commissioners told monitors that they would register underage voters if directed by the "amin" or "aqel" (those persons responsible for attesting as to the eligibility of citizens who lacked identity documents).

"Monitors witnessed amins and aqels testifying that clearly underage voters were old enough to register, and in some instances observed the elders accepting payment in exchange for their testimony. Monitors also observed other community leaders pressuring commissioners to register ineligible voters such as underage voters, voters without any identification and, in once instance, those without Yemeni citizenship.

**"Role of the Security Committee and Military:**

Monitors reported witnessing security personnel in some areas interfering in the work of the registration committees. In some instances, security personnel gave instructions to committee members on which voters to register and allowed registering voters to carry weapons into the registration centers.

"In addition, monitors reported seeing large numbers of military personnel bused to registration centers, the majority of whom were changing their voting residence. While the impact of high numbers of military registrations in select districts cannot be determined, these registrations could give the impression that military personnel are being used to influence voter demographics."

The second source shows the serious results of a clearly dysfunctional registration process.

### References:

1) [http://www.ndi.org/files/Yemen\\_2008VoterRegistrationReport-English.pdf](http://www.ndi.org/files/Yemen_2008VoterRegistrationReport-English.pdf) National Democratic Institute Report — November 11-25, 2008

2) <http://www.highbeam.com/doc/1G1-202500050.html> (reproduced from Yemen Times article Nov. 19, 2009).

**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.

19b. In law, election results can be contested through the judicial system.

Yes | No

**Comments:**

The law in the reference source allows for appeals to the court to contest election results.

**References:**

Article 127 of the Elections Law of 2001 — <http://www.pogar.org/publications/other/laws/elections/genelec-referend-yem-01-e.pdf>

**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.

19c. In practice, election results can be effectively appealed through the judicial system.

100 | 75 | 50 | 25 | 0

**Comments:**

It is clear that even the Judiciary is incapable of playing an impartial role in the election process as the last legal resort to turn to.

From referenced source:

"In addition, according to independent domestic election monitors, the judiciary did not thoroughly and carefully review election disputes; it responded to 56 separate complaints in the post-election period, taking only three days to issue its ruling, which prompted complaints that the merits of different election disputes were not carefully considered."

**References:**

1) <http://www.freedomhouse.org/modules/publications/cfr/modPrintVersion.cfm?edition=7&ccrpage=31&ccrcountry=143> — Country Report — Yemen for 2006 (last election held) by Freedom House Organization

**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.

19d. In practice, the military and security forces remain neutral during elections.

100 | 75 | 50 | 25 | 0

**Comments:**

It is clear that the military and civilian organs play a significant role in influencing the elections, starting from the registration process onwards.

From referenced source:

"Role of the Security Committee and Military:

Monitors reported witnessing security personnel in some areas interfering in the work of the registration committees. In some instances, security personnel gave instructions to committee members on which voters to register and allowed registering voters to carry weapons into the registration centers.

In addition, monitors reported seeing large numbers of military personnel bused to registration centers, the majority of whom were changing their voting residence. While the impact of high numbers of military registrations in select districts cannot be determined, the registrations could give the impression that military personnel are being used to influence voter demographics in specific constituencies and could be in violation of Article 4:f of the election law.”

From second source (although it is somewhat dated, it nevertheless show that there has not been any significant change as can be seen by the first source quoted above on the registration process:

“Because the military has been seen to be close to the President and the ruling party, involvement in past elections has raised questions about the appropriate role of the military and what affect this role has had on the reality and the perception of impartiality in the administration and outcome of the elections.

“Although the election law stipulates that the security services can assist with the administration of elections — although only under the control of the civilian election authority — the department responsible for handling election-related complaints within the Supreme Committee for Elections and Referendums (SCER) was headed by a military general appointed by the President. During voter registration, military personnel also staffed the supervisory-level operations rooms that oversaw problems and communicated complaints to the operations room at SCER headquarters.”

From third source:

“Hamid al-Ahmar, a progressive young sheik who was among the most prominent of Bin Shamlan supporters, said that military and security institutions, intelligence apparatuses, public media and officials had changed into “operations rooms” in favor of the General People’s Congress (GPC). Exiled opposition member Mr. Ahmed al-Hasani stated on the London-based Al-Mustakilla television channel that the regime received a shipment of ink remover for distribution to the military in advance of the election in order to facilitate multiple voting.”

The report later states:

“State power and funds overwhelmingly supported President Saleh.”

**References:**

1. [http://www.ndi.org/files/Yemen\\_2008VoterRegistrationReport-English.pdf](http://www.ndi.org/files/Yemen_2008VoterRegistrationReport-English.pdf)
2. <http://www.ndi.org/files/Parl%20Elections%20Yemen%20part2.pdf> — National Democratic Institute pre-election report 2006
- 3) <http://www.globalpolitician.com/22257-yemen> — Yemen: Democracy Without Minority Rights — Jane Novak — 10/26/2006

**100:** 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.

**75:**

**50:** 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.

**25:**

**0:** The military or other security forces are an active and explicit player in politics and overly 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.

19e. In law, domestic and international election observers are allowed to monitor elections.

Yes | No

**Comments:**

International organizations have increasingly called for reforms of the election process, which should be undertaken through dialogue as agreed in 2009 between the General People’s Congress and the Joint Meeting Coalition of Opposition Parties. The dialogue has only been undertaken by one meeting so far, which has not culminated in any reforms.

Local organizations have been able to monitor elections almost from the start of elections in 1993.

**References:**

Constitution and General Elections and Referendums Law 2001 ([http://www.unhcr.org/refworld/category/LEGAL/,,\\_YEM\\_3fc4c1e94\\_0.html](http://www.unhcr.org/refworld/category/LEGAL/,,_YEM_3fc4c1e94_0.html) & <http://www.pogar.org/publications/other/laws/elections/genelec-referend-yem-01-e.pdf> respectively)

**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.

19f. In practice, election observers are able to effectively monitor elections.

100 | 75 | 50 | 25 | 0

**Comments:**

It is getting increasingly tougher for election watchdogs — both foreign and local — to monitor the elections.

From the first source:

The Yemen Elections Monitoring Network (YEMN) and National Democratic Institute (NDI) requested monitoring credentials for 367 volunteer observers; 327 received accreditation from the Supreme Committee for Elections and Referendums (SCER), with 11 percent of the applications declined. While NDI and YEMN have submitted a request to the SCER for a written explanation of the rejections, no reasons have been provided. The SCER was otherwise cooperative during the accreditation process, correcting mistakes in an expedient manner and facilitating NDI and YEMN monitoring of the registration process.

During the 15-day registration period, 43 monitors (13 percent) were refused access to voter registration centers for part or all of the registration period. Of those who were allowed to monitor, many reported that security personnel or field commissioners prevented them from viewing the photocopied voters list or speaking with members of the registration committee. In some instances, registration committee members had not received instructions from the SCER to allow domestic monitors to observe the registration process.

From the second source:

"Twenty percent of the polling observers reported that they were not permitted to accompany the ballot boxes to the counting commissions. Such a high figure merits concern as it opens the process to suspicion that, in some instances, ballots may, or could have been, substituted, threatening the integrity of the election process."

**References:**

1) Voter Registration Report: [http://www.ndi.org/files/Yemen\\_2008VoterRegistrationReport-English.pdf](http://www.ndi.org/files/Yemen_2008VoterRegistrationReport-English.pdf)

2) <http://www.ndi.org/files/Parl%20Elections%20Yemen%20part2.pdf> — National Democratic Institute Pre-election report 2006 — last election

**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.

---

49  
2.3. Political Financing Transparency

---

20. Are there regulations governing the financing of political parties?

50

20a. In law, there are limits on individual donations to political parties.

Yes | No

**Comments:**

The law requires that political individual donations of Yrls 100,000 (US\$465) should be reported.

**References:**

- 1) Article 17 of Law No. 66, 1991, Political Parties and Political Organizations — <http://www.scer.org.ye/english/politicalpartieslaw.htm>

**Yes:** A YES score is earned if there are any limits in size on individual contributions to political parties. A YES score is also 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 in a discriminatory manner.

20b. In law, there are limits on corporate donations to political parties.

Yes | No

**Comments:**

There are no such limitations or restrictions.

This is this meaningful comment from the third source:

"Improper political contributions: the sixth form of corruption that is practiced by the government official of the ruling party in term of payments made."

**References:**

- 1) Elections Law of 2001 — <http://www.pogar.org/publications/other/laws/elections/genelec-referend-yem-01-e.pdf>
- 2) Law of Political Parties — <http://www.scer.org.ye/english/politicalpartieslaw.htm>
- 3) <http://www.u4.no/training/incountry-open/yemen-docs/political-culture-corruption-yemen-abdomoghran.pdf>

**Yes:** A YES score is earned if there are any limits in size on corporate contributions to political parties. A YES score is earned if corporate contributions are prohibited.

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

20c. In law, there are limits on total political party expenditures.

Yes | No

**Comments:**

There are no such stipulations in any of the relevant laws.

There is certainly a need for regulations governing the ability of any party to use Government assets and resources for their political activities.

**References:**

- 1) Law of Political Parties and Organizations — <http://www.scer.org.ye/english/politicalpartieslaw.htm>

Law of Elections (2001) — <http://www.pogar.org/publications/other/laws/elections/genelec-referend-yem-01-e.pdf>

**Yes:** A YES score is earned if there are any limits in size on political party expenditures during the course of an election.

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

20d. In law, there are requirements for the disclosure of donations to political parties.

Yes | **No**

**Comments:**

There are no express provisions for disclosure of donations.

Articles 24 and 25 of the referenced law stipulate vague disclosures to the Political Parties Committee that require submission of annual reports and allow for inspections as stated in Article 25:

"The Committee for Parties and Political Organizations, once having approved the annual report of the accounts, has the right to actually inspect the books and review the expenditures and revenues to determine their legality. The committee may assign a specialized team to do this job, provided a copy of the team's report is given to the party or political organization, and provided complete secrecy is guaranteed, except if a violation is discovered, in which case, the matter is referred to the judicial authorities, according to the law."

On the questionable equity of the legal stipulations on the financial resources of political parties, it is interesting to read the second source, in particular the section titled "Resources and financial provisions."

**References:**

1) Law of Political Parties and Political Organizations – Chapter IV – <http://www.scer.org.ye/english/politicalpartieslaw.htm>

2) <http://www.al-bab.com/yemen/pol/saifparty.htm#Resources>

Yemeni party law: a comparative perspective

by Ahmed Abdulkrim Saif, date unknown, but still quite relevant.

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

**No:** A NO score is earned if there are no requirements mandating the disclosure of contributions to political parties, existing regulations do not require a donor's name or amount given, or the regulations allow for anonymous donations. Systems where only certain donation amounts are required to be made public (above a non-trivial amount) also earn a NO score.

20e. In law, there are requirements for the independent auditing of the finances and expenditures of political parties when financial irregularities are uncovered.

**Yes** | No

**Comments:**

There are no specific stipulations for requiring an independent audit of political party finances, but the Political Parties Committee (PPC) may want to inspect or have some other party inspect a party's accounts:

"The Committee for Parties and Political Organizations, once having approved the annual report of the accounts, has the right to actually inspect the books and review the expenditures and revenues to determine their legality. The committee may assign a specialized team to do this job, provided a copy of the team's report is given to the party or political organization, and provided complete secrecy is guaranteed except if a violation is discovered, in which case the matter is referred to the judicial authorities, according to the law."

It appears to be a discretionary matter.

On the questionable equity of the legal stipulations on the financial resources of political parties, it is interesting to read the second source, in particular the section titled "Resources and financial provisions."

On page 62 of the Third Source (copying not permitted), it states that Article 42 of the Executive Procedures of the Law (issued in 1995), says that the Political Party Committee obtains the Final Reports of the political parties (showing the revenues and expenditures of a political party). The PPC may decide to assign a Committee to check the finances of a political party if it deems some violation is apparent. This is not a requirement, but a discretion left to PPC.

The PPC is not required to obtain an independent audit, but it has the "right to inspect" a political party's record or assign a committee for this task. This would not be considered a requirement nor would this be considered an independent audit, since the PPC designates the Committee (which would no longer make this an independent audit).

Moreover, this would be done "after having approved" the Final Accounts of the Party, which would render such an inspection (word "audit" is not used) meaningless if the inspection is carried out after the approval of the accounts by the PPC. Thus, how

could the PPC deem anything as being illegal after it has approved the Final Accounts? This is assuming that the Committee assigned for this task does find anything suspicious.

**References:**

- 1) Political Parties and Organizations Law — <http://www.scer.org.ye/english/politicalpartieslaw.htm>
- 2) <http://www.al-bab.com/yemen/pol/saifparty.htm#Resources>
- 3) [http://www.idea.int/publications/dem\\_yemen/upload/Yemen\\_country\\_report\\_English.pdf](http://www.idea.int/publications/dem_yemen/upload/Yemen_country_report_English.pdf)

**Yes:** A YES score is earned if there is a legal or regulatory requirement for the independent auditing of party finances and expenditures when irregularities are uncovered. 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' finances and expenditures when financial irregularities are uncovered. A NO score is also earned if such requirements exist but allow for parties to self-audit.

20f. In law, there is an agency or entity that monitors the financing of political parties.

Yes | No

**Comments:**

The Political Parties and Organizations Committee receives annual reports and may wish to inspect the books or records of political parties and organizations.

**References:**

- 1) Political Parties and Organizations Law No 66, 1991, Article 17,18, Chapter IV — <http://www.scer.org.ye/english/politicalpartieslaw.htm>

**Yes:** A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around the financing of political parties. A YES score is earned even if the agency/entity is ineffective in practice.

**No:** A NO score is earned if there is no such agency or entity. A NO score is also earned if this monitoring is solely carried out by the media and non-governmental organizations.

---

## 21. Are there regulations governing the financing of individual political candidates?

20

21a. In law, there are limits on individual donations to political candidates.

Yes | No

**Comments:**

On donations to individuals, see Article 75 (Presidential Candidates only) and Article 83 of Law 13 of 2001 on Elections and Referendums:

"Article 83: Each local council candidate shall have to pay against receipt the total sum of Yrls 5,000 (US\$23.44) if running for a local council office in any major city."

Article 75 of the source only discusses contributions to Presidential candidates:

"Every presidential candidate may receive contributions from natural and corporate persons/entities, provided that this is through the opening of a bank account, and that a statement of the donations account should be provided to the Supreme Committee (for Elections and Referendums) as they are given. Receiving foreign donations is absolutely forbidden."

It implies accounts for donations only, apparently, and the statement is not expressly a bank account statement, but it may imply that is, accordingly. (Translation by researcher from Arabic, as translation in the link is not accurate.)

**References:**

1) <http://www.pogar.org/publications/other/laws/elections/genelec-referend-yem-01-e.pdf>

**Yes:** A YES score is earned if there are any limits in size on individual contributions to political candidates. A YES score is also 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 candidates in a discriminatory manner.

21b. In law, there are limits on corporate donations to individual political candidates.

Yes | No

**Comments:**

On the questionable equity of the legal stipulations on the financial resources of political parties, it is interesting to read the second source, in particular the section titled "Resources and financial provisions."

Article 75 of the referenced source only discusses contributions to Presidential candidates:

"Every presidential candidate may receive contributions from national and corporate persons/entities, provided that this is through the opening of a bank account, and that a statement of the donations account should be provided to the Supreme Committee for Elections and Referendum as they are given. Receiving foreign donations is absolutely forbidden."

It implies accounts for donations only, apparently, and the statement is not expressly a bank account statement but it may imply that accordingly. (Translation of researcher from Arabic, as translation in link is not accurate.)

"Article (83): Each local council candidate shall have to pay against receipt the total sum of Yrls 5,000 (US\$23.44) if running for a local council office in any major city."

**References:**

1) Law 66 of Political Parties and Organizations — <http://www.scer.org.ye/english/politicalpartieslaw.htm>

2) <http://www.al-bab.com/yemen/pol/saifparty.htm#Resources>

3) Law of Elections (2001) — <http://www.pogar.org/publications/other/laws/elections/genelec-referend-yem-01-e.pdf>

**Yes:** A YES score is earned if there are any limits in size on corporate contributions to individual political candidates. A YES score is earned if corporate contributions are prohibited.

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

21c. In law, there are requirements for the disclosure of donations to individual political candidates.

Yes | No

**Comments:**

Article 75 of the ref source only discusses contributions to Presidential candidates:

Article (75): Every presidential candidate may receive contributions from natural and corporate persons/entities, provided that this is through the opening of a bank account, and that a statement of the donations account should be provided to the Supreme Committee (for Elections and Referenda) as they are given. Receiving foreign donations is absolutely forbidden.

It implies account for donations only apparently, and the statement is not expressly a bank account statement but may imply accordingly (translation of researcher from Arabic — <http://www.scer.org.ye/arabic/electionlaw.htm> — as translation in link is not accurate).

**References:**

Article 75 of the Law of Elections — <http://www.pogar.org/publications/other/laws/elections/genelec-referend-yem-01-e.pdf>

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

**No:** A NO score is earned if there are no requirements mandating the disclosure of contributions to individual political candidates, existing regulations do not require a donor's name or amount given, or the regulations allow for anonymous donations. Systems where only certain donation amounts are required to be made public (above a non-trivial amount) also earn a NO score.

21d. In law, there are requirements for the independent auditing of the campaign finances of individual political candidates when irregularities are uncovered.

Yes | **No**

**Comments:**  
There are no specific stipulations as such in any of the relevant laws.

**References:**  
1) <http://www.pogar.org/publications/other/laws/elections/genelec-referend-yem-01-e.pdf> – Law of Elections (2001)  
2) Law of Political Parties (1991) – <http://www.scer.org.ye/english/politicalpartieslaw.htm>

**Yes:** A YES score is earned if there is a legal or regulatory requirement for the independent auditing of an individual candidate's campaign finances and expenditures when financial irregularities are uncovered. 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 an individual candidate's campaign finances and expenditures when financial irregularities are uncovered. A NO score is also earned if such requirements exist but allow for candidates to self-audit.

21e. In law, there is an agency or entity that monitors the financing of individual political candidates' campaigns.

Yes | **No**

**Comments:**  
The Supreme Elections and Referendums Committee.

Article 75 of the referenced source only discusses contributions to Presidential candidates:

"Every presidential candidate may receive contributions from national and corporate persons/entities, provided that this is through the opening of a bank account, and that a statement of the donations account should be provided to the Supreme Committee for Elections and Referendum as they are given. Receiving foreign donations is absolutely forbidden."

**References:**  
1) <http://www.scer.org.ye/english/politicalpartieslaw.htm>  
2) <http://www.pogar.org/publications/other/laws/elections/genelec-referend-yem-01-e.pdf>

**Yes:** A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around the financing of individual political candidates' campaigns. A YES score is earned even if the agency/entity is ineffective in practice.

**No:** A NO score is earned if there is no such agency or entity. A NO score is also earned if this monitoring is solely carried out by the media and non-governmental organizations.

---

## 22. Are the regulations governing the political financing of parties effective?

22a. In practice, the limits on individual donations to political parties are effective in regulating an individual's ability to financially support a political party.

100 | 75 | 50 | 25 | 0

#### Comments:

From third source:

In Yemen, the law on parties determines a party's resources, which include: subscriptions and contributions of members; subsidies allocated by the government; returns on the party's investments; and gifts and donations(25). The law, however, establishes restrictions that affect the smaller parties in particular. As already mentioned, a party may not accept from non-Yemeni individuals or parties any gifts, merits, or services. It also would have to provide a detailed record of its financial affairs; this includes notifying the government of any single donation over Yrls 100,000 (about US\$450) or multiple donations from a single source exceeding Yrls 200,000 (about US\$929)(26).

Further measures to manipulate opposition parties in Yemen were set up through a biased state subsidy system. First, the sum of money devoted for subsidies was unspecified, which is a legal gap that can be exploited by the ruling party. Second, the distribution mechanism is such that 25 percent of the total subsidy would be shared equally by the parties represented in the parliament, with the remaining 75 percent divided in proportion to the share of votes obtained by each party at the elections. Third, parties that won less than 5 percent of the total vote were deprived of the state subsidy (27). This did little to help the smaller parties and aided the dominance of the bigger parties, who already possessed huge assets (28).

Furthermore, the total subsidy granted to a party may not exceed the total amount of subscriptions paid by the party's members. If it does, the excess amount is transferred to the state treasury (29). Above all, the law stipulates that party resources must be dispensed only in the service of objectives mentioned in the party's bylaws. The party is required to keep records in accordance with proper accounting principles showing the revenues and expenditures and these records must be accessible at the request of the state comptroller at any time (30).

In the light of the modest heritage of democratic associations in Yemen, subscriptions and donations contribute little to parties' revenue. Political parties in Yemen basically depend on state subsidies and on the financial support that a party's leadership can secure from different sources by different means (31). Opposition parties, therefore, are dependent to a great extent on state support (32). This indicates the weak structure of these political parties, their inability to mobilize people and to secure adequate independent funds. In addition to the Yemeni political parties' own deficiencies, the law has added great burdens by imposing stringent conditions and restrictions that impede further development of political parties in civil peaceful space.

The fourth source (page 80) shows how executive procedures for the law make financing of smaller parties subject to many obstacles.

Note how, on page 110 of fourth source, the ruling Party is almost free of any financial regulations (unable to copy text, which is encrypted).

#### References:

- 1) <http://www.scer.org.ye/english/politicalpartieslaw.htm> – Political Parties Law
- 2) <http://www.pogar.org/publications/other/laws/elections/genelec-referend-yem-01-e.pdf> – Law 13 of 2001 for Elections and Referendums
- 3) <http://www.al-bab.com/yemen/pol/saifparty.htm#Resources> – Yemeni party law: a comparative perspective by Ahmed Abdulkrim Saif – 8 June 2009
- 4) Study on Building Democracy in Yemen by International Institute for Democracy and Electoral Assistance – 2005, [http://www.idea.int/publications/dem\\_yemen/upload/Yemen\\_country\\_report\\_English.pdf](http://www.idea.int/publications/dem_yemen/upload/Yemen_country_report_English.pdf)

**100:** Existing limits represent the full extent to which an individual can directly or indirectly financially support a 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 political party. However, exceptions and loopholes exist through which individuals can indirectly support 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 party; unregulated loans to 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 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.

22b. In practice, the limits on corporate donations to political parties are effective in regulating a company's ability to financially support a political party.

**Comments:**

Since there are no specific regulations in this respect, there are no limits as to how much the ruling party can extract from the state treasury and businesses. Businesspersons have often related how much they are compelled to contribute to ruling party activities and state enterprises are often compelled to provide donations as well to ruling party or another strong party, or one allied to the ruling party (Islah for example).

Page 110 of the second source (top two paragraphs, encrypted) explains how the ruling party can obtain contributions and donations from public sector enterprises and organs and businesses.

**References:**

1) <http://www.al-bab.com/yemen/pol/saifparty.htm#Resources> — Yemeni party law: a comparative perspective by Ahmed Abdulkrim Saif — 8 June 2009

2) Study on Building Democracy in Yemen by International Institute for Democracy and Electoral Assistance — 2005, [http://www.idea.int/publications/dem\\_yemen/upload/Yemen\\_country\\_report\\_English.pdf](http://www.idea.int/publications/dem_yemen/upload/Yemen_country_report_English.pdf)

3) Own experience as financial manager of public sector enterprises

**100:** Existing limits represent the full extent to which a company can directly or indirectly financially support a 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 political party. However, exceptions and loopholes exist through which companies can indirectly support 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 party; unregulated loans to 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 political parties 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.

22c. In practice, the limits on total party expenditures are effective in regulating a political party's ability to fund campaigns or politically-related activities.

**Comments:**

There are no specific regulations and regrettably the matter is not taken up even by the opposition parties, as even these parties have a long history of either obtaining foreign support (or affiliation with foreign parties), including the Islah, Nasserites and other parties, so it is understandable why they would not raise such issues.

Poor public awareness of acceptable democratic practice renders it almost impossible to arouse public distrust of political parties, or the knowledge of the dubious nature of most political parties tends to make the general public apathetic toward seeking regulation and control of political party financing.

The third and the fourth (page 110) sources show how big parties (especially the ruling party) is not restricted in using their political clout to either obtain financing by embezzlement or in other ways.

In addition, you also have political parties associated with other regimes, such as the two branches of the Ba'ath Party (Damascus and Baghdad) and the Nasserites, who are associated with Libya (as Ghaddafi considers himself to be the heir of Nasserite nationalism in the Arab World).

The fifth source also explains how the regime in Sana'a also "cloned" opposition parties and newspapers to drown out the original opposition parties.

The People's General Conference Party (PGC) has set up Nasserite Parties, Ba'ath Parties and even local independent parties such as the Popular Forces Party as clones of existing opposition parties and even has its Joint Meeting Parties (Coalition of Opposition Parties).

The sixth source mentions newspaper cloning, but the same is done to political parties.

This is further shown in Source 7:

The civil society (same is true of political parties) sector is further compromised by the tendency of the government to undermine independent NGOs (and parties) and newspapers by supporting other organizations that look and sound similar — a practice known locally as “istinsakh,” or cloning.

**References:**

Relevant laws on Political Parties and Elections:

- 1) <http://www.scer.org.ye/english/politicalpartieslaw.htm>
- 2) <http://www.pogar.org/publications/other/laws/elections/genelec-referend-yem-01-e.pdf>
- 3) <http://www.al-bab.com/yemen/pol/saifparty.htm#Resources>) — Yemeni party law: a comparative perspective by Ahmed Abdulkrim Saif — 8 June 2009
- 4) Study on Building Democracy in Yemen by International Institute for Democracy and Electoral Assistance — 2005, [http://www.idea.int/publications/dem\\_yemen/upload/Yemen\\_country\\_report\\_English.pdf](http://www.idea.int/publications/dem_yemen/upload/Yemen_country_report_English.pdf)
- 5) <http://armiesofliberation.com/archives/2007/07/21/a-clone-of-a-clone/>
- 6) <http://www.article19.org/pdfs/publications/yemen-foe-report.pdf> — Article 10 Organization — Yemen: Freedom of Expression in Peril — page 11
- 7) <http://www.ft.com/cms/s/0/34d7263e-1fda-11df-8deb-00144feab49a.html#axzz1JiiWvoEW> — Financial Times — February 22, 2010

**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.

22d. In practice, when necessary, an agency or entity monitoring the financing of political parties independently initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

There have been no actions taken in this respect against any political parties, except politically motivated ones, such as the seizure of the assets of the Yemeni Socialist Party, the closure of Al-Haq Party (which was later reestablished with weaker resources), and the takeover of the Popular Forces Party and other minor parties, which could be considered as discriminatory practices. The closure of such parties was not done through any investigation or inspection of any kind.

There is no record of investigation of political parties by an independent agency, which involves several violations or excesses of the ruling party. There are no records of investigations of some of the other big parties to check into their financing or other areas, nor on the illegal closure of political parties like the Al-Haq Party, which was then allowed to reform but from a weaker position.

There are no investigations of how cloned parties are financed, which is usually from the ruling party (General People's Party budget or from Ministry of Finance), or how opposition parties are dissolved or harassed (source 8).

**References:**

- 1) Elections and Referendums Law No. 13, 2001 — <http://www.pogar.org/publications/other/laws/elections/genelec-referend-yem-01-e.pdf>
  - 2) Law for Political Parties and Organizations No. 66, 1991, Chapter 4, Article 18 — <http://www.scer.org.ye/english/politicalpartieslaw.htm>
- <http://www.al-bab.com/yemen/pol/saifparty.htm#Resources>) — Yemeni party law: a comparative perspective by Ahmed Abdulkrim Saif — 8 June 2009

- 4) – Study on Building Democracy in Yemen by International Institute for Democracy and Electoral Assistance – 2005 [http://www.idea.int/publications/dem\\_yemen/upload/Yemen\\_country\\_report\\_English.pdf](http://www.idea.int/publications/dem_yemen/upload/Yemen_country_report_English.pdf)
- 5) <http://armiesofliberation.com/archives/2007/07/21/a-clone-of-a-clone/>
- 6) <http://www.article19.org/pdfs/publications/yemen-foe-report.pdf> – Article 10 Organization – Yemen: Freedom of Expression in Peril – page 11
- 7) <http://www.ft.com/cms/s/0/34d7263e-1fda-11df-8deb-00144feab49a.html#axzz1JiiWvoEW> – Financial Times – February 22, 2010
- 8) <http://www.yementimes.com/DefaultDET.aspx?i=941&p=front&a=1>

**100:** The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of political parties, or cooperates well with other agencies that do. 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, has limited effectiveness when investigating, or is reluctant to cooperate with other agencies in politically sensitive cases. The agency, though limited in effectiveness, is still fair in its application of power.

**25:**

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

22e. In practice, when necessary, an agency or entity monitoring the financing of political parties imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

There have been no cases where any penalties or even investigations undertaken against a political party for any financial breaches.

The second source states:

By the same token, the state's organ, the Committee for the Affairs of Parties and Political Organizations (CAPPO), is authorized to file an urgent request with the relevant court to stop the activities of a party or disable its decisions if it commits any forbidden activities. The court must decide on the request within fifteen days, and the party has the right to appeal to the Supreme Court, which must release its final decision within ninety days (34). With regard to financing, Yemeni laws are the only ones that empower the state to withhold state funding from a party whose activities contradict financing regulations.

This has not happened, except to the parties that were closed by the regime for political reasons, such as Al-Haq and Popular Forces, which was done without due process (see third source).

Only when the regime wants an opposition party closed or cloned, would it sometimes get CAPPO to impose restrictions or even remove the licenses of parties.

**References:**

- 1) Law of Political Parties – <http://www.scer.org.ye/english/politicalpartieslaw.htm>
- 2) <http://www.al-bab.com/yemen/pol/saifparty.htm>
- 3) <http://www.yobserver.com/front-page/printer-10011909.html>

**100:** When rules violations are discovered, the agency or entity is aggressive in penalizing offenders or cooperates well with other agencies that impose penalties.

**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, reluctant to cooperate with other agencies, 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 and may refuse cooperation with other agencies.

22f. In practice, contributions to political parties are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

There has never been an independent legal audit performed on any of the political parties. The Committee for the Affairs of Parties and Political Organizations (CAPPO) does check for violations, and, to date, no financial violations have been made public by the committee, if they exist.

More importantly, a stringent audit of political financing would obviously stand in the way of the ruling party continuing to consolidate power in its hands and gradually, but systematically, marginalizing opposition parties.

Ref. source:

"Finally, the party law was tailored to consolidate the ruling party at the expense of the opposition. The registration procedure, financial regulations, and the role of CAPPO are examples of the restraints that produced, especially after the 1994 war, one dominant party that manipulated the whole democratic process."

The Second Source:

The Yemeni government showed its commitment to tackling corruption issues; however, aspects of political finance still lack transparency and are not subject to meaningful regulation or oversight. Most, if not all, post-election reports in 2006 clearly indicated need for such reform. Legislative reforms are lengthy processes that require consultative dialogue with political players — at least ones represented in Parliament."

**References:**

1) <http://www.al-bab.com/yemen/pol/saifparty.htm#Resources> – Yemeni party law: a comparative perspective by Ahmed Abdulkrim Saif — 8 June 2009

2) <http://www.ifes.org/Content/Publications/News-in-Brief/2008/Jun/Yemen-Supreme-Commission-to-Redraw-Boundaries-and-Address-Issues-of-Political-Finance.aspx> – International Foundation for Electoral Systems — June 23, 2008

**100:** Political party finances are regularly audited using generally accepted auditing practices. The auditing may be regular and comprehensive or only initiated after an initial review reveals irregularities. Auditing includes the auditing of nominally independent financial organizations that act as financial extensions of the party.

**75:**

**50:** Political party 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 may be sufficiently audited, but the auditing of nominally independent extensions of the party may not be.

**25:**

**0:** Party 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.

23. Are the regulations governing the political financing of individual candidates effective?

0

23a. In practice, the limits on individual donations to political candidates are effective in regulating an individual's ability to financially support a particular candidate.

100 | 75 | 50 | 25 | 0

**Comments:**

The First Source:

"The Yemeni government showed its commitment to tackling corruption issues; however, aspects of political finance still lack transparency and are not subject to meaningful regulation or oversight. Most, if not all, post-election reports in 2006 clearly indicated a need for such reform. Legislative reforms are lengthy processes that require consultative dialogue with political players — at least ones represented in Parliament."

The second source states that the effectiveness has been in favor of the ruling party, the General People's Congress, and biased against the smaller and newer parties:

"Further measures to manipulate opposition parties in Yemen were set up through a biased state subsidy system. First, the sum of money devoted for subsidies was unspecified, which is a legal gap that can be exploited by the ruling party. Second, the distribution mechanism is such that 25 percent of the total subsidy would be shared equally by the parties represented in the parliament, with the remaining 75 percent divided in proportion to the share of votes obtained by each party at the elections. Third, parties that won less than 5 percent of the total vote were deprived of the state subsidy (27). This did little to help the smaller parties and aided the dominance of the bigger parties, who already possessed huge assets (28).

Furthermore, the total subsidy granted to a party may not exceed the total amount of subscriptions paid by the party's members. If it does, the excess amount is transferred to the state treasury (29).

Above all, the law stipulates that party resources must be dispensed only in the service of objectives mentioned in the party's bylaws. The party is required to keep records in accordance with proper accounting principles showing the revenues and expenditures, and these records must be accessible under the request of state comptroller at any time (30).

In the light of the modest heritage of democratic association in Yemen, subscriptions and donations contribute little to parties' revenue. Political parties in Yemen basically depend on state subsidies and on the financial support that a party's leadership can secure from different sources by different means (31). Opposition parties, therefore, are dependent to a great extent on state support (32). This indicates the weak structure of these political parties, their inability to mobilize people, and to secure adequate independent funds. In addition to the Yemeni political parties' own deficiencies, the law has added great burdens by imposing stringent conditions and restrictions that impede further development of political parties in a civil and peaceful space."

#### References:

1) <http://www.ifes.org/Content/Publications/News-in-Brief/2008/Jun/Yemen-Supreme-Commission-to-Redraw-Boundaries-and-Address-Issues-of-Political-Finance.aspx> – International Foundation for Electoral Systems — June 23, 2008

2) <http://www.al-bab.com/yemen/pol/saifparty.htm#Resources> — Yemeni party law: a comparative perspective by Ahmed Abdulkrim Saif — 8 June 2009

**100:** Existing limits represent the full extent to which an individual can directly or indirectly financially support a political candidate. 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 particular candidate. However, exceptions and loopholes exist through which individuals can indirectly support particular political candidates 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; unregulated loans to candidates (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 particular political candidate 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.

23b. In practice, the limits on corporate donations to individual candidates are effective in regulating a company's ability to financially support a candidate.

100 | 75 | 50 | 25 | 0

#### Comments:

1) There are no effective legislation to regulate corporate financing for candidates.

2) The First source:

"The Yemeni government showed its commitment to tackling corruption issues; however, aspects of political finance still lack transparency and are not subject to meaningful regulation or oversight. Most, if not all, post-elections reports in 2006 clearly indicated the need for such reform. Legislative reforms are lengthy processes that require consultative dialogue with political players — at least ones represented in Parliament."

2) The second source states that the effectiveness has been in favor of the ruling party, the General People's Congress, and biased against the smaller and newer parties:

"Further measures to manipulate opposition parties in Yemen were set up through a biased state subsidy system. First, the sum of money devoted for subsidies was unspecified, which is a legal gap that can be exploited by the ruling party. Second, the distribution mechanism is such that 25 percent of the total subsidy would be shared equally by the parties represented in the parliament, with the remaining 75 percent divided in proportion to the share of votes obtained by each party at the elections. Third, parties that won less than 5 percent of the total vote were deprived of the state subsidy (27). This did little to help the smaller parties and aided the dominance of the bigger parties, who already possessed huge assets (28).

Furthermore, the total subsidy granted to a party may not exceed the total amount of subscriptions paid by the party's members. If it does, the excess amount is transferred to the state treasury (29)

Above all, the law stipulates that party resources must be dispensed only in the service of objectives mentioned in the party's bylaws. The party is required to keep records in accordance with proper accounting principles showing the revenues and expenditures and these records must be accessible under the request of state comptroller at any time (30).

In the light of the modest heritage of democratic association in Yemen, subscriptions and donations contribute little to parties' revenue. Political parties in Yemen basically depend on state subsidies and on the financial support that a party's leadership can secure from different sources by different means (31). Opposition parties, therefore, are dependent to a great extent on state support (32). This indicates the weak structure of these political parties, their inability to mobilize people, and to secure adequate independent funds.

In addition to the Yemeni political parties' own deficiencies, the law has added great burdens by imposing stringent conditions and restrictions that impede further development of political parties in a civil and peaceful space."

**References:**

1) <http://www.ifes.org/Content/Publications/News-in-Brief/2008/Jun/Yemen-Supreme-Commission-to-Redraw-Boundaries-and-Address-Issues-of-Political-Finance.aspx> – International Foundation for Electoral Systems — June 23, 2008

2) <http://www.al-bab.com/yemen/pol/saifparty.htm#Resources> — Yemeni party law: a comparative perspective by Ahmed Abdulkrim Saif — 8 June 2009

**100:** Existing limits represent the full extent to which a company can directly or indirectly financially support an individual candidate. 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 an individual candidate. However, exceptions and loopholes exist through which companies can indirectly support individual candidates 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; unregulated loans to candidates (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 individual candidates 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.

23c. In practice, when necessary, an agency or entity monitoring the financing of individual candidates' campaigns independently initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

It is imperative to note that the nature of most of the parties in Yemen, political parties of both sides of the political realm (rulers and opposition) would not likely make them push for investigations of other parties' financing, though such investigations may be called for.

From third source:

"A party is required to keep records in accordance with proper accounting principles showing the revenues and expenditures and these records must be accessible under the request of state comptroller at any time."

There are no reports of such requests for any reason. In fact, the ruling party has taken action against legal parties not by due process, but rather through force.

"Lack of democratic experience, a high rate of illiteracy (37) and the web-like nature of social relations all make it possible for the creation of parties that are either puppets working for foreign interests, or others that are based on sectarian, provincial, or tribal interests."

Again from third source:

"Finally, the party law was tailored to consolidate the ruling party at the expense of the opposition. The registration procedure, financial regulations, and the role of Committee for the Affairs of Parties and Political Organizations (CAPPO) are examples of the restraints that produced, especially after the 1994 war, one dominant party that manipulated the whole democratic process."

From Fourth Source:

"The Yemeni government showed its commitment to tackling corruption issues, however, aspects of political finance still lack transparency and are not subject to meaningful regulation or oversight. Most, if not all, post-election reports in 2006 clearly indicated need for such reform. Legislative reforms are lengthy processes that require consultative dialogue with political players — at least ones represented in Parliament."

**References:**

- 1) <http://www.pogar.org/publications/other/laws/elections/genelec-referend-yem-01-e.pdf>
- 2) <http://www.scer.org.ye/english/politicalpartieslaw.htm>
- 3) <http://www.al-bab.com/yemen/pol/saifparty.htm#Resources>) — Yemeni party law: a comparative perspective by Ahmed Abdulkrim Saif — 8 June 2009
- 4) <http://www.ifes.org/Content/Publications/News-in-Brief/2008/Jun/Yemen-Supreme-Commission-to-Redraw-Boundaries-and-Address-Issues-of-Political-Finance.aspx> — International Foundation for Electoral Systems — June 23, 2008

**100:** The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of individual candidates' campaigns, or cooperates well with other agencies that do. 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. It may be reluctant to cooperate with other investigatory agencies.

**25:**

**0:** The agency or entity rarely investigates on its own, or the agency or entity is partisan in its application of this power. It does not cooperate well with other investigatory agencies.

23d. In practice, when necessary, an agency or entity monitoring the financing of individual candidates' campaigns imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

The First Source:

"The Yemeni government showed its commitment to tackling corruption issues; however, aspects of political finance still lack transparency and are not subject to meaningful regulation or oversight. Most, if not all, post-election reports in 2006 clearly indicated need for such reform. Legislative reforms are lengthy processes that require consultative dialogue with political players — at least ones represented in Parliament."

From the second source:

"The ruling party allocated almost Yrls 60 billion (about US\$279 million) to buy votes in the 2003 parliamentary elections in an attempt to increase its election opportunities in Parliament, an international expert specialized in the election affairs said.

Chief expert of political finance at the International Foundation for Election Systems (IFES), Dr. Marshen Walky, however, expressed regret over using such sums in what he described as political and electoral corruption instead of using the sum to implement infrastructure projects such as schools, hospitals and roads.

He said that a report by the Institute for Democracy and Electoral Assistance (IDEA) on democracy building in Yemen revealed that the ruling party in Yemen had allocated between Yrls 40 billion to Yrls 60 billion (about US\$186 million US\$279 million) during the 2003 elections to buy votes.

"At a press conference in Sana'a on Wednesday, Walky said though the Yemeni election law bans buying electoral votes and using the public funds in elections, there is no observation or control of the spending of public funds on electoral campaigns."

Neither the Supreme Committee for Elections and Referendums or any opposition party sought legal action and penalty for such breaches.

Questions to elements of political parties brought the following:

Ruling Party:

"These are wild claims and the General People's Congress (GPC) makes sure it follows all the laws when conducting its campaigns and political activities. We are also subject to the stipulations of the Political Parties Law with respect to Government funding.

Opposition Party:

"Our finance people take care of these issues, with respect to our sources of financing and regarding the GPC abuse of Government funding, it would be impossible (if not suicidal) to seek legal action and punishment against them and, for sure, no court will rule against them."

Independent observer:

"Most of the political parties are either puppets of foreign elements or cloned parties of the ruling party set up to overshadow some of the small parties that try to be too outspoken."

**References:**

- 1) <http://www.ifes.org/Content/Publications/News-in-Brief/2008/Jun/Yemen-Supreme-Commission-to-Redraw-Boundaries-and-Address-Issues-of-Political-Finance.aspx> – International Foundation for Electoral Systems — June 23, 2008
- 2) <http://www.al-bab.com/yemen/pol/saifparty.htm>
- 3) <http://www.yemenpost.net/59/LocalNews/20089.htm>
- 4) Interviews with elements of ruling party and opposition (anonymity requested).

**100:** When rules violations are discovered, the agency or entity is aggressive in penalizing offenders or in cooperating with other agencies that do.

**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, reluctant to cooperate with other agencies, 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 or may refuse to cooperate with other agencies.

23e. In practice, the finances of individual candidates' campaigns are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

From footnotes of first source:

"28. For example, on the basis of the 1993 election results, the General People's Congress was entitled to 36 percent of the total amount of state subsidy, the Yemeni Socialist Party to 26%, Islah to 23 percent, and another five small parties to 3% each. This was exacerbated in the 1997 elections; the General People's Congress was entitled to 71 percent of the total amount of state subsidy, Islah to 16.5 percent, and Ba'ath and the People's Nasserite Unionist Party to 6.25 percent each.

31. In contradiction to the law, some political parties, such as Islah, have received financial support from external parties. However, it has been observed that the great part of support is personalized and granted to the party leader in name. This reflects the personification of politics that enables the benefactor to exert a great influence on the party's policies."

Thus it is inconceivable that any such audit would occur, especially as the legal stipulations in this regard are not explicit or even capable of being enforced.

Reforms have been called for in this respect by many international agencies and NGOs, but it is not clear what the new Election Law will be able to do, since it is already proposed that Supreme Committee for Elections and Referendums (SCER) members are selected from the Judicial Bench. In fact, they have been already designated, although the new Elections Law has yet to be issued:

From third source, quoting the Yemen Post:

"The ruling party voted the new controversial election law amid the refusal of other parliamentary blocs to vote in a move that was described as a coup against all agreements between the General People's Congress and the opposition, which was topped by February 2009 deal.

"At the meeting attended by almost all ruling party MPs, Parliament Speaker Yahya Al-Ra'e submitted two proposed amendments to law 13, with one adding an article stipulating that the voter rolls coinciding with the issuing of the law were the final approved rolls for the April 2011 elections.

"The second amendment called for correcting the date in the section 7 of article B concerning the elections time as April 27, 2011 instead of 2009."

**References:**

- 1) <http://www.al-bab.com/yemen/pol/saifparty.htm#Resources> – Yemeni party law: a comparative perspective by Ahmed Abdulkrim Saif — 8 June 2009
- 2) <http://www.pogor.org/publications/other/laws/elections/genelec-referend-yem-01-e.pdf> – Law 13 of 2001 for Elections and Referendums
- 3) <http://armiesofliberation.com/archives/2010/12/12/yemens-ruling-party-rams-through-illegal-election-law-confirming-inflated-voter-rolls/>

**100:** The finances of individual candidates' campaigns are regularly audited using generally accepted auditing practices. The auditing may be regular and comprehensive or only initiated after an initial review reveals irregularities.

**75:**

**50:** The finances of individual candidates' campaigns are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions.

**25:**

**0:** The finances of individual candidates' campaigns 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.

---

## 24. Can citizens access records related to the financing of political parties?

0

24a. In practice, political parties disclose data relating to financial support and expenditures within a reasonable time period.

100 | 75 | 50 | 25 | 0

### Comments:

There is no public disclosure required and the new amendments to Law 13 did not stipulate such requirements. Disclosure of revenues and expenditures is mainly made to the Committee for the Affairs of Parties and Political Organizations (CAPPO). In such cases, the committee can withhold government contributions to the party if it does not file its annual donations and expenditure report as the bylaws of the Law of Political Parties and Organizations stipulate.

### References:

1) Elections and Referendums Law No. 13, 2001 (<http://www.pogar.org/publications/other/laws/elections/genelec-referend-yem-01-e.pdf>), and amendments under Law No.26 of 2010 (just passed) — Arabic — <http://www.alsyasiah.net/Op.news.php?name=News&file=article&sid=42338>

2) Law for Political Parties and Organizations No. 66, 1991 — <http://www.scer.org.ye/english/politicalpartieslaw.htm>

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

**75:**

**50:** Political parties 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 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.

24b. In practice, citizens can access the financial records of political parties within a reasonable time period.

100 | 75 | 50 | 25 | 0

### Comments:

First Source:

"The Yemeni government showed its commitment to tackling corruption issues; however, aspects of political finance still lack transparency and are not subject to meaningful regulation or oversight. Most, if not all, post-election reports in 2006 clearly indicated need for such reform. Legislative reforms are lengthy processes that require consultative dialogue with political players — at least ones represented in Parliament."

From the second source:

"The party is required to keep records in accordance with proper accounting principles showing the revenues and expenditures and these records must be accessible under the request of state comptroller at any time" (30).

**References:**

1) <http://www.ifes.org/Content/Publications/News-in-Brief/2008/Jun/Yemen-Supreme-Commission-to-Redraw-Boundaries-and-Address-Issues-of-Political-Finance.aspx> – International Foundation for Electoral Systems — June 23, 2008

2) <http://www.al-bab.com/yemen/pol/saifparty.htm#Resources>) – Yemeni party law: a comparative perspective by Ahmed Abdulkrim Saif — 8 June 2009

**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.

24c. In practice, citizens can access the financial records of political parties at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no public access stipulated in law. Also, the matter is not getting much public attention since most of the major parties would shy away from public exposure.

The new amendments to Law 13 did not stipulate such requirements. Disclosure of revenues and expenditures is mainly made to the Committee for the Affairs of Parties and Political Organizations (CAPPO). In such cases, the committee can withhold government contributions to the party if it does not file its annual donations and expenditure report as the bylaws of the Law of Political Parties and Organizations stipulate.

From third source:

“The Yemeni government showed its commitment to tackling corruption issues; however, aspects of political finance still lack transparency and are not subject to meaningful regulation or oversight. Most, if not all, post-election reports in 2006 clearly indicated need for such reform. Legislative reforms are lengthy processes that require consultative dialogue with political players — at least ones represented in Parliament.”

**References:**

1) Elections and Referenda Law No. 13, 2001 (<http://www.pogar.org/publications/other/laws/elections/genelec-referend-yem-01-e.pdf>) and amendments under Law No.26 of 2010 (just passed) — Arabic — <http://www.alsyasiah.net/Qp.news.php?name=News&file=article&sid=42338>

2) Law for Political Parties and Organizations No. 66, 1991 — <http://www.scer.org/ye/english/politicalpartieslaw.htm>

3) <http://www.ifes.org/Content/Publications/News-in-Brief/2008/Jun/Yemen-Supreme-Commission-to-Redraw-Boundaries-and-Address-Issues-of-Political-Finance.aspx> — International Foundation for Electoral Systems — June 23, 2008

**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 NGOs. 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 NGOs trying to access this information.

24d. In practice, the publicly available records of political parties' finances are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no public disclosure required and the new amendments to Law 13 did not stipulate such requirements. Disclosure of revenues and expenditures is mainly made to the Committee for the Affairs of Parties and Political Organizations (CAPPO). In such cases, the committee can withhold government contributions to the party if it does not file its annual donations and expenditure report as the bylaws of the Law of Political Parties and Organizations stipulate.

First Source:

"The Yemeni government showed its commitment to tackling corruption issues; however, aspects of political finance still lack transparency and are not subject to meaningful regulation or oversight. Most, if not all, post-election reports in 2006 clearly indicated need for such reform. Legislative reforms are lengthy processes that require consultative dialogue with political players — at least ones represented in Parliament."

**References:**

1) <http://www.ifes.org/Content/Publications/News-in-Brief/2008/Jun/Yemen-Supreme-Commission-to-Redraw-Boundaries-and-Address-Issues-of-Political-Finance.aspx> – International Foundation for Electoral Systems — June 23, 2008

2) <http://www.al-bab.com/yemen/pol/saifparty.htm#Resources> — Yemeni party law: a comparative perspective by Ahmed Abdulkrim Saif — 8 June 2009

3) Law for Political Parties and Organizations No. 66, 1991 – <http://www.scer.org.ye/english/politicalpartieslaw.htm>

**100:** Publicly available records of political parties' finances are complete and detailed, itemizing all significant sources of income and expenditures.

**75:**

**50:** Publicly available records of political parties' finances are available but are often lacking in important details, are overly general, or are otherwise incomplete.

**25:**

**0:** Publicly available records of political parties' finances, when available, are so incomplete or overly general as to render them useless in understanding a party's sources of income and its expenditures.

25. Can citizens access records related to the financing of individual candidates' campaigns?

0

25a. In practice, individual political candidates disclose data relating to financial support and expenditures within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no public disclosure required and the new amendments to Law 13 did not stipulate such requirements. Disclosure of revenues and expenditures is mainly made to the Political Parties Committee. In such cases, the committee can withhold government contributions to the party if it does not file its annual donations and expenditure report as the bylaws of the Law of Political Parties and Organizations stipulate.

Even with the new elections law (2010) this is still applicable (third source):

"The Yemeni government showed its commitment to tackling corruption issues; however, aspects of political finance still lack transparency and are not subject to meaningful regulation or oversight. Most, if not all, post-election reports in 2006 clearly indicated need for such reform. Legislative reforms are lengthy processes that require consultative dialogue with political players — at least ones represented in Parliament."

The fourth source states that the effectiveness has favored the ruling party, the General People's Congress, and has been biased against the smaller and newer parties:

"Further measures to manipulate opposition parties in Yemen were set up through a biased state subsidy system. First, the sum of money devoted for subsidies was unspecified, which is a legal gap that can be exploited by the ruling party. Second, the distribution mechanism is such that 25 percent of the total subsidy would be shared equally by the parties represented in the parliament, with the remaining 75 percent divided in proportion to the share of votes obtained by each party at the elections. Third, parties that won less than 5 percent of the total vote were deprived of the state subsidy (27). This did little to help the smaller parties and aided the dominance of the bigger parties, who already possessed huge assets (28). Furthermore, the total subsidy granted to a party may not exceed the total amount of subscriptions paid by the party's members. If it does, the excess amount is transferred to the state treasury (29)

"Above all, the law stipulates that party resources must be dispensed only in the service of objectives mentioned in the party's bylaws. The party is required to keep records in accordance with proper accounting principles showing the revenues and expenditures and these records must be accessible under the request of state comptroller at any time (30).

"In the light of the modest heritage of democratic associations in Yemen, subscriptions and donations contribute little to parties' revenue. Political parties in Yemen basically depend on state subsidies and on the financial support that a party's leadership can secure from different sources by different means (31). Opposition parties, therefore, are dependent to a great extent on state

support (32). This indicates the weak structure of these political parties, their inability to mobilize people and to secure adequate independent funds. In addition to the Yemeni political parties' own deficiencies, the law has added great burdens by imposing stringent conditions and restrictions that impede further development of political parties in a civil and peaceful space."

The new law also did not stipulate the right of access to such records.

**References:**

- 1) Elections and Referendums Law No. 13, 2001 (<http://www.pogar.org/publications/other/laws/elections/genelec-referend-yem-01-e.pdf>) and amendments under Law No.26 of 2010 (just passed) — Arabic — [http://www.alsyasiah.net/Op\\_news.php?name=News&file=article&sid=42338](http://www.alsyasiah.net/Op_news.php?name=News&file=article&sid=42338)
- 2) Law for Political Parties and Organizations No. 66, 1991 — <http://www.scer.org/ye/english/politicalpartieslaw.htm>  
<http://www.al-bab.com/yemen/pol/saifparty.htm#Resources>
- 3) <http://www.ifes.org/Content/Publications/News-in-Brief/2008/Jun/Yemen-Supreme-Commission-to-Redraw-Boundaries-and-Address-Issues-of-Political-Finance.aspx> — International Foundation for Electoral Systems — June 23, 2008
- 4) <http://www.al-bab.com/yemen/pol/saifparty.htm#Resources> — Yemeni party law: a comparative perspective by Ahmed Abdulkrim Saif — 8 June 2009

**100:** Individual candidates disclose their sources of funding and expenditures at least every quarter.

**75:**

**50:** Individual 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:** Individual 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.

25b. In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no public disclosure required and the new amendments to Law 13 did not stipulate such requirements. Disclosure of revenues and expenditures is mainly made to the Committee for the Affairs of Parties and Political Organizations (CAPPO). In such cases, the committee can withhold government contributions to the party if it does not file its annual donations and expenditure report, as the bylaws of the Law of Political Parties and Organizations stipulate.

Even with the new elections law (2010) this is still applicable (see third source):

"The Yemeni government showed its commitment to tackling corruption issues; however, aspects of political finance still lack transparency and are not subject to meaningful regulation or oversight. Most, if not all, post-election reports in 2006 clearly indicated need for such reform. Legislative reforms are lengthy processes that require consultative dialogue with political players — at least ones represented in Parliament."

The fourth source states that the effectiveness has favored the ruling party, the General People's Congress, and has been biased against the smaller and newer parties:

"Further measures to manipulate opposition parties in Yemen were set up through a biased state subsidy system. First, the sum of money devoted for subsidies was unspecified, which is a legal gap that can be exploited by the ruling party. Second, the distribution mechanism is such that 25 percent of the total subsidy would be shared equally by the parties represented in the parliament, with the remaining 75 percent divided in proportion to the share of votes obtained by each party at the elections. Third, parties that won less than 5 percent of the total vote were deprived of the state subsidy (27). This did little to help the smaller parties and aided the dominance of the bigger parties, who already possessed huge assets (28). Furthermore, the total subsidy granted to a party may not exceed the total amount of subscriptions paid by the party's members. If it does, the excess amount is transferred to the state treasury (29)

"Above all, the law stipulates that party resources must be dispensed only in the service of objectives mentioned in the party's bylaws. The party is required to keep records in accordance with proper accounting principles showing the revenues and expenditures and these records must be accessible under the request of state comptroller at any time (30).

"In the light of the modest heritage of democratic associations in Yemen, subscriptions and donations contribute little to parties' revenue. Political parties in Yemen basically depend on state subsidies and on the financial support that a party's leadership can secure from different sources by different means (31). Opposition parties, therefore, are dependent to a great extent on state support (32). This indicates the weak structure of these political parties, their inability to mobilize people and to secure adequate independent funds. In addition to the Yemeni political parties' own deficiencies, the law has added great burdens by imposing stringent conditions and restrictions that impede further development of political parties in a civil and peaceful space."

The new law also did not stipulate the right of access to such records.

**References:**

- 1) Elections and Referendums Law No. 13, 2001 (<http://www.pogar.org/publications/other/laws/elections/genelec-referend-yem-01-e.pdf>) and amendments under Law No.26 of 2010 (just passed) — Arabic — <http://www.alsyasiah.net/Op.news.php?name=News&file=article&sid=42338>
- 2) Law for Political Parties and Organizations No. 66, 1991 — <http://www.scer.org.ye/english/politicalpartieslaw.htm>  
<http://www.al-bab.com/yemen/pol/saifparty.htm#Resources>
- 3) <http://www.ifes.org/Content/Publications/News-in-Brief/2008/Jun/Yemen-Supreme-Commission-to-Redraw-Boundaries-and-Address-Issues-of-Political-Finance.aspx> — International Foundation for Electoral Systems — June 23, 2008
- 4) <http://www.al-bab.com/yemen/pol/saifparty.htm#Resources>) — Yemeni party law: a comparative perspective by Ahmed Abdulkrim Saif — 8 June 2009

**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.

25c. In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no public disclosure required and the new amendments to Law 13 did not stipulate such requirements. Disclosure of revenues and expenditures is mainly made to the Committee for the Affairs of Parties and Political Organizations (CAPPO). In such cases, the committee can withhold government contributions to the party if it does not file its annual donations and expenditure report as the bylaws of the Law of Political Parties and Organizations stipulate.

Even with the new elections law (2010) this is still applicable (see third source):

“The Yemeni government showed its commitment to tackling corruption issues; however, aspects of political finance still lack transparency and are not subject to meaningful regulation or oversight. Most, if not all, post-election reports in 2006 clearly indicated need for such reform. Legislative reforms are lengthy processes that require consultative dialogue with political players — at least ones represented in Parliament.”

The fourth source states that the effectiveness has favored the ruling party, the General People’s Congress, and has been biased against the smaller and newer parties:

“Further measures to manipulate opposition parties in Yemen were set up through a biased state subsidy system. First, the sum of money devoted for subsidies was unspecified, which is a legal gap that can be exploited by the ruling party. Second, the distribution mechanism is such that 25 percent of the total subsidy would be shared equally by the parties represented in the parliament, with the remaining 75 percent divided in proportion to the share of votes obtained by each party at the elections. Third, parties that won less than 5 percent of the total vote were deprived of the state subsidy (27). This did little to help the smaller parties and aided the dominance of the bigger parties, who already possessed huge assets (28). Furthermore, the total subsidy granted to a party may not exceed the total amount of subscriptions paid by the party’s members. If it does, the excess amount is transferred to the state treasury (29)

“Above all, the law stipulates that party resources must be dispensed only in the service of objectives mentioned in the party’s bylaws. The party is required to keep records in accordance with proper accounting principles showing the revenues and expenditures and these records must be accessible under the request of state comptroller at any time (30).

“In the light of the modest heritage of democratic associations in Yemen, subscriptions and donations contribute little to parties’ revenue. Political parties in Yemen basically depend on state subsidies and on the financial support that a party’s leadership can secure from different sources by different means (31). Opposition parties, therefore, are dependent to a great extent on state support (32). This indicates the weak structure of these political parties, their inability to mobilize people and to secure adequate independent funds. In addition to the Yemeni political parties’ own deficiencies, the law has added great burdens by imposing stringent conditions and restrictions that impede further development of political parties in a civil and peaceful space.”

The new law also did not stipulate the right of access to such records.

**References:**

- 1) Elections and Referendums Law No. 13, 2001 (<http://www.pogar.org/publications/other/laws/elections/genelec-referend-yem-01-e.pdf>) and amendments under Law No.26 of 2010 (just passed) — Arabic — <http://www.alsyasiah.net/Op.news.php?name=News&file=article&sid=42338>
- 2) Law for Political Parties and Organizations No. 66, 1991 — <http://www.scer.org.ye/english/politicalpartieslaw.htm>  
<http://www.al-bab.com/yemen/pol/saifparty.htm#Resources>

3) <http://www.ifes.org/Content/Publications/News-in-Brief/2008/Jun/Yemen-Supreme-Commission-to-Redraw-Boundaries-and-Address-Issues-of-Political-Finance.aspx> – International Foundation for Electoral Systems — June 23, 2008

4) <http://www.al-bab.com/yemen/pol/saifparty.htm#Resources>) — Yemeni party law: a comparative perspective by Ahmed Abdulkrim Saif — 8 June 2009

**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 NGOs. 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 NGOs trying to access this information.

25d. In practice, the publicly available records of political candidates' campaign finances are of high quality.

100 | 75 | 50 | 25 | 0

#### Comments:

There is no public disclosure required and the new amendments to Law 13 did not stipulate such requirements. Disclosure of revenues and expenditures is mainly made to the Committee for the Affairs of Parties and Political Organizations (CAPPO). In such cases, the committee can withhold government contributions to the party if it does not file its annual donations and expenditure report as the bylaws of the Law of Political Parties and Organizations stipulate.

The issue is not even debated publicly, which is why such requirement has yet to be considered in relevant laws.

Even with the new elections law (2010) this is still applicable (see third source):

"The Yemeni government showed its commitment to tackling corruption issues; however, aspects of political finance still lack transparency and are not subject to meaningful regulation or oversight. Most, if not all, post-election reports in 2006 clearly indicated need for such reform. Legislative reforms are lengthy processes that require consultative dialogue with political players — at least ones represented in Parliament."

The fourth source states that the effectiveness has favored the ruling party, the General People's Congress, and has been biased against the smaller and newer parties:

"Further measures to manipulate opposition parties in Yemen were set up through a biased state subsidy system. First, the sum of money devoted for subsidies was unspecified, which is a legal gap that can be exploited by the ruling party. Second, the distribution mechanism is such that 25 percent of the total subsidy would be shared equally by the parties represented in the parliament, with the remaining 75 percent divided in proportion to the share of votes obtained by each party at the elections. Third, parties that won less than 5 percent of the total vote were deprived of the state subsidy (27). This did little to help the smaller parties and aided the dominance of the bigger parties, who already possessed huge assets (28). Furthermore, the total subsidy granted to a party may not exceed the total amount of subscriptions paid by the party's members. If it does, the excess amount is transferred to the state treasury (29)

"Above all, the law stipulates that party resources must be dispensed only in the service of objectives mentioned in the party's bylaws. The party is required to keep records in accordance with proper accounting principles showing the revenues and expenditures and these records must be accessible under the request of state comptroller at any time (30).

"In the light of the modest heritage of democratic associations in Yemen, subscriptions and donations contribute little to parties' revenue. Political parties in Yemen basically depend on state subsidies and on the financial support that a party's leadership can secure from different sources by different means (31). Opposition parties, therefore, are dependent to a great extent on state support (32). This indicates the weak structure of these political parties, their inability to mobilize people and to secure adequate independent funds. In addition to the Yemeni political parties' own deficiencies, the law has added great burdens by imposing stringent conditions and restrictions that impede further development of political parties in a civil and peaceful space."

The new law also did not stipulate the right of access to such records.

#### References:

1) Elections and Referendums Law No. 13, 2001 (<http://www.pogar.org/publications/other/laws/elections/genelec-referend-yem-01-e.pdf>), and amendments under Law No.26 of 2010 (just passed) — Arabic — <http://www.alsyasiah.net/Op.news.php?name=News&file=article&sid=42338>

2) Law for Political Parties and Organizations No. 66, 1991 — <http://www.scer.org.ye/english/politicalpartieslaw.htm>  
<http://www.al-bab.com/yemen/pol/saifparty.htm#Resources>

3) <http://www.ifes.org/Content/Publications/News-in-Brief/2008/Jun/Yemen-Supreme-Commission-to-Redraw-Boundaries-and-Address-Issues-of-Political-Finance.aspx> – International Foundation for Electoral Systems — June 23, 2008

4) <http://www.al-bab.com/yemen/pol/saifparty.htm#Resources>) — Yemeni party law: a comparative perspective by Ahmed Abdulkrim Saif — 8 June 2009

**100:** Publicly available records of political candidates' campaign finances are complete and detailed, itemizing all significant sources of income and expenditures.

**75:**

**50:** Publicly available records of political candidates' campaign finances are available but are often lacking in important details, are overly general, or are otherwise incomplete.

**25:**

**0:** Publicly available records of political candidates' campaign finances, when available, are so incomplete or overly general as to render them useless in understanding a candidate's sources of income and expenditures.

---

### Category 3. Government Conflicts of Interest Safeguards & Checks and Balances

---

#### 3.1. <sup>22</sup>Conflicts of Interest Safeguards & Checks and Balances: Executive Branch

---

26. In law, can citizens sue the government for infringement of their civil rights?

100

26a. In law, can citizens sue the government for infringement of their civil rights?

Yes | No

**Comments:**

There has only been one successful suit against the Government, which took place in 2008 for the revocation of a newspaper's license.

**References:**

1) Yemeni Constitution Article 51 — <http://www.unhcr.org/refworld/docid/3fc4c1e94.html>

**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.

---

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

6

27a. In practice, the chief executive gives reasons for his/her policy decisions.

100 | 75 | 50 | 25 | 0

**Comments:**

The Yemeni Government (where the President embodies of the Government, meaning, in these cases, that it was he who made the decision) failed to explain to the Yemeni people why it was allowing U.S. Drones to attack Yemen, but even covered up by claiming that it was Yemeni forces carrying out the attack.

On another note, Yemen did not explain why Saudi Arabia was allowed to bomb indiscriminately in Yemen during the Sixth Round of Sa'ada War in the North (see second source in discussion on Sa'ada War).

The leaks clearly showed that it was Saleh's decision to state that he would take the blame for the drone attacks.

Saleh is well known as the one who makes all decisions, even though this may formally labeled as a Cabinet or Government decision.

From third source:

"Acting on his capacity as the President, Saleh noted that he took a decision to stop the war in Sa'ada."

From fourth source:

"Throughout his 32 years of rule, President Saleh — a military general by profession — has managed to concentrate all powers in the Office of the President. As a consequence, the Cabinet, Parliament and other state institutions have, to a large degree, been marginalized from relevant decision-making processes. He has established an inclusive patronage structure binding tribes, opposition politicians, businessmen and religious figures into a web connected by personal loyalty through the distribution of oil rents. This formula has ensured Saleh's survival, but it has distorted party politics and stifled grassroots political participation."

**References:**

- 1) Wikileaks — <http://www.telegraph.co.uk/news/worldnews/middleeast/yemen/8166610/WikiLeaks-Yemen-covered-up-US-drone-strikes.html>
- 2) <http://www.amnesty.org/en/library/asset/MDE31/004/2010/en/e84f29fb-38c6-4a5e-9901-d1fcb14855c5/mde310042010en.html>
- 3) <http://yemenpost.net/Detail123456789.aspx?ID=3&SubID=456&MainCat=3> \_ English Yemeni Newspaper — 10, April 2010
- 4) <http://blogs.lse.ac.uk/waronterror/2010/12/08/salehs-opportunism-renders-us-counterterrorism-efforts-ineffective/> – London school of Economics & Political Science — 12-8-2010

**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.

27b. In law, the judiciary can review the actions of the executive.

Yes | **No**

**Comments:**

The Constitution and the Judiciary Law guarantee the right of citizens to sue the Government for any breach of rights.

**References:**

- 1) Constitution of the Republic of Yemen - <http://www.unhcr.org/refworld/docid/3fc4c1e94.html>.

**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).

27c. In practice, when necessary, the judiciary reviews the actions of the executive.

100 | 75 | 50 | 25 | 0

**Comments:**

In a totally peculiar case, a fellow tribe members of innocent civilians killed in Government raids against suspected "terrorists" on December 17, 2009, put the Government on trial for the raid, which the Government admitted to at the time (though, actually it was a raid by a U.S. missile as was admitted later by the US and substantiated by Wikileaks).

The raid killed from 25 to 45 civilians (mostly women and children according to the article in Ray Newspaper). The tribal council ruled that the Government pay Yrls 15 billion (about US\$70 million) as compensation, and to carry out the House of Representatives resolution calling on a full investigation of the incident. The article also states that, by prior agreement between the parties, the ruling of the trial proceedings was binding on both parties, the Government and the tribe.

2) In the second source, we have a "class action suit" against the Government and icons of Government institutions (House of Representatives) by the Chamber of Industries and Commerce against an enacted law regarding a sales tax, or value-added tax.

Cases like these do not pose a major challenge to the awesome power enjoyed by the Executive, but serve as superficial dressing for the Government. Even if rulings are made against the plaintiff, they are not subject to direct penal action.

In the third source, we have another class action suit by a marginalized social group demanding equal treatment in the payment of wages and salaries. This was implemented for Government employees. The NGO, the National Union for the Development of the Least Poor, withdrew the suit after promises by the Prime Minister, — the defendant — to "discuss the matter with the plaintiffs."

Notwithstanding the above, it goes without saying that only powerful individuals or a class of plaintiffs with a powerful lobby behind them, would be fortunate to get a hearing, while a normal citizen would not be able to have access to the justice system against an oppressor in a powerful Government position. Here is where the weakness has become even weaker now, as surely there are literally thousands of citizens who can file claims against Government injustice or duress of various forms.

**References:**

1) <http://www.raynews.net/index.php?action=showNews&id=3811> — Arabic — 20 July 2010

2) <http://translate.google.com/translate?hl=en&sl=ar&u=http://www.saiban.info/vb/showthread.php%3Ft%3D5122&ei=NKMgTdnUElqWQvyg3b4J&sa=X&oi=translate&ct=result&resnum=3&ved=>

3) <http://www.nabanews.net/2009/14162.html>

**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. It does not need to rely upon the executive to initiate a constitutional or legal review.

**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.

27d. In practice, the chief executive limits the use of executive orders for establishing new regulations, policies, or government practices.

100 | 75 | 50 | 25 | 0

**Comments:**

With so much power concentrated in the Presidency, while lesser powers have been delegated to relevant concerned officials as the years go by, Presidential orders have included interference in Internet rates, tickets to soccer matches (sources 1 & 2), not to mention pardons of "convicted" journalists, opponents, who were originally convicted on the urging of the Presidency and its supporters (see third and fourth sources).

**References:**

- 1) <http://www.zawya.com/marketing.cfm?zp&p=/story.cfm/sidZAWYA20071006082908/ye/>: Saleh orders price reduction for Internet and mobile phone services?
- 2) <http://www.yemenpost.net/Detail123456789.aspx?ID=3&SubID=2792>
- 3) <http://armiesofliberation.com/archives/2010/04/06/saleh-orders-protesters-rebels-and-journalists-freed/>
- 4) [http://newsyemen.net/en/view\\_news.asp?sub\\_no=3\\_2010\\_05\\_22\\_40102](http://newsyemen.net/en/view_news.asp?sub_no=3_2010_05_22_40102)

**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.

---

28. Is the executive leadership subject to criminal proceedings?

0

28a. In law, the heads of state and government can be prosecuted for crimes they commit.

Yes

No

**Comments:**

Again, the Law may provide grounds for such proceedings, but in reality, it is quite the opposite. To date, no chief executive has been subject to criminal proceedings. Also, the judges are still subject to Presidential appointment (directly or indirectly). In view of the inability to find a strong legal mechanisms by which to bring top officials to justice, it seems apt to say that there are no means by which these top officials could be prosecuted.

The closest thing to criminal prosecution of a top official (after the Revolution) came in 1971, when General Hassan Al-Amri, then Prime Minister (for the fifth time) since 1962, shot and killed a photographer during an altercation (source 2).

Then-President Abdul-Rahman Al-Iriani gave the general (a legendary hero of the Siege of Sana'a in the late 1960s), the choice of immediately leaving the country and relinquishing his military posts or else face indictment and prosecution. The General left before the President (a pious and strong advocate of law and order and equality before the Law) changed his mind.

This will be seen further later in this report.

Now, with top officialdom so much involved in criminal activity (see third source), it is clear that ineffective laws might as well not exist at all.

In looking at the third, fourth and fifth sources, it can be seen that the Head of State, his offspring and other relatives are immune from any legal actions against them. In fact, those who were charged with colluding with them on criminal charges have been convicted overseas, while the Government here insists that their counterparts in Yemen are innocent and deserve to carry on with their privileged lives.

**References:**

- 1) Article 153 (e) of the Constitution
- 2) [http://en.wikipedia.org/wiki/Hassan\\_al-Amri](http://en.wikipedia.org/wiki/Hassan_al-Amri)
- 3) <http://archive.frontpagemag.com/readArticle.aspx?ARTID=6899>
- 4) <http://www.miamiherald.com/2010/12/21/1984013/two-former-latinode-executives.html>
- 5) <http://www.miamiherald.com/2010/12/21/1984013/two-former-latinode-executives.html#ixzz199Ddl5bS>

**Yes:** A YES score is earned if the heads of state and government can be investigated, charged or prosecuted for criminal allegations. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

**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.

28b. In law, ministerial-level officials can be prosecuted for crimes they commit.

Yes | **No**

**Comments:**

"The Penal and criminal law applies to public employees defined in article 1, paragraph 2, of the law, which cover all levels, from the President to rank-and-file civil servants and employees of state and mixed enterprises. Furthermore, the House of Representatives can investigate the senior members of the executive branch under the Constitution and under the Procedure of Indictment and Trial of Senior Officials of the State. The Prime Minister, Ministers, and Vice-ministers can be investigated and tried for high treason, contravention of the Constitution, and derogation from the independence or sovereignty of the state as well as for forgery, injury to public funds or receiving personal benefits for public duties, embezzlement, abuse of power, bribery, attempting to influence the judiciary and intervening in elections to influence outcomes" (Yemen's Penal Code of 1994).

However, from the report cited in source 1, we can see that the laws are almost meaningless when it comes to their application to Government officials — the higher the rank/position, the lesser the risk of prosecution:

"In reality, public sector employees are not charged with and/or convicted of any kind of corruption despite the increase of critical voices in the media."

On another note, many ministers enjoy parliamentary immunity, being members of Parliament. While there has been lifting of immunity of some public officials, it is more-or-less done to placate political objectives.

**References:**

1) Constitution of 2001 Article 153 (e).

2) <http://www.u4.no/training/incountry-open/yemen-docs/political-culture-corruption-yemen-abdomoghran.pdf>

**Yes:** A YES score is earned if ministerial-level officials, or their equivalents, can all be investigated, charged or prosecuted for criminal allegations.

**No:** A NO score is earned if any ministerial-level official, or equivalent official, cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on ministerial-level officials.

---

## 29. Are there regulations governing conflicts of interest by the executive branch?

25

29a. In law, the heads of state and government are required to file a regular asset disclosure form.

**Yes** | No

**Comments:**

However, one finds that the Supreme National Authority for Combating Corruption (SNACC), according to the Law (Source 1), does not have a mechanism for verifying the information, or even the power to check bank account balances. There is also no mechanism of coordination with other anti-corruption watchdogs, such as the Central Organization for Control and Auditing or the Anti-Money Laundering Committee in Central Bank of Yemen. A coordination clause in Law 39 regarding anti-corruption is very general and lacks specific practical steps.

For the record, there are no known substantial cases of conviction and sentencing to date, especially for holders of top, senior or sensitive positions (e.g., legislators and judges), although some judges may have been dismissed or reprimanded or relocated.

**References:**

1) Law of Financial Disclosure (No. 30 for 2006) Arabic — Article 4 <http://www.snaccyemen.org/details.asp?id=121&catid=33>

2) Anti Money Laundering Law 35 for 2003 — (Link in here: 1)[http://www.anti-moneylaundering.org/middleeast/Republic\\_of\\_Yemen.aspx](http://www.anti-moneylaundering.org/middleeast/Republic_of_Yemen.aspx)

3) Law 39 of 2006 for Combating Corruption — [http://www.snaccyemen.org/mor\\_content.asp?catid=33](http://www.snaccyemen.org/mor_content.asp?catid=33) — Arabic

**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. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

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

29b. In law, ministerial-level officials are required to file a regular asset disclosure form.

Yes | No

**Comments:**

An interested party cannot even see the standard form used for fulfilling this legal requirement as such. There are links to it in the Supreme National Anti – Corruption Committee (SNACC), but the links are not accessible.

The disclosure is for employees (starting with the President), for all property/assets owned by relevant employee, spouse and minor children in Yemen or overseas.

However, one finds that the Supreme National Authority for Combating Corruption (SNACC), according to the Law (Source 1), does not have a mechanism for verifying the information, or even the power to check bank account balances. There is also no mechanism of coordination with other anti-corruption watchdogs, such as the Central Organization for Control and Auditing or the Anti-Money Laundering Committee in Central Bank of Yemen. A coordination clause in Law 39 regarding anti-corruption is very general and lacks specific practical steps.

For the record, there are no known substantial cases of conviction and sentencing to date, especially for holders of top, senior or sensitive positions (e.g., legislators and judges), although some judges may have been dismissed or reprimanded or relocated.

**References:**

- 1) Law of Financial Disclosure (No. 30 for 2006) Arabic — Article 4 <http://www.snaccyemen.org/details.asp?id=121&catid=33>
- 2) Anti Money Laundering Law 35 for 2003 — (Link: 1, [http://www.anti-moneylaundering.org/middleeast/Republic\\_of\\_Yemen.aspx](http://www.anti-moneylaundering.org/middleeast/Republic_of_Yemen.aspx))
- 3) Law 39 of 2006 for Combating Corruption — [http://www.snaccyemen.org/mor\\_content.asp?catid=33](http://www.snaccyemen.org/mor_content.asp?catid=33) — Arabic

**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.

29c. In law, there are regulations governing gifts and hospitality offered to members of the executive branch.

Yes | No

**Comments:**

There are no specific stipulations in any of the anti-corruption statutes.

**References:**

- 1) Law of Financial Disclosure (No. 30 for 2006) Arabic — Article 4 <http://www.snaccyemen.org/details.asp?id=121&catid=33>
- 2) Anti Money Laundering Law 35 for 2003 — (Link: 1) [http://www.anti-moneylaundering.org/middleeast/Republic\\_of\\_Yemen.aspx](http://www.anti-moneylaundering.org/middleeast/Republic_of_Yemen.aspx)
- 3) Law 39 of 2006 for Combating Corruption — [http://www.snaccyemen.org/mor\\_content.asp?catid=33](http://www.snaccyemen.org/mor_content.asp?catid=33) — Arabic

**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.

29d. 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 Supreme National Authority for Combating Corruption (SNACC) is the only authorized entity for reviewing and checking the forms, according to Law 30 for 2006 and Law 39.

**References:**

1) Law of Financial Disclosure (No. 30 for 2006) Arabic — Article 4 <http://www.snaccyemen.org/details.asp?id=121&catid=33>

2) Law 39 of 2006 for Combating Corruption — [http://www.snaccyemen.org/mor\\_content.asp?catid=33](http://www.snaccyemen.org/mor_content.asp?catid=33) — 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. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

**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.

29e. In law, there are restrictions on heads of state and government and ministers entering the private sector after leaving the government.

Yes | **No**

**Comments:**

One would be amazed at how many senior officials are engaged in private sector activities of their own (owning and running large enterprises) while they are serving in very sensitive positions.

The only mention of conflict of interest in the Anti-corruption Law is within Article 21 of the first source:

"Article (21): The Authority will study, assess and develop staffing systems in order to:

- a. Promote the concept of efficiency, qualification and creativity in assuming a public post;
- b. Strengthen systems of selection, rehabilitation and training in respect of recruiting for public posts that are more vulnerable to corruption to encourage better performance;
- c. Promote transparency in public posts and prevent conflicts of interest between public posts and employees; after-service regulations should be made to regulate or prevent employees from taking personal advantage from professional private activities directly related to the posts they used to be employed in or supervise during their service;
- d. Developing systems aiming at promoting good practice at work;
- e. Enacting and enforcing disciplinary actions so as to prevent abuse of public posts for illegal personal purposes."

From source 2, it can be seen that this issue is not a barrier to any of the holders of power and influence within the ruling regime.

**References:**

1) Law 39 of 2006 for Combating Corruption — [http://www.snaccyemen.org/mor\\_content.asp?catid=33](http://www.snaccyemen.org/mor_content.asp?catid=33) — English

2) [http://www.nytimes.com/2010/01/05/world/middleeast/05saleh.html?\\_r=1&hp](http://www.nytimes.com/2010/01/05/world/middleeast/05saleh.html?_r=1&hp)

**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. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

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

29f. 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:**

The researcher knows of many ministers or former ministers who went to the private sector immediately after they left their posts. Further, there are no legal stipulations against this, as previously indicated. We still have the issue of government officials actually running businesses while in office, not after they leave.

The researcher has worked on some freelance services with firms owned by members of Parliament and other holders of positions, both civilian and military.

**References:**

1) Own experience

2) [http://www.nytimes.com/2010/01/05/world/middleeast/05saleh.html?\\_r=1&hp](http://www.nytimes.com/2010/01/05/world/middleeast/05saleh.html?_r=1&hp)

**100:** The regulations restricting post-government private sector employment for heads of state/government and ministers are uniformly enforced. There are no cases 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. A zero score is also earned if heads of state and government or minister are allowed to hold private sector jobs while in office.

29g. 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 statutory stipulations, and it is quite routine for the majority of public employees to accept the hospitality of contracting companies and official and semi-official entities abroad, thus saving the per diem travel allowance they receive to cover accommodations, etc.

There are no expressed legal stipulations to regulate the conduct of officials on their travels or visits to other relevant parties.

**References:**

1) Own Experience when researcher was in line positions with a Government entity.

1) Law 39 of 2006 for Combating Corruption — [http://www.snaccyemen.org/mor\\_content.asp?catid=33](http://www.snaccyemen.org/mor_content.asp?catid=33) — English

**100:** The regulations governing gifts and hospitality to members of the executive branch are regularly enforced. 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.

29h. In practice, executive branch asset disclosures (defined here as ministers and above) are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

The only authority that can scrutinize asset disclosure forms is the Supreme National Anti-corruption Committee (SNACC). There are some stipulations that give SNACC the right to seek outside assistance in evaluating the disclosure reports.

However, there is no reference to any audits in any of the anti-corruption related laws.

**References:**

1) Anti-corruption Law 39 of 2006 — [http://www.snaccyemen.org/mor\\_content.asp?catid=33](http://www.snaccyemen.org/mor_content.asp?catid=33) – English

2) Law of Financial Disclosure (No. 30 for 2006) Arabic — Article 4 <http://www.snaccyemen.org/details.asp?id=121&catid=33>

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. Audits may be performed by entities known to be partisan or biased in their practices.

---

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

0

30a. In law, citizens can access the asset disclosure records of the heads of state and government.

Yes | No

**Comments:**

The Supreme National Authority for Combating Corruption (SNACC) is the only authorized entity, but they may make the statements accessible to the public after a conviction of an official.

**References:**

1) Anti-corruption Law 39 of 2006 — [http://www.snaccyemen.org/mor\\_content.asp?catid=33](http://www.snaccyemen.org/mor_content.asp?catid=33) – English

2) Law of Financial Disclosure (No. 30 for 2006) Arabic — Article 4 <http://www.snaccyemen.org/details.asp?id=121&catid=33>

**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.

30b. In practice, citizens can access the asset disclosure records of the heads of state and government within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The records are not accessible to public, except under extraordinary circumstances, such as a conviction of an official for breach of trust.

**References:**

- 1) Anti Corruption Law 39 of 2006 — [http://www.snaccyemen.org/mor\\_content.asp?catid=33](http://www.snaccyemen.org/mor_content.asp?catid=33) – English
- 2) Law of Financial Disclosure (No. 30 for 2006) Arabic — Article 4 <http://www.snaccyemen.org/details.asp?id=121&catid=33>

**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 additional 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 the asset disclosure records of the heads of state and government at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

There is public access only after a conviction, at the discretion of the Supreme National Authority for Combating Corruption (SNACC).

**References:**

- 1) Anti-corruption Law 39 of 2006 — [http://www.snaccyemen.org/mor\\_content.asp?catid=33](http://www.snaccyemen.org/mor_content.asp?catid=33) – English
- 2) Law of Financial Disclosure (No. 30 for 2006) Arabic — Article 4 <http://www.snaccyemen.org/details.asp?id=121&catid=33>

**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 NGOs. 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 NGOs trying to access this information.

30d. In practice, the asset disclosure records of the heads of state and government are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

The Supreme National Anti-Corruption Committee (SNACC) and “investigative bodies” are the only ones allowed to view Financial Disclosure Declarations.

**References:**

- 1) Anti-corruption Law 39 of 2006 — [http://www.snaccyemen.org/mor\\_content.asp?catid=33](http://www.snaccyemen.org/mor_content.asp?catid=33) – English
- 2) Law of Financial Disclosure (No. 30 for 2006) Arabic — Article 4 <http://www.snaccyemen.org/details.asp?id=121&catid=33>

**100:** The asset disclosure records of the heads of state and government are complete and detailed, providing the public with an accurate and updated accounting of the individuals’ sources of income, investments, and other financial interests.

**75:**

**50:** The asset disclosure records of the heads of state and government contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

**25:**

**0:** The asset disclosure records of the heads of state and government are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals’ sources of income, investments, and other financial assets.

31. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

0

31a. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

100 | 75 | 50 | 25 | 0

**Comments:**

From First Source:

“As the General People’s Congress (GPC) chairs all national and local elections commissions, and also manages public airwaves, transport, jobs and services, the deck was stacked in favor of the ruling party. The GPC, whose election-time logo was the silhouette of a rearing horse, benefited from free publicity paid for with government resources. Streets were closed in the Yemeni capital of Sana’a for a GPC parade led by pairs of police stallions. The public sports field in Ghayl BaWazir, Hadramawt, hosted a Congress rally where schoolchildren, sports teams and dance troupes performed. The week before the polling witnessed much officious ribbon-cutting and cornerstone-laying for new schools and public works by governors and ministers, all glowingly covered in the official media.”

Second source shows how the ruling party uses every occasion for “political enlightenment.”

**References:**

- 1) <http://www.merip.org/mero/mero051603.html>
- 2) <http://www.edarabia.com/8788/ruling-party-claims-credit-for-educational-progress-in-yemen/>

**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 the 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 bureaucracy 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.

## 3.2. Conflicts of Interest Safeguards & Checks and Balances: Legislative Branch

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

33

32a. In law, the judiciary can review laws passed by the legislature.

Yes | No

#### Comments:

To date, the constitutionality of laws passed by the legislature have never been subject to judicial scrutiny or review leading to a court ruling.

In regard to the case in the second source above, a compromise was reached between the Government and the business community, and thus, the lawsuit did not lead to a decisive court ruling.

#### References:

- 1) The Constitution of the Republic of Yemen — [http://www.unhcr.org/refworld/category/LEGAL,,\\_YEM.3fc4c1e94\\_0.html](http://www.unhcr.org/refworld/category/LEGAL,,_YEM.3fc4c1e94_0.html)
- 2) <http://www.yemenpost.net/39/Reports/20081.htm>

**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).

32b. In practice, when necessary, the judiciary reviews laws passed by the legislature.

100 | 75 | 50 | 25 | 0

#### Comments:

The decision is still awaited on the constitutional dispute over the sales tax, as the second source suggests, although the case has been pending since 2001.

#### References:

- 1) Constitution of the Republic of Yemen
- 2) <http://www.yementimes.com/DefaultDET.aspx?i=848&p=report&a=1>
- 3) <http://www.shebacss.com/en/media-center-50635.html>

**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.

32c. In law, are members of the national legislature subject to criminal proceedings?

Yes | **No**

**Comments:**

Article 194 of the Procedural Bylaws of the Parliament deals with cases of loss of membership in Parliament, including criminal actions.

Article 205 states that the Minister of Justice can request a waiver of immunity for a member of Parliament for three months.

Article 206 says this can be done by a simple majority vote of members. If the legal procedures for which the member is being tried are not completed within the period, then immunity is restored.

There are members of Parliament who should have been subjected to many conflict-of-interest charges, smuggling and other illegal activities, but only once has the immunity of members of Parliament been removed. Immunity is removed only for political justifications and its intended purpose is misused.

**References:**

1) Executive Bylaws of the House of Representatives — [http://www.parliament.gov.ye/laws/Internal/Interna\\_05.htm#5\\_2](http://www.parliament.gov.ye/laws/Internal/Interna_05.htm#5_2)

2) <http://yemenpost.net/Detail123456789.aspx?ID=3&SubID=1392>

**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. A NO score is also earned if the legislative branch itself controls whether investigative or prosecutorial immunity can be lifted on members of the legislature.

---

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

14

33a. In law, members of the national legislature are required to file an asset disclosure form.

**Yes** | No

**Comments:**

It is not clear what the disclosure forms reveal, as they are not accessible (even as blank forms) from the Supreme National Authority for Combating Corruption (SNACC) website. It is also not clear to what extent SNACC tries to verify the information on the form.

**References:**

Article 4 of Law No. 30 for 2006 Concerning Financial Disclosure, [http://www.snaccyemen.org/mor\\_content.asp?catid=33](http://www.snaccyemen.org/mor_content.asp?catid=33) – English

**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.

33b. In law, there are restrictions for national legislators entering the private sector after leaving the government.

Yes | No

**Comments:**

The only mention of a minister's occupation after leaving Parliament is in Article 210 of second source, in which the right of a member of Parliament to return to previous Government employment after membership in Parliament ends. There is no talk of any private sector employment in any of the legal references.

**References:**

- 1) Yemeni Constitution (2003) — [http://www.unhcr.org/refworld/category\\_LEGAL,,,YEM,3fc4c1e94\\_0.html](http://www.unhcr.org/refworld/category_LEGAL,,,YEM,3fc4c1e94_0.html)
- 2) Law No. 43 for 1997 Concerning Internal Bylaws of Parliament — Arabic — <http://www.parliament.gov.ye/Arabic/Internal.pdf>

**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.

33c. In law, there are regulations governing gifts and hospitality offered to members of the national legislature.

Yes | No

**Comments:**

There are no stipulations in any of the relevant laws in this regard.

**References:**

- 1) Yemeni Constitution (2003)- — [http://www.unhcr.org/refworld/category\\_LEGAL,,,YEM,3fc4c1e94\\_0.html](http://www.unhcr.org/refworld/category_LEGAL,,,YEM,3fc4c1e94_0.html)
- 2) Law No. 43 for 1997 Concerning Internal Bylaws of Parliament — Arabic — <http://www.parliament.gov.ye/Arabic/Internal.pdf>
- 3) Laws 30 and 39 for 2006 concerning Financial Disclosure and Anti-corruption. respectively.

**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.

33d. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national legislature.

Yes | No

**Comments:**

The only authority that can scrutinize asset disclosure forms is the Supreme National Anti-corruption Committee (SNACC). There are some stipulations that give SNACC the right to seek outside assistance in reviewing such forms, but there is no expressed stipulation for an "independent audit."

**References:**

- 1) Anti-corruption Law 39 of 2006 — [http://www.snaccyemen.org/mor\\_content.asp?catid=33](http://www.snaccyemen.org/mor_content.asp?catid=33) — English

**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.

33e. In practice, the regulations restricting post-government private sector employment for national legislators are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no stipulation in any of the relevant law to restrict such employment, while Article 209 of Source 2 guarantees return to public sector employment with all acquired rights and privileges of Government service accordingly.

**References:**

<http://www.nic.gov.ye/DEFAULT.htm>

1) Yemeni Constitution (2003) — [http://www.unhcr.org/refworld/category\\_LEGAL,,,YEM,3fc4c1e94\\_0.html](http://www.unhcr.org/refworld/category_LEGAL,,,YEM,3fc4c1e94_0.html)

2) Law No. 43 for 1997 Concerning Internal Bylaws of Parliament — Arabic — <http://www.parliament.gov.ye/Arabic/Internal.pdf>

**100:** The regulations restricting post-government private sector employment for national legislators are uniformly enforced. There are no cases 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. A zero score is also earned if legislators are allowed to hold private sector positions while in office.

33f. In practice, the regulations governing gifts and hospitality offered to national legislators are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

There are no stipulations to regulate such gratuities in any of the relevant laws or anti-corruption statutes.

**References:**

<http://www.nic.gov.ye/DEFAULT.htm>

1) Yemeni Constitution (2003) — [http://www.unhcr.org/refworld/category\\_LEGAL,,,YEM,3fc4c1e94\\_0.html](http://www.unhcr.org/refworld/category_LEGAL,,,YEM,3fc4c1e94_0.html)

2) Law No. 43 for 1997 Concerning Internal Bylaws of Parliament — Arabic — <http://www.parliament.gov.ye/Arabic/Internal.pdf>

**100:** The regulations governing gifts and hospitality to national legislators are regularly enforced. 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 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.

33g. In practice, national legislative branch asset disclosures are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

The only authority that can scrutinize asset disclosure forms is the Supreme National Anti-corruption Committee (SNACC). There are some stipulations that give SNACC the right to seek outside assistance in reviewing such forms, but there is no expressed stipulation for "independent audit."

**References:**

- 1) 3) Law No. 43 for 1997 Concerning Internal Bylaws of Parliament — Arabic — <http://www.parliament.gov.ye/Arabic/Internal.pdf>
- 2) Law of Financial Disclosure (No. 30 for 2006) Arabic — Article 4 <http://www.snaccyemen.org/details.asp?id=121&catid=33>

**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:** 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.

---

### 34. Can citizens access the asset disclosure records of members of the national legislature?

0

34a. In law, citizens can access the asset disclosure records of members of the national legislature.

Yes | No

**Comments:**

The only authority that can scrutinize asset disclosure forms is the Supreme National Anti-corruption Committee (SNACC). There are some stipulations that give SNACC the right to seek outside assistance in reviewing such forms, but there is no expressed stipulation for public access to such records.

**References:**

- 1) Law No. 43 for 1997 Concerning Internal Bylaws of Parliament — Arabic — <http://www.parliament.gov.ye/Arabic/Internal.pdf>
- 2) Law of Financial Disclosure (No. 30 for 2006) Arabic — Article 4 <http://www.snaccyemen.org/details.asp?id=121&catid=33>

**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, non-governmental 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.

34b. In practice, citizens can access legislative asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The only authority that can scrutinize asset disclosure forms is the Supreme National Anti-corruption Committee (SNACC). There are some stipulations that give SNACC the right to seek outside assistance in reviewing such forms, but there is no expressed stipulation for public access to such records.

**References:**

- 1) Law No. 43 for 1997 Concerning Internal Bylaws of Parliament — Arabic — <http://www.parliament.gov.ye/Arabic/Internal.pdf>
- 2) Law of Financial Disclosure (No. 30 for 2006) Arabic — Article 4 <http://www.snaccyemen.org/details.asp?id=121&catid=33>

**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.

34c. In practice, citizens can access legislative asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The only authority that can scrutinize asset disclosure forms is the Supreme National Anti-corruption Committee (SNACC). There are some stipulations that give SNACC the right to seek outside assistance in reviewing such forms, but there is no expressed stipulation for public access to such records.

**References:**

- 1) Law No. 43 for 1997 Concerning Internal Bylaws of Parliament — Arabic — <http://www.parliament.gov.ye/Arabic/Internal.pdf>
- 2) Law of Financial Disclosure (No. 30 for 2006) Arabic — Article 4 <http://www.snaccyemen.org/details.asp?id=121&catid=33>

**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 NGOs. 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 NGOs trying to access this information.

34d. In practice, the asset disclosure records of members of the national legislature are of high quality.

**Comments:**

Such records are inaccessible to public. Members of the Supreme National Authority for Combating Corruption (SNACC) are not authorized to talk about them when asked about them. However, it is for certain that, based on private comments of some concerned personnel who spoke on condition of anonymity, that much can be said about the credibility and quality of these reports.

**References:**

- 1) Law No. 43 for 1997 Concerning Internal Bylaws of Parliament — Arabic — <http://www.parliament.gov.ye/Arabic/Internal.pdf>
- 2) Law of Financial Disclosure (No. 30 for 2006) Arabic — Article 4 <http://www.snaccyemen.org/details.asp?id=121&catid=33>

**100:** The asset disclosure records of members of the national legislature are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

**75:**

**50:** The asset disclosure records of the members of the national legislature contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

**25:**

**0:** The asset disclosure records of the members of the national legislature are overly general, lack any meaningful detail, and do not provide clear accounting of the individuals' sources of income, investments, and other financial assets.

### 35. Can citizens access legislative processes and documents?

33

35a. In law, citizens can access records of legislative processes and documents.

Yes | **No**

**Comments:**

To quote from first source:

"Lawmakers said Parliament is unaware of the details of agreements Yemen had signed with foreign oil companies."

If lawmakers are finding it difficult to obtain accurate information, then the task is doubly harder for citizens.

In the same context, civil society organizations also complained and stressed the need for freedom of access to information: "At a seminar organized by Yemen Parliamentarians Against Corruption (YemenPac), held in cooperation with the parliamentary committee on development, oil and minerals on the Extractive Industries Transparency Initiative (EITI), they voiced full support for issuing an access to information law and a draft law that can make Yemen's joining the EITI a tool to spread complete information about oil, gas and extractive industries."

However, efforts are being made through civil society organizations to improve the situation by giving the public their first parliamentary watchdog website, which is being instituted with the help of donors. The Yemen Polling Center has set up a website that presents detailed news on parliamentary affairs (<http://www.yppwatch.org/>) that is also available in English.

**References:**

- 1) <http://yemenpost.net/Detail123456789.aspx?ID=3&SubID=2669>

**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 are exemptions to the general right that are not clearly defined by formal rules.

35b. In practice, citizens can access records of legislative processes and documents within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Again, the Yemeni Polling Center has been a great help in keeping the public informed of parliamentary affairs.

Yemeni Government TV also broadcasts sessions, but they are subject to cuts and criticism is usually censored if it becomes too outspoken.

**References:**

1) <http://www.yppwatch.org/>

2) Yemen TV Broadcasts of Parliamentary sessions.

**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.

35c. In practice, citizens can access records of legislative processes and documents at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Again, the Yemeni Polling Center has been a great help in keeping the public informed of parliamentary affairs.

Yemeni Government TV also broadcasts sessions, but they are subject to cuts and criticism is usually censored if it becomes too outspoken.

**References:**

1) <http://www.yppwatch.org/>

2) Yemen TV Broadcasts of Parliamentary sessions.

**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 NGOs. 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 NGOs trying to access this information.

## 36. Are judges appointed fairly?

8

36a. In law, there is a transparent procedure for selecting national-level judges.

Yes | **No**

### Comments:

The designation of all the top judicial positions (including national level judges), Supreme Court justices, and three members of the Supreme Judicial Council is left to the Presidency (and are sometimes nominated by the Minister of Justice).

The other designated members (noted in the law by their judicial/prosecution positions) are also designated for their positions by Executive Decrees (Republican/Presidential). There is no formal procedure for their approval by the Legislative Branch or any other watchdog authority.

The second source still gives the President the authority to call the Supreme Judicial Council to meet under his Chairmanship, "as the need arises."

No measure has been taken along the lines of Judicial Reform (from a legislative standpoint) during the period since the last GI report.

### References:

1) Law of the Judiciary — Up to 1994 — Arabic

<http://snaccyemen.org/details.asp?id=111&catid=33>

2) Amendments to Judiciary Law 2006 — Arabic

<http://www.ebnalyaman.com/ip/jpb/lofiversion/index.php?t3289.html>

**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. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

**No:** A NO score is given if there is no formal process of selection or the process is conducted without public oversight. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

36b. In practice, professional criteria are followed in selecting national-level judges.

100 | 75 | 50 | **25** | 0

### Comments:

Notwithstanding the "hot debate" mentioned in Source 2 on the amendments passed in 2006, in Parliament, it is surprising that the Members of Parliament did not demand that the Legislative Branch should have oversight in one form or another over the selection process for judges.

A possible important helping factor: if the members of the most senior judicial authority (say the Supreme Judicial Council/Supreme Court) cannot be dismissed from membership therein by the Executive Branch (except by the Minister of Justice, who is a political appointee to start with), this could help strengthen the independence of the Courts significantly, even if they are appointed by Executive Decrees.

### References:

1) Law of the Judiciary — Up to 1994 — Arabic

<http://snaccyemen.org/details.asp?id=111&catid=33>

2) Amendments to Judiciary Law 2006 — Arabic

<http://www.ebnalyaman.com/ip/jpb/lofiversion/index.php?t3289.html>

**100:** 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.

36c. In law, there is a confirmation process for national-level judges (i.e. conducted by the legislature or an independent body).

Yes | No

**Comments:**

Notwithstanding the "hot debate" mentioned in Source 2 on the amendments passed in 2006, in Parliament, it is surprising that the Members of Parliament did not demand that the Legislative Branch should have oversight in one form or another over the selection process for judges.

A possible important helping factor: if the members of the most senior judicial authority (say the Supreme Judicial Council/Supreme Court) cannot be dismissed from membership therein by the Executive Branch (except by the Minister of Justice, who is a political appointee to start with), this could help strengthen the independence of the Courts significantly, even if they are appointed by Executive Decrees.

**References:**

1) Law of the Judiciary — Up to 1994 — Arabic  
<http://snaccyemen.org/details.asp?id=111&catid=33>

2) Amendments to Judiciary Law 2006 — Arabic  
<http://www.ebnalyaman.com/ip/jpb/lofiversion/index.php?t3289.html>

**Yes:** A YES score is earned if there is a formal process establishing a review of national-level judicial nominees by an agency or entity 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 the same body that appoints the judges (such as the Prime Minister approving judicial nominees put forward by the Minister of Justice, both of whom are part of the executive).

---

### 37. Can members of the judiciary be held accountable for their actions?

42

37a. In law, members of the national-level judiciary are obliged to give reasons for their decisions.

Yes | No

**Comments:**

Article 225 (Clause 1) of above source clearly states that the judicial/court ruling must include reasons or causes for the decision or ruling made by the Judge or Tribunal, accordingly.

**References:**

1) Law of Litigation — <http://www.malak-rouhi.com/vb/showthread.php?s=dfd2f2804ca0bc7fc8dc27c6c91f25ce&t=11653> — Arabic

**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).

37b. In practice, members of the national-level judiciary give reasons for their decisions.

100 | 75 | 50 | 25 | 0

**Comments:**

Even when they provide reasons, politically motivated rulings are still indifferent to the substantial legal stipulations of human and civil rights.

From the first source:

“The action taken against Anissa ‘Uthman appears to reflect growing government intolerance of media and other peaceful criticism of the authorities, including human rights violations committed in the conflict in Sa’da Governorate and in response to ongoing protests in the south,” said Malcolm Smart, Amnesty International’s director for the Middle East and North Africa.”

From the second source:

“On Saturday, the newly established Press and Publications Court in Sana’a sentenced Munir Mawari, a Washington-based Yemeni journalist and contributor to the independent weekly Al-Masdar, to two years in prison on charges of defaming the president, journalists told the Committee to Protect Journalists (CPJ). The court also barred him for life from practicing journalism in Yemen. The court handed a suspended one-year jail term to Samir Jubran, editor of Al-Masdar, on the same charge and banned him from writing and running his newspaper for one year.”

Such decisions surely show a lack of disregard for statutory stipulations for the guarantee of human and political rights, which would certainly substantiate greater consideration in judicial rulings than the sensitivity of the ruling regime to legally sanctioned criticisms of public officials.

Formal explanations in such cases are not based on legal reasoning or unbiased sentiment of judges accordingly.

**References:**

- 1) <http://www.amnesty.org/en/news-and-updates/news/yemen-must-set-aside-prison-sentence-female-journalist-20100119>
- 2) <http://cpj.org/2009/11/new-yemeni-press-court-sentences-bans-journalists.php>

**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.

37c. In law, there is a disciplinary agency (or equivalent mechanism) for the national-level judicial system.

Yes | No

**Comments:**

The Supreme Judicial Council designates a Judicial Accountability Council, which looks into disciplinary cases and presents them to the Supreme Judicial Council for a decision on the appropriate disciplinary action.

Evaluation of judges is also done by the Judicial Inspection Authority or Board which monitors court judges’ performances and assesses their needs and other issues.

**References:**

- 1) Law of Judicial Authority, Chapter V, Sections i-iii — Arabic Up to 1994 — Arabic <http://snaccyemen.org/details.asp?id=111&catid=33>

2) Amendments to Judiciary Law 2006 — Arabic  
<http://www.ebnalyaman.com/ip/jpb/lofiversion/index.php?t3289.html>

**Yes:** A YES score is earned if there is a disciplinary agency (or equivalent mechanism) for the judicial system. A disciplinary agency is defined here as an agency or mechanism specifically mandated to investigate breaches of procedure, abuses of power or other failures of the judiciary. A YES score can still be earned if the judicial disciplinary agency (or mechanism) is internal to the judiciary.

**No:** A NO score is earned if no agency or mechanism is specifically mandated to act as a disciplinary mechanism for the national-level judiciary.

37d. In law, the judicial disciplinary agency (or equivalent mechanism) is protected from political interference.

Yes | **No**

**Comments:**

Even after removal of the President from the chairmanship of the Supreme Judicial Council (SJC), its membership is still subject to executive appointment by a decree of President of the Republic) either to members' employment position or their membership on the SJC.

This is also true of the senior members in the Judicial Accountability Council, who are appointed by Supreme Judicial Council and report to the SJC. The Executive Branch is still in control of the SJC, since it appoints most of the members of the SJC to their functional positions as well.

**References:**

References: Law of Judicial Authority, Chapter V, Sections i-iii

1) Law of the Judiciary — Up to 1994 — Arabic  
<http://snaccyemen.org/details.asp?id=111&catid=33>

2) Amendments to Judiciary Law 2006 — Arabic  
<http://www.ebnalyaman.com/ip/jpb/lofiversion/index.php?t3289.html>

**Yes:** A YES score is earned if there are formal rules establishing that the judicial disciplinary agency (or equivalent mechanism) is protected from political interference by the executive and legislative branches.

**No:** A NO score is earned if there are no formal rules establishing the independence of the judicial disciplinary agency (or equivalent mechanism). A NO score is given if the judicial disciplinary agency or equivalent mechanism function is carried out by an executive ministry or legislative committee.

37e. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) initiates investigations.

100 | 75 | 50 | **25** | 0

**Comments:**

The Supreme Judicial Council will instruct the Judicial Disciplinary Council to investigate any breaches of the law by judges and recommend the appropriate disciplinary action accordingly. The Minister of Justice could instigate investigations by the Judicial Inspections Board and ask the Supreme Judiciary Council to direct the Judicial Disciplinary Council to recommend the appropriate disciplinary measures.

While there have been reports by the official press of some disciplinary measures against a number of judges from time to time, it is not clear who these judges are and the specific infractions they are charged with. The third source also questions the validity of such reports and suggests that they were intended to be more for soothing the public than for taking genuine action against real judges.

**References:**

Judiciary Law of 1991 and subsequent amendments

1) Law of the Judiciary — Up to 1994 — Arabic  
<http://snaccyemen.org/details.asp?id=111&catid=33>

2) Amendments to Judiciary Law 2006 — Arabic  
<http://www.ebnalyaman.com/ip/jpb/lofiversion/index.php?t3289.html>

3) <http://marebpress.net/articles.php?id=3108> — An article (Arabic) calling for the activation of the Supreme Judicial Council towards a more credible reform of the judicial regime in Yemen.

**100:** The judicial disciplinary agency (or equivalent mechanism) aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The judicial disciplinary agency (or equivalent mechanism) is fair in its application of this power.

**75:**

**50:** The judicial disciplinary agency (or equivalent mechanism) will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The judicial disciplinary agency (or equivalent mechanism), though limited in effectiveness, is still fair in its application of power.

**25:**

**0:** The judicial disciplinary agency (or equivalent mechanism) rarely investigates on its own or cooperates in other agencies' investigations, or the judicial disciplinary agency (or equivalent mechanism) is partisan in its application of this power.

37f. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

The source suggests that the Government press reports on various disciplinary action against some judges, but never gives any convincing details about the infractions or the disciplinary action taken.

**References:**

1) <http://marebpress.net/articles.php?id=3108>

**100:** When rules violations are discovered, the judicial disciplinary agency (or equivalent mechanism) is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

**75:**

**50:** The judicial disciplinary agency (or equivalent mechanism) enforces rules, but is limited in its effectiveness. The judicial disciplinary agency (or equivalent mechanism) 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 judicial disciplinary agency (or equivalent mechanism) does not effectively penalize offenders. The judicial disciplinary agency (or equivalent mechanism) 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 judicial disciplinary agency (or equivalent mechanism) may be partisan in its application of power.

---

38. Are there regulations governing conflicts of interest for the national-level judiciary?

32

38a. In law, members of the national-level judiciary are required to file an asset disclosure form.

Yes | No

**References:**

1) Law of Financial Disclosure (No. 30 for 2006) Arabic — Article 4 <http://www.snaccyemen.org/details.asp?id=121&catid=33>

**Yes:** A YES score is earned if all members of the national-level judiciary 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 national-level judiciary is not required to publicly disclose assets.

38b. In law, there are regulations governing gifts and hospitality offered to members of the national-level judiciary.

Yes | No

**Comments:**

The two articles in the referenced source are explicit in forbidding the receiving of gifts or inviting or accepting invitations (hospitality) of any of the litigants in a case under their adjudication.

**References:**

1) Articles 29 and 30 of the Law of Litigation — Arabic — <http://www.malak-rouhi.com/vb/showthread.php?s=dfd2f2804ca0bc7fc8dc27c6c91f25ce&t=11653>

**Yes:** A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the national-level judiciary.

**No:** A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the national-level judiciary. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

38c. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national-level judiciary.

Yes | No

**Comments:**

The only authority that can scrutinize asset disclosure forms is the Supreme National Anti-corruption Committee (SNACC). There are some stipulations that give SNACC the right to seek outside assistance in reviewing the declarations, but to date there has not been any reports of such review, or the need for one.

**References:**

2) Law of Financial Disclosure (No. 30 for 2006) Arabic — Article 4 <http://www.snaccyemen.org/details.asp?id=121&catid=33>

**Yes:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of national-level judiciary 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 national-level judiciary asset disclosures or if such requirements exist but allow for self-auditing.

38d. In law, there are restrictions for national-level judges entering the private sector after leaving the government.

Yes | No

**Comments:**

There are no specific stipulations regarding private sector employment after leaving public service.

**References:**

1) Anti-corruption Law 39 of 2006 — [http://www.snaccyemen.org/mor\\_content.asp?catid=33](http://www.snaccyemen.org/mor_content.asp?catid=33) — English

2) Law of Financial Disclosure (No. 30 for 2006) Arabic — Article 4 <http://www.snaccyemen.org/details.asp?id=121&catid=33>

3) Law of Judicial Authority — Arabic — 1) Law of the Judiciary — Up to 1994 — Arabic  
<http://snaccyemen.org/details.asp?id=111&catid=33>

4) Amendments to Judiciary Law 2006 — Arabic  
<http://www.ebnalyaman.com/ip/jpb/lofiversion/index.php?t3289.html>

**Yes:** A YES score is earned if there are regulations restricting national-level judges' 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.

38e. In practice, the regulations restricting post-government private sector employment for national-level judges are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

No specific stipulations in any of the sources shown or in any of the anti-corruption laws.

**References:**

1) Law of the Judiciary — Up to 1994 — Arabic  
<http://snaccyemen.org/details.asp?id=111&catid=33>

2) Amendments to Judiciary Law 2006 — Arabic  
<http://www.ebnalyaman.com/ip/jpb/lofiversion/index.php?t3289.html>  
<http://www.ebnalyaman.com/ip/jpb/index.php?showtopic=3289>

**100:** The regulations restricting post-government private sector employment for national-level judges are uniformly enforced. There are no cases or few cases of judges 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 cases, judges 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. Judges 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. A zero score is also earned if judges are allowed to hold private sector jobs while serving on the bench.

38f. In practice, the regulations governing gifts and hospitality offered to members of the national-level judiciary are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

There are no specific stipulations for receiving gifts or hospitality from litigants in the referenced legislation or the anti-corruption laws.

**References:**

1) Law of the Judiciary — Up to 1994 — Arabic  
<http://snaccyemen.org/details.asp?id=111&catid=33>

2) Amendments to Judiciary Law 2006 — Arabic  
<http://www.ebnalyaman.com/ip/jpb/lofiversion/index.php?t3289.html>

**100:** The regulations governing gifts and hospitality to members of the national-level judiciary are regularly enforced. Judges never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to members of the national-level judiciary are generally applied though exceptions exist. Some judges 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 are rarely or never enforced. Judges 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.

38g. In practice, national-level judiciary asset disclosures are audited.

100 | 75 | 50 | **25** | 0

**Comments:**

The only authority that can scrutinize asset disclosure forms is the Supreme National Anti Corruption Committee (SNACC). There are some stipulations that give SNACC the right to seek outside assistance in reviewing such forms, but there is no expressed stipulation for an “independent audit.”

Such records are inaccessible to public and members of SNACC are not authorized to talk about them when asked about them. However, it is for certain that, based on the private opinions of some concerned personnel who spoke on condition of anonymity, that much can be said about the credibility and quality of these reports.

**References:**

1) Law of Judicial Authority (No.2); Law of Financial Disclosure (No. 30 for 2006) Arabic — Article 4 <http://www.snaccyemen.org/details.asp?id=121&catid=33>

2) Judicial Authority Law <http://snaccyemen.org/details.asp?id=111&catid=33> up to 1994  
<http://www.ebnalyaman.com/ip/jpb/lofiversion/index.php?i3289.html>

Anti-corruption Law No 39 for 2006 and Financial Disclosure Law No. 39 for 2006

**100:** National-level judiciary asset disclosures are regularly audited using generally accepted auditing practices.

**75:**

**50:** National-level judiciary 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:** The regulations are rarely or never enforced. Judges 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.

---

### 39. Can citizens access the asset disclosure records of members of the national-level judiciary?

0

39a. In law, citizens can access the asset disclosure records of members of the national-level judiciary.

Yes | **No**

**Comments:**

The only authority that can scrutinize asset disclosure forms is the Supreme National Anti-corruption Committee (SNACC). There are some stipulations that give SNACC the right to seek outside assistance in reviewing such forms, but there is no expressed stipulation for an “independent audit.”

Such records are inaccessible to public and members of SNACC are not authorized to talk about them when asked about them. However, it is for certain that, based on the private opinions of some concerned personnel who spoke on condition of anonymity, that much can be said about the credibility and quality of these disclosure reports.

**References:**

- 1) Law 39 of 2006 for Combating Corruption — [http://www.snaccyemen.org/mor\\_content.asp?catid=33](http://www.snaccyemen.org/mor_content.asp?catid=33) – English
- 2) Anti Corruption Law 39 of 2006 — [http://www.snaccyemen.org/mor\\_content.asp?catid=33](http://www.snaccyemen.org/mor_content.asp?catid=33) – English
- 3) Law of Judicial Authority — Arabic — <http://snaccyemen.org/details.asp?id=111&catid=33> up to 1994; <http://www.ebnalyaman.com/ip/jpb/lofiversion/index.php?t3289.html> 2006

**Yes:** A YES score is earned if members of the national-level judiciary 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-level judiciary. A NO score is earned if the form is filed, but not available to the public.

39b. In practice, citizens can access judicial asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The only authority that can scrutinize asset disclosure forms is the Supreme National Anti-corruption Committee (SNACC). There are some stipulations that give SNACC the right to seek outside assistance in reviewing such forms, but there is no expressed stipulation for an “independent audit.”

Such records are inaccessible to public and members of SNACC are not authorized to talk about them when asked about them. However, it is for certain that, based on the private opinions of some concerned personnel who spoke on condition of anonymity, that much can be said about the credibility and quality of these disclosure records.

**References:**

- 1) Anti Corruption Law 39 of 2006 — [http://www.snaccyemen.org/mor\\_content.asp?catid=33](http://www.snaccyemen.org/mor_content.asp?catid=33) – English
- 2) Law of Financial Disclosure (No. 30 for 2006) Arabic — Article 4 <http://www.snaccyemen.org/details.asp?id=121&catid=33>

**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.

39c. In practice, citizens can access judicial asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The only authority that can scrutinize asset disclosure forms is the Supreme National Anti-corruption Committee (SNACC). There are some stipulations that give SNACC the right to seek outside assistance in reviewing such forms, but there is no expressed stipulation for an “independent audit.”

Such records are inaccessible to public and members of SNACC are not authorized to talk about them when asked about them. However, it is for certain that, based on the private opinions of some concerned personnel who spoke on condition of anonymity, that much can be said about the credibility and quality of these disclosure records.

**References:**

- 1) Law of the Judiciary – Up to 1994 — Arabic <http://snaccyemen.org/details.asp?id=111&catid=33>

2) Amendments to Judiciary Law 2006 — Arabic  
<http://www.ebnalyaman.com/ip/jpb/lofiversion/index.php?t3289.html>

3) Anti Corruption Law 39 of 2006 — [http://www.snaccyemen.org/mor\\_content.asp?catid=33](http://www.snaccyemen.org/mor_content.asp?catid=33) — English

2) Law of Financial Disclosure (No. 30 for 2006) Arabic — Article 4 <http://www.snaccyemen.org/details.asp?id=121&catid=33>

**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 NGOs. 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 NGOs trying to access this information.

39d. In practice, the asset disclosure records of the national-level judiciary are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

The only authority that can scrutinize asset disclosure forms is the Supreme National Anti-corruption Committee (SNACC). There are some stipulations that give SNACC the right to seek outside assistance in reviewing such forms, but there is no expressed stipulation for an “independent audit.”

Such records are inaccessible to public and members of SNACC are not authorized to talk about them when asked about them. However, it is for certain that, based on the private opinions of some concerned personnel who spoke on condition of anonymity, that much can be said about the credibility and quality of these disclosure records.

**References:**

1) Law of the Judiciary — Up to 1994 — Arabic  
<http://snaccyemen.org/details.asp?id=111&catid=33>

2) Amendments to Judiciary Law 2006 — Arabic  
<http://www.ebnalyaman.com/ip/jpb/lofiversion/index.php?t3289.html>

3) Anti Corruption Law 39 of 2006 — [http://www.snaccyemen.org/mor\\_content.asp?catid=33](http://www.snaccyemen.org/mor_content.asp?catid=33) — English

4) Law of Financial Disclosure (No. 30 for 2006) Arabic — Article 4 <http://www.snaccyemen.org/details.asp?id=121&catid=33>

**100:** The asset disclosure records of the national-level judiciary are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

**75:**

**50:** The asset disclosure records of the national-level judiciary contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

**25:**

**0:** The asset disclosure records of the national-level judiciary are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

---

### 3.4. Budget Process Oversight & Transparency

---

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

0

40a. In law, the legislature can amend the budget.

Yes | **No**

**Comments:**

Even those budgets that are approved are often exceeded by expenditures beyond reasonable amounts without any real supervision by Parliament. This has been common practice of the Government for years.

Even with the mostly superficial review two months before the end of the year, the Government only submitted the budget after presenting a request for its approval, although funds outside appropriated allocations for 2008 had already been spent.

There are no legal stipulations giving Parliament the right to amend the budget.

**References:**

- 1) [http://www.yementimes.com/DefaultDET.aspx?SUB\\_ID=35146](http://www.yementimes.com/DefaultDET.aspx?SUB_ID=35146)
- 2) Constitution of the Republic Article 88 — [http://www.unhcr.org/refworld/category\\_LEGAL,,,YEM,3fc4c1e94\\_0.html](http://www.unhcr.org/refworld/category_LEGAL,,,YEM,3fc4c1e94_0.html)

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

40b. In practice, significant public expenditures require legislative approval.

100 | 75 | 50 | 25 | **0**

**Comments:**

Parliament must approve the budget as presented by the Executive Branch; it cannot make any changes to the budget, unless the government approves them. Parliament's oversight of budget implementation is minuscule because it does not have access to regular reports on budget implementation until the end of the year, when "final accounts" are presented for a simple confirmation of action (including expenditures that were made out-of-budget

From the second reference, we have:

"In his paper on parliamentary control over the budget in Yemen, MP Ali al-Amrani said parliamentary control remains weak, and the government's grip remains strong. Al-Amrani asserted that parliament has only discussed the budget for a short period, and has presented comments which are almost the same as those of previous years.

"The government does not implement many of parliament's recommendations because of the General People Congress (GPC) Party's empathy with the government, and the opposition's apathy over budget discussions. They just criticize it. Additionally the parliamentary chairmanship does not perform their monitoring role as they should.

"Al-Amrani also criticized MPs' primary concern for their local constituencies only, neglecting their essential monitoring and legislative role. Amrani called for the forming of a special budget committee and another for parliament's accounts. He also called for the redistribution of the financial committee's tasks in order to better allow them to perform their responsibilities."

**References:**

- 1) Article 88 of the Constitution of the Republic.
- 2) <http://www.yobserver.com/reports/10015410.html>

**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.

40c. In practice, the legislature has sufficient capacity to monitor the budget process and provide input or changes.

100 | 75 | 50 | 25 | 0

**Comments:**

From Third Source, which is still applicable although it is somewhat old:

There are four primary mechanisms by which grand patronage is distributed in Yemen. One mechanism is through the national budget. The national budget contains some discrete payoffs to favored groups, such as tribes, and allocates vast resources to the military — reportedly through a single line item in the budget. There is no meaningful oversight of the budget provided by Parliament, which, in any case, is only allowed an up or down vote on the budget. The power of the purse rests with the executive branch, and is exercised primarily through the Ministry of Finance. Because of the way the Republic of Yemen Government (RoYG) forecasts oil revenues, end of the fiscal year supplemental budgets are substantial and entirely discretionary.

**References:**

- 1) Own experience as a financial officer of a Government agency.
- 2) Article 88 of the Constitution — <http://www.unhcr.org/refworld/category,LEGAL,,YEM,3fc4c1e94,0.html>
- 3) <http://yemen.usembassy.gov/root/pdfs/reports/yemen-corruption-assessment.pdf>

**100:** Legislators benefit from a sufficient and qualified staff as well as adequate financial and physical resources. Lack of capacity is never a reason why legislators cannot carry out their duties effectively.

**75:**

**50:** Legislators have some staff and financial resources but are limited by a shortfall of resources to adequately perform all of their budgetary oversight functions. Legislators are occasionally overwhelmed by the volume of work to be performed.

**25:**

**0:** Legislators have little to no staff and virtually no financial resources with which to perform their budgetary oversight role. Lack of resources is a regular and systemic problem that cripples the performance of the legislature.

---

#### 41. Can citizens access the national budgetary process?

0

41a. 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:**

The budget is prepared and all discussions on the budget are between the Ministry of Finance (the Supreme Committee of Budget — each member designated by the Minister of Finance) and the relevant Government agencies in closed meetings. Disclosure of the budget only occurs when final draft budget is submitted to Parliament.

**References:**

- 1) Experience as a Government Financial Official of a Public Sector entity.
- 2) Yemeni Constitution — <http://www.unhcr.org/refworld/category,LEGAL,,YEM,3fc4c1e94,0.html>
- 3) Financial Law No. 8 of 1990 — [http://www.htb.gov.ye/sh\\_cat.php?cat\\_id=101-](http://www.htb.gov.ye/sh_cat.php?cat_id=101-) Articles 3 – 20) Arabic
- 4) Amendment to Financial Law (Law No. 50 for 1999) — <http://www.business.ye/databank/index.php?mod=contents&do=view&cid=16&id=243> — Arabic

**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.

41b. In practice, citizens provide input at budget hearings.

100 | 75 | 50 | 25 | 0

**Comments:**

The budgetary process hardly involves any public discussion whatsoever, since there are no stipulations that give the public any role in the matter.

**References:**

- 1) Experience as a Government Financial Official of a Public Sector entity.
- 2) Yemeni Constitution — <http://www.unhcr.org/refworld/category.LEGAL,,,YEM,3fc4c1e94,0.html>
- 3) Financial Law No. 8 of 1990 — [http://www.htb.gov.ye/sh\\_cat.php?cat\\_id=101-](http://www.htb.gov.ye/sh_cat.php?cat_id=101-) Articles 3 – 20) Arabic
- 4) Amendment to Financial Law (Law No. 50 for 1999) — <http://www.business.ye/databank/index.php?mod=contents&do=view&cid=16&id=243> — Arabic

**100:** Citizens, usually acting through NGOs, 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 NGOs can provide input, but this information is often not relevant to budget decisions.

**25:**

**0:** Citizens or NGOs have no formal access to provide input to the budget debate.

41c. In practice, citizens can access itemized budget allocations.

100 | 75 | 50 | 25 | 0

**Comments:**

There are no legal statutes requiring or suggesting any public inputs into the budget process.

The budget is usually prepared in general aggregate monetary classifications that are not discernible on an itemized basis.

Even the Accounting and Financial Information System website (Source 5) does not provide detailed breakdowns of the budget.

**References:**

- 1) Experience as a Government Financial Official of a Public Sector entity.
- 2) Yemeni Constitution — <http://www.unhcr.org/refworld/category.LEGAL,,,YEM,3fc4c1e94,0.html>
- 3) Financial Law No. 8 of 1990 — [http://www.htb.gov.ye/sh\\_cat.php?cat\\_id=101-](http://www.htb.gov.ye/sh_cat.php?cat_id=101-) Articles 3 – 20) Arabic

4) Amendment to Financial Law (Law No. 50 for 1999) — <http://www.business.ye/databank/index.php?mod=contents&do=view&cid=16&id=243> — Arabic

5) <http://afmis.gov.ye/english/goals.php>

**100:** Citizens, journalists and NGOs can access itemized lists of budget allocations. This information is easily available and up to date.

**75:**

**50:** Citizens, journalists and NGOs 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.

---

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

100

42a. In law, is there a separate legislative committee which provides oversight of public funds?

Yes | No

##### Comments:

A parliamentary committee oversees government finance, but it is powerless to undertake any action to effectively provide prudent oversight. It can call the Prime Minister or Minister of Finance in for questioning. The only report that Parliament and this committee get is the Final Accounts Report at the end of year. It shows all actual revenues and expenditures against the budget.

The above article (Source 1) shows the extent of the weakness of the Parliamentary Committee.

The third source shows the relative weakness of Parliament in the budgetary process:

"According to the Constitution, the Parliament does not have a very important role in budgetary decisions. Parliament only has the power to accept or reject the government proposal as a whole. Furthermore, its recommendations within budget reports are non-binding for the Executive" (an NGO watchdog on the Parliament).

##### References:

1) <http://www.yobserver.com/reports/10015410.html>

2) Parliamentary Bylaws

3) [http://ypwatch.org/pdf/en/Report\\_Performance\\_Parliament.pdf](http://ypwatch.org/pdf/en/Report_Performance_Parliament.pdf)

**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 within the legislature. A NO score is earned if there is a body executing this function but it is not part of the legislature (such as a separate supreme audit institution).

---

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

8

43a. In practice, department heads regularly submit reports to this committee.

100 | 75 | 50 | 25 | 0

**Comments:**

The mandates of such a committee are very weak and do not give any meaningful watchdog status. At the end of the year, the Ministry of Finance issues the Final Accounts Report that gives aggregated revenues and expenditure amounts under monetary classification.

The fifth source shows the relative weakness of Parliament in the budgetary process:

"According to the Constitution, the Parliament does not have a very important role in budgetary decisions. Parliament only has the power to accept or reject the government proposal as a whole. Furthermore, its recommendations within budget reports are non-binding for the Executive" (an NGO watchdog on the Parliament).

**References:**

- 1) Yemeni Constitution — <http://www.unhcr.org/refworld/category,LEGAL,,,YEM,3fc4c1e94,0.html>
- 2) Financial Law No. 8 of 1990 — [http://www.htb.gov.ye/sh\\_cat.php?cat\\_id=101-](http://www.htb.gov.ye/sh_cat.php?cat_id=101-) Articles 3 – 20) Arabic
- 3) Amendment to Financial Law (Law No. 50 for 1999) — <http://www.business.ye/databank/index.php?mod=contents&do=view&cid=16&id=243> — Arabic
- 4) <http://www.yobserver.com/reports/10015410.html>
- 5) [http://ypwatch.org/pdf/en/Report\\_Performance\\_Parliament.pdf](http://ypwatch.org/pdf/en/Report_Performance_Parliament.pdf)

**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.

43b. 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

**Comments:**

The first source shows the relative weakness of Parliament in the budgetary process:

"According to the Constitution, the Parliament does not have a very important role in budgetary decisions. Parliament only has the power to accept or reject the government proposal as a whole. Furthermore, its recommendations within budget reports are non-binding for the Executive" (an NGO watchdog on Parliament).

**References:**

- 1) [http://ypwatch.org/pdf/en/Report\\_Performance\\_Parliament.pdf](http://ypwatch.org/pdf/en/Report_Performance_Parliament.pdf)
- 2) <http://www.yobserver.com/reports/10015410.html>

**100:** 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.

**75:**

**50:** 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.

**25:**

**0:** 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.

43c. In practice, when necessary, this committee initiates independent investigations into financial irregularities.

100 | 75 | 50 | 25 | 0

**Comments:**

The Committee can initiate investigations, but has yet to do so. Perhaps the lack of periodic reports on budget performance does not give the Committee any chance to investigate any issues. We are not aware of any serious investigations carried out by the Committee.

Second Source:

2) [http://ypwatch.org/pdf/en/Report\\_Performance\\_Parliament.pdf](http://ypwatch.org/pdf/en/Report_Performance_Parliament.pdf). According to the Constitution, the Parliament does not have a very important role in budgetary decisions. Parliament only has the power to accept or reject the government proposal as a whole. Furthermore, its recommendations within budget reports are non-binding for the Executive."

**References:**

1) Parliamentary Bylaws –

2) Law No. 43 for 1997 Concerning Internal Bylaws of Parliament – Arabic – <http://www.parliament.gov.ye/Arabic/Internal.pdf>

**100:** When irregularities are discovered, the committee is aggressive in investigating the government.

**75:**

**50:** 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.

**25:**

**0:** 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 4. Public Administration and Professionalism

38  
4.1. Civil Service: Conflicts of Interest Safeguards and Political Independence

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

50

44a. In law, there are regulations requiring an impartial, independent and fairly managed civil service.

Yes | No

**Comments:**

There are over 20 laws, executive procedures, Cabinet Decrees and Decrees of the Prime Minister found in Source 4 (in Arabic).

**References:**

1) Civil Service Law No 19 for 1991 – <http://snaccyemen.org/details.asp?id=116&catid=33> (Page 2) and link to detailed text – Arabic

- 2) Executive Procedures for Law No. 19/1991 – <http://snaccyemen.org/details.asp?id=115&catid=33> — Arabic
- 3) Civil Service Fund Law No. 1 for 2004 — <http://snaccyemen.org/details.asp?id=114&catid=33> — Arabic
- 4) All relevant laws and executive procedures concerning Civil Service — <http://mocsi.gov.ye/tash.php?id=1>

**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.

44b. In law, there are regulations to prevent nepotism, cronyism, and patronage within the civil service.

Yes | **No**

**Comments:**

Except for the stipulations on “equal opportunities” for employment that appear in the Constitution and Article 12 C of Civil Service Law, there are no specific stipulations governing nepotism, cronyism and patronage.

**References:**

- 1) Constitution of the Republic
- 2) Civil Service Law No. 19/1990 — <http://snaccyemen.org/details.asp?id=116&catid=33>

**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.

44c. In law, there is an independent redress mechanism for the civil service.

**Yes** | No

**Comments:**

Article 105 of Civil Service Law states that a three-man (two senior officers of the unit and a member of the union or syndicate) committee be set up in each unit to look into objections of employee evaluations. Otherwise, as the second source states, “Public sector employees must take their grievances to court.”

**References:**

- Civil Service Law No. 19 for 1991 — <http://snaccyemen.org/details.asp?id=116&catid=33> — Arabic

**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. The mechanism should be independent of their supervisors but can still be located within the government agency or entity (such as a special commission or board). Civil servants are able to appeal the mechanism’s decisions to the judiciary.

**No:** A NO score is earned if no such mechanism exists, or if the only recourse civil servants have is directly through the courts.

44d. In law, civil servants convicted of corruption are prohibited from future government employment.

Yes | **No**

**Comments:**

There are no specific conditions in legislative statutes for potential employees to be free of any charges of corruption, but there are implied statutes that a person should not be under any suspicion or have been involved in any previous proceedings.

Article 125 of the Civil Service Law for 1991 says a government employee convicted of corruption can be dismissed after a court decision, whether it made both during and after their employment.

However, the Executive Procedures in Article 30 states:

"A) The candidate for employment should not have:

7) been sentenced to restricted freedom (imprisonment) for crimes of dishonesty or breach of trust, such as bribery, pilferage, theft, fraud/forgery or misappropriation of public funds, testimonial lie, etc, unless one has been given resumed legal unencumbered status, and should not have been dismissed from civil service by a (court) ruling or disciplinary decree, if three years have not passed since such ruling or decree accordingly" (translated from Arabic by lead researcher).

Employment procedures involve being cleared by the relevant law enforcement authorities (criminal investigation) and police.

But it is not clear if the inconsistency between the law and its executive procedures have a bearing from a legal standpoint, as the procedures are not of equal legal standing with the Law, since the latter is passed by the Parliament, whereas the Procedures are issued by Executive Decree.

In any case it is not a lifetime ban, nor is it a perpetual condition that cannot be offset by the completion of punishment, pardon or other measure for the resumption of civil servant's legal status.

**References:**

1) Civil Service Law 19/1990 — <http://mocsi.gov.ye/files/tash/19.pdf> — Arabic

**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 or if the ban is not a lifetime ban.

---

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

11

45a. In practice, civil servants are protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

The following, from the first source, though somewhat old is still relevant to a considerable degree: "The government's patronage system involves 'employing' thousands of Yemenis in government positions, with many collecting salaries for which they perform no duties."

In addition, most sensitive senior positions are designated based on political considerations, nepotism, favoritism and other non-qualifying aspects.

The third source reveals the extent of political interventions in civil service:

"Following the election, Salah's regime rounded up activists who campaigned for the opposition candidate, imprisoning some and firing others from civil service jobs. Electoral reform stalled when the Joint Meeting Parties (JMP) and General People's Congress (GPC) could not agree on the terms or scope of negotiations. The JMP also insisted on the release of political prisoners prior to discussions."

Also see: Examiner.com, Yemen National Dialog Coalition Seeks Reform, Broad Political Inclusion – National Yemen Headlines | Examiner.com <http://www.examiner.com/yemen-headlines-in-national/yemen-national-dialog-coalition-seeks-reform-broad-political-inclusion#ixzz1CB80UyQo>

**References:**

1) <http://unpan1.un.org/intradoc/groups/public/documents/nispacee/unpan016212.pdf>

2) [http://www.chathamhouse.org.uk/files/16128\\_180210summary.pdf](http://www.chathamhouse.org.uk/files/16128_180210summary.pdf)

3) <http://www.examiner.com/yemen-headlines-in-national/yemen-national-dialog-coalition-seeks-reform-broad-political-inclusion>

**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.

45b. In practice, civil servants are appointed and evaluated according to professional criteria.

100 | 75 | 50 | 25 | 0

**Comments:**

The following, from the first source, though somewhat old is still relevant to a considerable degree: "The government's patronage system involves 'employing' thousands of Yemenis in government positions, with many collecting salaries for which they perform no duties."

Even for specialized or highly technical positions, those persons who are favorable to the regime or the leading officials in the public entity will be given favorable consideration, even if the leading official is less qualified.

The absence of need is a major deviation from the criteria for public employment (second source):

"The main focus must be in the civil service, which has twice the number of employees as the British Civil Service for a population a third the size.

"If you rationalize the Government, you'll cut down on corruption. That will free up funds to provide services to places like Marib and Jouf" (Abdul-Ghani Al-Iriani, a development researcher).

Footnote 12 in the first source is still applicable:

"According to Freedom House, no merit-based competitive selection process exists de facto for civil-service positions, except for certain positions in Yemen's foreign ministry."

**References:**

1) 1) <http://unpan1.un.org/intradoc/groups/public/documents/nisp/ee/unpan016212.pdf>

2) [http://www.timesonline.co.uk/tol/news/world/middle\\_east/article6975931.ece](http://www.timesonline.co.uk/tol/news/world/middle_east/article6975931.ece)

**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.

45c. In practice, civil service management actions (e.g. hiring, firing, promotions) are not based on nepotism, cronyism, or patronage.

100 | 75 | 50 | 25 | 0

**Comments:**

Nepotism is the rule rather than the exception in almost all sensitive Government, military and security positions, especially those with large financial stakes.

Third source:

"Since coming to power as leader of the Yemen Arab Republic (North Yemen) in 1978, Ali Abdullah Saleh has balanced progress with nepotism. President Saleh's nephews, relatives and tribesmen make up the leadership of Yemen's military and security forces. The sense that Yemen is a family corporation that has enriched itself is part of the problem. As President Saleh has consolidated power in his family's hands, his influence with tribal chiefs has receded. This is all a bit complicated, and not all sources are in agreement on the details. One source reports that Brigadier General Ali Mohsen Al-Ahmar is a half brother of president Saleh, while the New York Times reports that 'Mr. Saleh and Mr. Mohsen are not related.'"

The New York Times is wrong; he is a half-brother and perhaps the most powerful in the family after Mr. Saleh.

**References:**

- 1) [http://www.thefreelibrary.com/Nepotism+in+the+government+makes+Yemen+weak+\(Community\).-a0182851001](http://www.thefreelibrary.com/Nepotism+in+the+government+makes+Yemen+weak+(Community).-a0182851001)
- 2) <http://www.globalsecurity.org/military/world/yemen/nepotism.htm>
- 3) <http://warnewsupdates.blogspot.com/2010/01/nepotism-and-incompetence-appears-to.html>
- 4) <http://www.nytimes.com/2010/01/05/world/middleeast/05saleh.html>

**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.

45d. In practice, civil servants have clear job descriptions.

100 | 75 | 50 | 25 | 0

**Comments:**

From first source, according to an Undersecretary of Ministry of Civil Service and Pensions:

"Underemployment in the public sector emerged through distribution of functions and tasks in government departments because of the lack of clear job descriptions and the lack of classification, arrangement and distribution of positions specifying the required qualifications and experience in staffing. This problem emerged because of administrative leaders whose specifications do not fit the job they occupy."

The experience of the researcher in public employment entailed the establishment of job descriptions for subordinates. That department in the unit is still the only one with formal job descriptions.

**References:**

- 1) [http://www.al-shorfa.com/cocoon/meii/xhtml/en\\_GB/features/meii/features/main/2010/11/27/feature-02](http://www.al-shorfa.com/cocoon/meii/xhtml/en_GB/features/meii/features/main/2010/11/27/feature-02)
- 2) Own experience

**100:** Civil servants almost always have formal job descriptions establishing levels of seniority, assigned functions, and compensation. Job descriptions are a reliable representation of positions in terms of a person's authority, responsibility and base pay.

**75:**

**50:** Civil servants often have formal job descriptions, but exceptions exist. Some civil servants may not be part of the formal assignment of duties and compensations. Some job descriptions may not map clearly to pay or responsibilities in some cases.

**25:**

**0:** Civil servants do not have formal roles or job descriptions. If they do, such job descriptions have little or nothing to do with the position's responsibilities, authority, or pay.

45e. In practice, civil servant bonuses constitute only a small fraction of total pay.

100 | 75 | 50 | 25 | 0

**Comments:**

From second source:

"In an apparent move to calm discontent, Saleh also announced plans to raise the salaries of government employees and military personnel by US\$47 to US\$234 a month — a good bonus for poorly paid soldiers and civil servants in the Arab world's poorest country."

**References:**

- 1) <http://military.einnews.com/search.php?keywords=significant+bonus+for+poorly+paid+soldiers+&makesearch=yes>
- 2) <http://uk.news.yahoo.com/22/20110124/fts-uk-yemen-release-ca02f96.html>

**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.

45f. In practice, the government publishes the number of authorized civil service positions along with the number of positions actually filled.

100 | 75 | 50 | 25 | 0

**Comments:**

In most cases, sensitive positions, even if they are announced, are filled by relatives of former or existing officials, whom the regime trusts or appeases for political considerations. This has led to serious protests.

The second source shows that sometimes announcements are politically based, rather than a reflection of need or capacity. Filled positions are not usually announced.

Sometimes the Government takes on the role of an "employer of last resort" according to the International Labor Organization (3rd source). Accordingly, employment is not based on announced job positions. In addition, sensitive positions, even those that are advertised, are often filled based on nepotism.

**References:**

- 1) [http://www.fundforpeace.org/web/index.php?option=com\\_content&task=view&id=431&Itemid=594](http://www.fundforpeace.org/web/index.php?option=com_content&task=view&id=431&Itemid=594)
- 2) <http://sh22y.com/vb/t22910.html?language=en>
- 3) <http://www.ilo.org/public/english/bureau/program/dwcp/download/yemen.pdf>

**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.

45g. In practice, the independent redress mechanism for the civil service is effective.

100 | 75 | 50 | 25 | 0

**Comments:**

There is a greater tendency to rely on a policy of 'taking the law into their own hands,' especially by tribal elements, among those who are unable to find redress for grievances (including in regard to hiring practices by the Government in their locations).

The inability of the Southern Yemenis to get redress for their civil service grievances has given birth to a revival of secessionist desires, since "two key issues have kept southern grievances alive — land grabs by powerful officials from the north following the civil war, and the exclusion of southern officials from top government jobs" (second source). Since the redress mechanism is ineffective, the Southerners have been resorting to violent political activity since 2007.

Most civil servants with grievances avoid trying to use internal grievance mechanisms and simply accept things as they are. While they are assured of continuing to get their salaries, their job-related grievances are not addressed, which then adds further to the surplus employee rolls (employees who lost jobs to new hires or were found to be disagreeable by the entity's management – third and fourth source).

Fifth source:

"An initial protest began when southerners took to the streets to protest at the army's refusal to enroll a number from among them who responded to a recruitment campaign.

"Southerners often complain of discrimination since a 1994 secessionist bid was crushed by northern forces of President Ali Abdullah Saleh.

Several protests have been held in south Yemen to demand greater state aid for more than 60,000 people who are retired from the military and civil service, most of whom insist they were forced out of their jobs."

**References:**

- 1) [http://www.export.gov/middleeast/country\\_information/yemen/CCG04.pdf](http://www.export.gov/middleeast/country_information/yemen/CCG04.pdf)
- 2) [http://ecfr.eu/content/entry/commentary\\_yemen\\_europes\\_next\\_challenge\\_korski/](http://ecfr.eu/content/entry/commentary_yemen_europes_next_challenge_korski/)
- 3) Personal Experience in Civil Service
- 4) [http://www.essentialaction.org/labor\\_report/yemen.html](http://www.essentialaction.org/labor_report/yemen.html)
- 5) [http://marebpress.net/news\\_details.php?lng=english&sid=12335](http://marebpress.net/news_details.php?lng=english&sid=12335)

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.

45h. In practice, in the past year, the government has paid civil servants on time.

100 | 75 | 50 | 25 | 0

**Comments:**

For some entities, salary payments are actually made prior to the end of the month. This is a result of the Postal Service sending out a substantial portion of public employees salaries.

Sometimes, however, especially with respect to large institutions such as the Ministry of Education and Ministry of Health (which has over 50 percent of the government's non-military employees), some delays happens, mostly due to geographical or logistical considerations, or slow processing, especially for new employees.

Second source:

"In addition, Al-Rabahi is disappointed that, despite strikes last year in many different governorates, the government still has not paid teachers part of their suspended bonuses and salaries."

**References:**

1) <http://www.yementimes.com/DefaultDET.aspx?i=1221&p=business&a=1>

2) <http://www.yementimes.com/DefaultDET.aspx?i=1237&p=front&a=1>

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.

45i. In practice, civil servants convicted of corruption are prohibited from future government employment.

100 | 75 | 50 | 25 | 0

**Comments:**

It is obvious that if heads of government are allowed to stash billions of U.S. dollars without even facing charges, it is not to be expected that those in the lower echelons would also be dismissed. It is said that some of the cases of reported corruption in the courts are actually meaningless misrepresentations of the government's anti-corruption efforts, such as the report on judges being disciplined.

It is well known that many of the people in the list (Source 2) are notoriously corrupt, yet they are still in their positions or in other more lucrative positions.

The case referred to in the third source continues to be baffling:

"Popular grievances and grassroots movements: The U.S. Justice Department recently indicted Latin Node Communications Company, an American contractor accused of bribing one of President Saleh's sons and members of the Ministry of Telecommunications (Yemen Post, May 20). Latin Node eventually entered a guilty plea.

"The U.S. company officials involved in the case have actually been indicted and sentenced, while the Yemeni official remains at large and in his position.

None of the officials involved have been charged or even threatened with legal proceedings."

On the same matter:

Fourth source:

"In addition, from approximately July 2005 to April 2006, court documents show that Latinode made 17 payments totaling approximately \$1,150,654 to a third-party consultant with the knowledge that some or all of the money would be passed on to Yemeni officials in exchange for favorable interconnection rates in Yemen. Each of those payments was made from Latinode's Miami bank account. According to court documents, company e-mails indicate that company executives believed potential payment recipients included Yemeni government officials.

"Court documents do not allege or refer to evidence showing that the son of the Yemeni president received any payments from Latin Node. No foreign government officials are the subjects of U.S. investigations of this matter."

**References:**

1) <http://www.guardian.co.uk/commentisfree/2011/feb/05/arab-uprisings-egypt-tunisia-yemen>

2) <http://www.globalsecurity.org/military/world/yemen/nepotism.htm>

3) [http://www.jamestown.org/single/?no\\_cache=1&tx\\_ttnews%5Btt\\_news%5D=35082](http://www.jamestown.org/single/?no_cache=1&tx_ttnews%5Btt_news%5D=35082)

4) <http://www.justice.gov/opa/pr/2009/April/09-crm-318.html>

**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:**

**50:** A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some civil servants may not be affected by the system, or the prohibitions are sometimes not effective. Some bans are only temporary.

**25:**

**0:** There is no such system, or the system is consistently ineffective in prohibiting future employment of convicted civil servants.

---

#### 46. Are there regulations addressing conflicts of interest for civil servants?

11

46a. In law, senior members of the civil service are required to file an asset disclosure form.

**Yes** | No

**Comments:**

The declarations are not accessible to public exposure.

**References:**

1) Financial Disclosure Law No.30 for 2006 – <http://www.snaccyemen.org/details.asp?id=121&catid=33>

**Yes:** A YES score is earned if senior members of the civil service 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 senior member of the civil service is not required to disclose assets.

46b. In law, there are requirements for civil servants to recuse themselves from policy decisions where their personal interests may be affected.

Yes | **No**

**Comments:**

Article 21 of the Law above states:

"a. Promote the concept of efficiency, qualification and creativeness for those assuming a public post.

b. Strengthen the systems of selection, rehabilitation and training in respect of recruiting for those public posts that are more vulnerable to corruption, to encourage better performance.

c. Promote transparency in public posts and prevent conflicts of interest between public posts and employees; after-service regulations should be made to regulate or prevent employees from taking personal advantage by engaging in professional private activities that directly relate to the posts they formerly held or supervised during their service."

But the article states at the start that while the Supreme National Authority for Combating Corruption (SNACC) will study, assess and develop staffing systems for fighting corruption, there really are no specific stipulations regulating conflicts of interest.

**References:**

1) Law No. 39 for 2006 Concerning Anti-Corruption

2) <http://snaccyemen.org/details.asp?id=116&catid=33> – Civil Service Law No. 19 of 1991.

**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.

46c. In law, there are restrictions for civil servants entering the private sector after leaving the government.

Yes | **No**

**Comments:**

Article 21 (c) of the Anti Corruption Law states:

" . . . will study, assess and develop staffing systems in order to . . . promote transparency in public posts and prevent conflict of interest between public posts and employees; after-service regulations should be made to regulate or prevent employees from taking personal advantage by engaging in professional private activities that directly relate to the posts they formerly held or supervised during their service."

However, there are no specific regulations on post-service employment.

**References:**

1) Law No. 39 for 2006 Concerning Anti-corruption

2) <http://snaccyemen.org/details.asp?id=116&catid=33> – 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.

46d. In law, there are regulations governing gifts and hospitality offered to civil servants.

Yes | **No**

**Comments:**

There are no stipulations to regulate hospitality or gifts offered to civil servants.

**References:**

1) Law No. 39 for 2006 Concerning Anti-Corruption <http://www.snaccyemen.org/details.asp?id=146&catid=33>

2) <http://snaccyemen.org/details.asp?id=116&catid=33> – Civil Service Law No. 19 of 1991.

**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.

46e. In law, there are requirements for the independent auditing of the asset disclosure forms of senior members of the civil service.

Yes | **No**

**Comments:**

The Supreme National Anti-Corruption Committee is the only authority authorized to review Financial Disclosure Declarations although it may seek the assistance of outsiders in doing so.

**References:**

1) Financial Disclosure Law No. 30 for 2006 — <http://www.snaccyemen.org/details.asp?id=121&catid=33>

**Yes:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of civil service 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 civil service asset disclosures or if such requirements exist but allow for self-auditing.

46f. In practice, the regulations restricting post-government private sector employment for civil servants are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

There are no applicable legal statutes. In fact, many officials set up their own private enterprises while they are in service or are receiving remuneration for services.

**References:**

1) The Laws on Anti-corruption (No. 30 and 39 of 2006) and the Civil Service Law (No. 19 for 1991)

**100:** The regulations restricting post-government private sector employment for civil servants are uniformly enforced. There are no cases 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.

46g. In practice, the regulations governing gifts and hospitality offered to civil servants are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

There are no applicable regulations. It is normal for public servants to enjoy hospitality offers, especially overseas, where they then can save the travel allowance they are given. They usually accept gifts.

From the second source:

"Inside Mr. Saleh's palace, gifts from foreign countries and dignitaries were on display. There were dozens of gold coins, a handful of prayers beads, an ornate gold and emerald replica of an ancient Korean crown-like head ornament and a gold-plated assault rifle from Iran."

"For Yemenis, Mrs Clinton's visit seemed to be a welcome change from the usual procession of American military commanders and intelligence officials.

"There were two gifts from the United States: an old black powder gun from General Norman Schwarzkopf, when he was the Chief of Central Command, and a colt revolver from the White House.

"Clinton herself didn't bring any guns. Instead, she gave the Yemeni leader a silver tray — perhaps a symbol of how much the United States had to offer to Yemen beyond counter-terrorism assistance?

"Mr. Saleh gave her a silver necklace which she wore during a statement she made in his company on the steps of the presidential palace after lunch."

**References:**

- 1) Law No. 39 for 2006 Concerning Anti-corruption, <http://www.snaccyemen.org/details.asp?id=146&catid=33>
- 2) <http://snaccyemen.org/details.asp?id=116&catid=33> — Civil Service Law No. 19 of 1991.
- 2) <http://www.bbc.co.uk/news/world-middle-east-12169313>

**100:** The regulations governing gifts and hospitality to civil servants are regularly enforced. 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.

46h. In practice, the requirements for civil service recusal from policy decisions affecting personal interests are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

There are hardly any legal stipulations for governing ethical public service employment and hardly any oversight by the relevant Government authorities with oversight over civil service conduct (Ministry of Civil Service and Pensions, Parliament, and the Supreme National Authority for Combating Corruption (SNACC)).

**References:**

- 1) Law No. 39 for 2006 Concerning Anti-Corruption <http://www.snaccyemen.org/details.asp?id=146&catid=33>
- 2) <http://snaccyemen.org/details.asp?id=116&catid=33> – Civil Service Law No. 19 of 1991.

**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.

46i. In practice, civil service asset disclosures are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no legal requirement for independent audit. The Supreme National Authority for Combating Corruption (SNACC) is the only authority to review such disclosures, There is no record of any action taken in regard to any declarations of final disclosure since SNACC was first established.

**References:**

- 1) Law No. 30 for 2006 on Financial Disclosure — <http://www.snaccyemen.org/details.asp?id=121&catid=33> — Arabic

**100:** Civil service asset disclosures are regularly audited using generally accepted auditing practices.

**75:**

**50:** Civil service 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:** Civil service asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

---

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

0

47a. In law, citizens can access the asset disclosure records of senior civil servants.

Yes | **No**

**Comments:**

There are no legal stipulations that allows citizens to have access to such records. Only the Supreme National Committee for Anti-corruption has access to these records.

**References:**

1) <http://www.snaccyemen.org/details.asp?id=121&catid=33> – Law of Financial Disclosure — Arabic

**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.

47b. In practice, citizens can access the asset disclosure records of senior civil servants within a reasonable time period.

100 | 75 | 50 | 25 | **0**

**Comments:**

There are no legal stipulations that allows citizens to have access to such records. Only the Supreme National Committee for Anti-corruption has access to these records.

**References:**

1) <http://www.snaccyemen.org/details.asp?id=121&catid=33> – Law of Financial Disclosure — Arabic

**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.

47c. In practice, citizens can access the asset disclosure records of senior civil servants at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

There are no legal stipulations that allows public access to such records. Only the Supreme National for Anti-corruption Committee has access to these records.

**References:**

1) <http://www.snaccyemen.org/details.asp?id=121&catid=33> – Law of Financial Disclosure

**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 NGOs. 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 NGOs trying to access this information.

47d. In practice, the asset disclosure records of senior civil servants are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

There are no legal stipulations that allows citizens to have access to such records. Only the Supreme National Committee for Anti-corruption (SNACC) has access to these records. Even SNACC members are not allowed to respond to questions regarding these forms (interview of SNACC official who requested anonymity). In any case, there are no records of these forms leading to any further proceedings, other than being filed.

**References:**

1) <http://www.snaccyemen.org/details.asp?id=121&catid=33> – Law of Financial Disclosure – Arabic

**100:** The asset disclosure records of senior civil servants are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

**75:**

**50:** The asset disclosure records of senior civil servants contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

**25:**

**0:** The asset disclosure records of senior civil servants are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

---

## 4.2. Whistle-blowing Protections

---

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

25

48a. 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:**

According to Article (27): "The Authority will secure legal protection for reporters (informers on corruption) and witnesses, and its bylaws will define procedures for their protection."

The Executive Bylaw set out specific steps for protecting informers, witnesses etc., but to date such steps have not been taken in regard to journalists or lawyers who have tried to report on corruption cases.

**References:**

- 1) Law No. 39 for 2006 Concerning Anti-Corruption <http://www.snaccyemen.org/details.asp?id=146&catid=33>
- 2) Presidential Decree No. for Executive Procedures for Law No. 39 for 2006 Concerning Anti-Corruption -- <http://www.snaccyemen.org/details.asp?id=454&catid=33> -- Arabic

**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.

48b. 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:**

The first source above details an assault on a Deputy Minister of Legal Affairs for taking procedures against some of the staff who swindled Yrls 11 million (US\$51,500) from the Ministry. The latter was seriously injured from stab wounds from a jambiyah (a Yemeni dagger) used by one of the accused swindlers.

The second source describes how a fight erupted when a Member of Parliament was attacked by another member for discussing a corruption case involving a big shot.

**References:**

- 1) <http://www.almethaq.net/news/news-19708.htm> -- Arabic
- 2) <http://www.damasgate.com/vb/t185945/> -- Arabic

**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.

48c. 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:**

Note that Article 27 of the Law has an incorrect translation of the bylaws of the constitution. There is protection guaranteed in the bylaws, but the laws state that the Authority will ensure the guarantee of protection. The protection is not clearly pointed out for individual sectors (private, civil service, etc.) and the law only states that the authority "will secure" legal protection.

**References:**

1) The Anti-corruption Law No. 39 for 2006 and its Executive Procedures — <http://snaccyemen.org/details.asp?id=146&catid=33> and <http://snaccyemen.org/details.asp?id=454&catid=33>

**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.

48d. 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:**

The reference source shows several cases of attacks against journalists in corruption related cases, sometimes by government security officials or guard details of officials, or hired thugs.

**References:**

1) [http://www.akhbaralalam.net/news\\_detail.php?id=39948](http://www.akhbaralalam.net/news_detail.php?id=39948)

**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.

49. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

100

49a. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

Yes | No

**Comments:**

There are no specific stipulations for the establishment of internal lines for reporting corruption cases in Government entities. There is a specific department within the the Supreme National Authority for Combating Corruption (SNACC) that receives all reports and notifications (Reference 2) and SNACC has a reporting form on its website (third source). However it appears exclusive to the SNACC website and it is not clear if it is linked to any other government entities.

**References:**

- 1) Anti-corruption Law No. 39 for 2006 and its Executive Procedures  
<http://snaccyemen.org/details.asp?id=146&catid=33> and <http://snaccyemen.org/details.asp?id=454&catid=33>
- 2) [http://www.snaccyemen.org/docs/doc\\_17\\_1\\_7-26-55.jpg](http://www.snaccyemen.org/docs/doc_17_1_7-26-55.jpg) – Arabic
- 2) <http://snaccyemen.org/notifications.asp>

**Yes:** A YES score is earned if there is a mechanism, or multiple mechanisms for multiple national government agencies, through which civil servants can report cases of graft, misuse of public funds, or corruption.

**No:** A NO score is earned if no such mechanism (or equivalent series of mechanisms) exists.

50. In practice, is the internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption effective?

25

50a. In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

It is difficult to discern the extent of the adequacy of the staffing of the Supreme National Authority for Combating Corruption (SNACC). It appears that it is understaffed. No actual numbers could be obtained. In addition, it is questionable that SNACC's current staffing could review the some 35,000 financial disclosure declarations and pursue some 1,100 cases that it reportedly says it is pursuing.

According to the sources, there are 9 sectors, each with its own specialized staff. SNACC has eleven members who are "elected" for five-year terms, who then are replaced with new members. Most of them are reportedly former senior civil servants with "expertise status" and who have some technical qualifications with "numbers."

Many blogs or comments in many newspapers point out that most people have no real belief in the genuine ability of SNACC to contain corruption, especially as Law No. 11 of 1995 prevents any follow-up on senior officials; it is also claimed the Authority is becoming a center of corruption itself, with its staff getting high salaries, allowances and bonuses, while the real work on corruption cases is minuscule.

**References:**

- 1) <http://www.snaccyemen.org/details.asp?id=294&catid=40>
- 3) Various blogs and comments of

**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.

50b. In practice, the internal reporting mechanism for public sector corruption receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

The Law and the first source state that the Supreme National Authority for Combating Corruption (SNACC) should have autonomous appropriations from the state budget:  
"The authority has a separate budget, to which the standard budgeting rules and procedures are applied. The authority's chairman enjoys the same power as that granted to the Ministers of Finance and Civil Service and Insurance in terms of using funds allocated for its budget and managing its activities and personnel."

SNACC has also received grants from various donor entities including the World Bank.

**References:**

1. <http://siteresources.worldbank.org/INTMNAREGTOPGOVERNANCE/Resources/Jan08ArunonYemen.pdf>
2. Anti-corruption Law 39 of 2006 — [http://www.snaccyemen.org/mor\\_content.asp?catid=33](http://www.snaccyemen.org/mor_content.asp?catid=33) – English

**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.

50c. In practice, the internal reporting mechanism for public sector corruption acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The above (Source 1) is a report found in the the Supreme National Authority for Combating Corruption (SNACC) website indicating that there are 1,100 pending corruption cases with SNACC, with 34 cases with the General Prosecution and that SNACC has returned between Yrls 11 billion (US\$5 million) and Yrls 3.8 billion (US\$18 million) to the State Treasury.

However it is not exactly clear how SNACC has performed, as there is very little substantiation in the independent press of such results, or confirmation of their impact on reforming the corrupt administrative apparatus of the Government (except based on SNACC reports or from the official or quasi-official press).

The second source:

"In its first steps, the Authority's (SNACC) action has been vague and barely perceptible; to many observers, the Authority seemed not to know what to do and how to proceed. Two years have passed since the Authority has been created and still there are no effective results. It has become a joke in the Yemeni street. It has received increasing criticism, not only from among the common people but also from among the social and cultural elite."

Note that there are no indications that the SNACC has dealt with corruption in the military/security organs or in some of the real power centers of the Government Administrative Apparatus. Even civil society organizations (See third source) overseeing anti-corruption activities have not discerned any genuine progress against "heavy corruption" cases other than those declared by the Government press and SNACC. Other than the suspension of pending suspects of corruption cases (126), most likely with pay. No clear indications of punishments or sentencing have been known to occur.

One blogger commented:

"How can they say that SNACC is fighting corruption? While it claimed to have returned Yrls 11 billion (US\$5million), it has cost the Government Yrls 42 billion (US\$195 million). So, which is better: to loose 11 billion (US\$5million) from corruption or 42 billion (US\$195 million).in extravagant salaries, allowances, and travel costs, with some chauffeurs getting Yrls 800,000 (US\$3,722) per month?"

Another stated:

"As long as Law No. 6 of 1995 protects the bigwigs from legal proceedings for corruption, what is the sense of having an anti-corruption agency (which is staffed by previously known corrupt officials) against the little guys?"

**References:**

- 1) <http://www.snaccyemen.org/details.asp?catid=49&id=495>

- 2) <http://nationalyemen.com/2010/12/12/the-anti-corruption-authority-under-the-microscope>.
- 3) <http://www.womenpress.net/nprint.php?lng=arabic&sid=1626>
- 4) 2) <http://www.snaccyemen.org/details.asp?id=102&catid=33> – Law No. 6 of 1995 Concerning Prosecuting and Trying Senior Government Officials.
- 4) Blogs and comments to some articles on the internet.

**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.

50d. In practice, when necessary, the internal reporting mechanism for public sector corruption initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

According to a Supreme National Authority for Combating Corruption (SNACC) report, the number of cases it has received as notifications or “complaints” are in the teens and supposedly the rest of the “1,100 cases” it is looking into are brought up on their own initiative. That could be questionable, especially as SNACC is relatively new and it is impossible that it could be aware of so many cases, since it only been in operation since the beginning of 2009.

**References:**

- 1) <http://www.alwatanyye.net/65453.htm> – Arabic
- 2) <http://www.snaccyemen.org/details.asp?id=102&catid=33> – Law No. 6 of 1995 Concerning Prosecuting and Trying Senior Government Officials.

**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.

---

50  
**4.3. Government Procurement: Transparency, Fairness, and Conflicts of Interest Safeguards**

---

51. Is the public procurement process effective?

51a. In law, there are regulations addressing conflicts of interest for public procurement officials.

Yes | **No**

**References:**

Law of Tenders, Auctions and Stores No. 23, 2007, Article 95 (1) (b) — <http://www.snaccyemen.org/details.asp?id=120&catid=33>

**Yes:** A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for public procurement officials. A YES score is earned if such regulations cover all civil servants, including procurement officials.

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

51b. In law, there is mandatory professional training for public procurement officials.

Yes | **No**

**Comments:**

There are no specific legal stipulations for systematic procurement training in any of the areas of the civil service. There are occasional training courses conducted by consulting companies, such as Crown Agents (see second source), which are usually funded by donors (such as the World Bank and the International Monetary Fund).

**References:**

1) Procurement Law (Law of Tenders) No. 23 of 2007 — <http://www.snaccyemen.org/details.asp?id=102&catid=33>

2) <http://www.crownagents.com/News/Yemen-meets-the-procurement-challenge.aspx>

**Yes:** A YES score is earned if public procurement officials receive regular mandatory training to ensure professional standards in supervising the tendering process. A YES score is earned if such training is mandated for portions of the broader civil service, to include procurement officials.

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

51c. In practice, the conflicts of interest regulations for public procurement officials are enforced.

100 | 75 | 50 | 25 | **0**

**Comments:**

There are no regulatory stipulations governing conflict of interests. Further, most people are aware that many senior officials have private businesses or are in collusion with private business interests.

There are cases known to the researcher (as a member of a tender evaluation committee) where projects costing nearly US\$100 million are given to companies that poorly under-capitalized (around US\$1 million) and the senior official in the entity will openly hint to the Tender Committee to choose such a company.

**References:**

1) Law of Tenders and Auctions No. 23 of 2007 — <http://www.snaccyemen.org/details.asp?id=80&catid=33>

2) Personal experience.

**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.

51d. In law, there is a mechanism that monitors the assets, incomes and spending habits of public procurement officials.

Yes | No

**Comments:**

There are no clear indications that there is a regular monitoring mechanism. The Supreme National Authority for Combating Corruption (SNACC) is mainly concerned with being able to obtain the Disclosure Reports (they claim that they must collect 36,000 declarations, while they reportedly have collected 13,000 — it is not known to what extent they have scrutinized procurement officials accordingly).

There are no indications that the anti-corruption agency is doing anything to monitor any significant changes in officials' acquired wealth. One can also assume that they have only collected these declarations once (SNACC only effectively began to work in 2008) and thus are unable to come up with any comparative analysis, if they intend to do so. It is not clear from the law itself, what they should do with the financial disclosures and what utility they serve in combating corruption, let alone investigating officials.

**References:**

- 1) Law No. 30 of Financial Disclosures of 2006 — <http://www.snaccyemen.org/details.asp?id=121&catid=33>
- 2) <http://nationalyemen.com/2010/12/12/the-anti-corruption-authority-under-the-microscope/>

**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.

51e. In law, major procurements require competitive bidding.

Yes | No

**Comments:**

The amount set forth in the By-laws entails those public tenders that require pre-qualification of tenders (Yrls 1 billion (US\$4.6 million) or more).

Other than that public tenders shall be made for all purchases costing Yrls 3 million (US\$14,000) or more, limited tenders from Yrls 1.5 million (US\$7,000) to Yrls 3 million (US\$14,000), competitive bidding from Yrls 100 thousand to YR 1.5 million (US\$465 to US\$7,000) and direct purchase for anything below Yrls 100 thousand (US\$465).

The ceilings are reduced to a third of each amount depending on the type of bidding for local authorities (Governorate level).

**References:**

- 1) Law of Tenders, Auctions and Stores No. 23 of 2007 — <http://www.snaccyemen.org/details.asp?id=80&catid=33>
- 2) Prime Minister's Decree No.53 of 2009 for the Executive Procedures for the Law of Tenders, Auctions and Stores No 23 of 2007 — [http://www.htb.gov.ye/sh\\_cat.php?cat\\_id=12](http://www.htb.gov.ye/sh_cat.php?cat_id=12) – Arabic

**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).

51f. In law, strict formal requirements limit the extent of sole sourcing.

Yes | No

**Comments:**

Article 163 of Executive Bylaws says that if only one tenderer presents a bid in a competitive bidding procurement and if the tenderer complies with all the conditions of the tender and the cost is within reasonable estimates, the bid may be accepted and awarded accordingly. There are also other procurement methods (i.e., exhaust other methods before going for direct purchase from a sole supplier).

**References:**

1) Law of Tenders, Auctions and Stores No. 23 of 2007 — <http://www.snaccyemen.org/details.asp?id=80&catid=33>

2) Prime Minister's Decree No.53 of 2009 for the Executive Procedures for the Law of Tenders, Auctions and Stores No 23 of 2007 — [http://www.htb.gov.ye/sh\\_cat.php?cat\\_id=12](http://www.htb.gov.ye/sh_cat.php?cat_id=12) – Arabic

**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.

51g. In law, unsuccessful bidders can instigate an official review of procurement decisions.

Yes | No

**Comments:**

Article 77 of Source 1 sets out an appeals mechanism by appealing to the head of the relevant concerned entity. If the entity does not favorably reconsider the decision, the tenderer may appeal to the Higher Tender Committee.

**References:**

1) Law of Tenders, Auctions and Stores No. 23 of 2007 — <http://www.snaccyemen.org/details.asp?id=80&catid=33> Arabic

2) Prime Minister's Decree No.53 of 2009 for the Executive Procedures for the Law of Tenders, Auctions and Stores No 23 of 2007 — [http://www.htb.gov.ye/sh\\_cat.php?cat\\_id=12](http://www.htb.gov.ye/sh_cat.php?cat_id=12) – Arabic

**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.

51h. In law, unsuccessful bidders can challenge procurement decisions in a court of law.

Yes | No

**References:**

Article 77 of the Tender Law stipulates the procedures for tenderers to resort to the courts to dispute tender decisions.

**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.

51i. In law, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

Yes | **No**

**Comments:**

Article 28 of the first source does not specifically stipulate prohibition from future contract bids, but it leaves penalties up to court rulings, as such cases are referred to courts.

However, Article 15 gives the Ministry of Public Works the authority to prepare a blacklist of prohibited companies, without defining the criteria for inclusion therein. Blacklisted companies may also apply for removal from blacklists if they have fulfilled the penalty for their inclusion therein, or removed the reason for being included in blacklist.

**References:**

1) Law of Tenders, Auctions and Stores No. 23 of 2007 — <http://www.snaccyemen.org/details.asp?id=80&catid=33> ]]

2) Prime Minister's Decree No.53 of 2009 for the Executive Procedures for the Law of Tenders, Auctions and Stores No 23 of 2007 — [http://www.htb.gov.ye/sh\\_cat.php?cat\\_id=12](http://www.htb.gov.ye/sh_cat.php?cat_id=12) – Arabic

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

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

51j. In practice, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

100 | 75 | 50 | 25 | **0**

**Comments:**

From first source Organisation for Economic Co-operation and Development (OECD):

"The Ministry of Public Works and Highways (MOPWH) is also in charge of establishing and maintaining the Government's blacklist of individuals and firms barred from bidding on government tenders due to unacceptable practices, including fraud and corruption. However, this list is not yet published, and as a result, the procedures for blacklisting a company are not clear."

**References:**

1) <http://www.oecd.org/dataoecd/32/9/45916397.pdf>

**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.

---

## 52. Can citizens access the public procurement process?

58

52a. In law, citizens can access public procurement regulations.

Yes | No

**Comments:**

The law stipulates the need for transparency and publication of all rules and procedures associated with Government procurements.

**References:**

- 1) <http://www.snaccyemen.org/details.asp?id=80&catid=33> – Law of Tenders, Auctions and Stores
- 1) [http://www.htb.gov.ye/project\\_also\\_sh.php?page=4&t\\_also\\_date=yes&sort=DESC](http://www.htb.gov.ye/project_also_sh.php?page=4&t_also_date=yes&sort=DESC)

**Yes:** A YES score is earned if procurement rules are, by law, open to the public. These regulations are defined here as the rules governing the competitive procurement process.

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

52b. In law, the government is required to publicly announce the results of procurement decisions.

Yes | No

**Comments:**

There is no stipulation requiring announcement of results of public tenders, and there is also no prohibition against such an announcement.

**References:**

- 1) Law of Tenders, Auctions and Stores No. 23 of 2007 — <http://www.snaccyemen.org/details.asp?id=80&catid=33>
- 2) Prime Minister's Decree No.53 of 2009 for the Executive Procedures for the Law of Tenders, Auctions and Stores No 23 of 2007 — [http://www.htb.gov.ye/sh\\_cat.php?cat\\_id=12](http://www.htb.gov.ye/sh_cat.php?cat_id=12) – Arabic

**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.

52c. In practice, citizens can access public procurement regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The above is the link to the website of the Higher Tender Committee, which gives detailed reports on the status of tenders and procurement rules and regulations.

**References:**

- 1) [http://www.htb.gov.ye/project\\_also\\_sh.php?page=4&t\\_also\\_date=yes&sort=DESC](http://www.htb.gov.ye/project_also_sh.php?page=4&t_also_date=yes&sort=DESC)

**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. These records are defined here as the rules governing the competitive procurement process.

**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.

52d. In practice, citizens can access public procurement regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

if one can afford the cost of Internet service, the information is readily available. They are also available through most of the official media channels.

**References:**

1) [http://www.htb.gov.ye/project\\_also\\_sh.php?page=4&t\\_also\\_date=yes&sort=DESC](http://www.htb.gov.ye/project_also_sh.php?page=4&t_also_date=yes&sort=DESC)

**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. These records are defined here as the rules governing the competitive procurement process.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. 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 NGOs trying to access this information.

52e. In practice, major public procurements are effectively advertised.

100 | 75 | 50 | 25 | 0

**Comments:**

The above are examples of tender announcements from Yemen. They are also announced in most official media and advertised in some private or independent newspapers, as well as the Higher Tender Committee web site and the websites of some of the concerned Government entities.

**References:**

1) 2) [http://www.cwtenders.com/search.php?notice\\_type\\_new\[\]=1\\$or=0@ion\\_name\[\]=YE](http://www.cwtenders.com/search.php?notice_type_new[]=1$or=0@ion_name[]=YE)

2) <http://www.highbeam.com/doc/1G1-85456403.html>

**100:** There is a formal process of advertising public procurements. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

**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. The time between advertisements and bidding may be too short to allow full participation.

**25:**

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

52f. In practice, citizens can access the results of major public procurement bids.

**Comments:**

Announcements are sometimes made of tender winners, such as in the above.

**References:**

1. <http://www.bi-me.com/main.php?id=1853&t=1&c=32&cg=1&mset=1011>
2. [http://www.htb.gov.ye/project\\_also\\_sh.php?page=4&t\\_also\\_date=yes&sort=DESC](http://www.htb.gov.ye/project_also_sh.php?page=4&t_also_date=yes&sort=DESC) – Tender Committee website
- 3) <http://www.sabanews.net/en/news207870.htm>

**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.

#### 4.4. Privatization of Public Administrative Functions: Transparency, Fairness, and Conflicts of Interest Safeguards

53. Is the privatization process effective?

33

53a. In law, all businesses are eligible to compete for privatized state assets.

Yes | No

**Comments:**

Article 4 stipulates that the divesting of public assets should be by public invitations. Authority rests with the Higher Committee for Privatization, which can decide to go into negotiations if no qualified bidders respond to the invitation to bid. There are also various forms of privatization pursued, such as partial, temporary and total privatization.

The most favorable method includes putting up shares for sale, though this not yet known to have been carried out. There is still no securities market in Yemen.

**References:**

- 1) Privatization Law No. 45 of 1999 – [http://yemenpolling.com/ypwarc/pages.php?p\\_id=836&lng=](http://yemenpolling.com/ypwarc/pages.php?p_id=836&lng=) – Arabic

**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.

53b. In law, there are regulations addressing conflicts of interest for government officials involved in privatization.

Yes | No

**Comments:**

Clause (a) refers to the divulging of information on a privatization transaction by any member of Higher Privatization Committee (HPC) or Technical Secretariat. The clause sets out penalties (2 year imprisonment or Yrls 500,000 fine (US\$2325).for divulging of information.

Clause (b) bans any private gains by any member of HPC or Secretariat staff. However, no penalties are set for clause (b) violations.

Note also that there is no specific referral to breaches by or for the benefit of relatives of HPC or Technical Secretariat members, except through casual mention of "directly or indirectly." Since there are no penalties for violations of clause (b), the law is weak. Moreover, the Law does not cover all civil servants.

**References:**

1) Article 21 (a+b) of Privatization Law No. 45 of 1999 – Arabic – [http://yemenpolling.com/ypwac/pages.php?p\\_id=836&lng=](http://yemenpolling.com/ypwac/pages.php?p_id=836&lng=)

**Yes:** A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for privatization officials. A YES score is earned if such regulations cover all civil servants, including privatization officials.

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

53c. In practice, conflicts of interest regulations for government officials involved in privatization are enforced.

100 | 75 | 50 | 25 | 0

**Comments:**

The above points out that, in retrospect, the Law of Privatization was only passed after many public assets had been taken over by many vested interests inside and outside Government. Many public assets were literally turned over to cronies or elements that bolster the regime. By the time the law was passed, the article states, most of the state enterprises of former South Yemen had been plundered by military or civilian officials close to the regime.

The media continues to point out several dubious questions about the privatization process of Yemen, including the case discussed in the second source.

The Executive Bylaws of Law N. 45 have yet to be issued, although the Law was passed in 1999.

Not much has happened since the third source report, as insecurity and instability have put a hold on most efforts to lure investments and encourage privatization efforts, This is confirmed by a later report (source 4):

"The privatization process has been slow and hesitant and as a result, many of the largest companies remain in government hands. According to the World Bank, there were US\$234 million in privatization receipts between 2000 and 2007. Of that amount, US\$214 million was accounted for by the 2006 privatization of Yemen Mobile."

Private sector initiatives in establishing private enterprises providing education, transport and health services, have been more evident, but with the establishment of new enterprises.

Yet for all that has been said in the media about privatization problems and questionable conduct, no cases have been known to be put to public or judicial accounting.

**References:**

1) <http://www.alwasat-ye.net/index.php?action=showDetails&id=2443> – Alwasat Newspaper,

2) <http://www.yobserver.com/front-page/10013755.html>

3) <http://yemen.usembassy.gov/root/pdfs/reports/yemen-corruption-assessment.pdf>

4) <http://www.estandardsforum.org/system/briefs/330/original/brief-Yemen.pdf?1257782049>

**100:** Regulations regarding conflicts of interest for privatization 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 the regulations.

**25:**

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

---

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

45

54a. In law, citizens can access privatization regulations.

Yes | No

**Comments:**

There is no Executive Procedures, or even a draft under discussion. The law is so far accessible. The Privatization Committee does not have a website, nor is there one readily available.

**References:**

1) Official Gazette, this website ([http://yemenpolling.com/ypwatc/pages.php?p\\_id=836&lng=](http://yemenpolling.com/ypwatc/pages.php?p_id=836&lng=)) and others do have copies of the Law.

**Yes:** A YES score is earned if privatization rules (defined here as the rules governing the competitive privatization process) are, by law, open to the public. Even if privatization is infrequent or rare, the most recent privatization should be used as the basis for scoring this indicator.

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

54b. In practice, privatizations are effectively advertised.

100 | 75 | 50 | 25 | 0

**Comments:**

No significant announcement has been made for any privatization during the last couple of years. Unstable political conditions and deteriorating economic conditions, not to mention more stress on the "anti-terrorism" fight overshadowed all other aspects, including the comprehensive reform agenda.

According to third source however, if after ten years, the Head of the Higher Privatization Committee (HPC) and Parliament has to request a study on how privatization has been carried out in the last ten years since the law was passed, then there is a flaw in the implementation of the Law.

Note that the major privatization efforts took place outside the mandate of the HPC by other entities and the HPC only oversaw the privatization of 9 enterprise assets while 136 entities were privatized by other non-mandated entities by the Law.

**References:**

1) Public and private media

2) Privatization Law No. 45 of 1999 — Arabic — [http://yemenpolling.com/ypwatc/pages.php?p\\_id=836&lng=](http://yemenpolling.com/ypwatc/pages.php?p_id=836&lng=)

3) <http://www.alahale.net/details.asp?id=2846&catid=3> — Arabic

**100:** There is a formal process of advertising privatizations. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

**75:**

**50:** There is a formal process of advertisement but it is flawed. Some privatizations may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

25:

0: There is no formal process of advertising privatizations or the process is superficial and ineffective.

54c. In law, the government is required to publicly announce the results of privatization decisions.

Yes | No

**Comments:**

Articles 4 and 5 of the above Law stipulates that information on all steps of the privatization process be available to the public. However, many of the steps are not given adequate public coverage. The researcher is aware that some mixed sector companies used to sell their legal agencies on the pretext of privatization, but this was through private deals, the real conditions of which are only known to the Senior Executive in the company and the buyer from the private sector.

**References:**

1) Privatization Law No. 45 of 1999 — Arabic — [http://yemenpolling.com/ypwatc/pages.php?p\\_id=836&lng=](http://yemenpolling.com/ypwatc/pages.php?p_id=836&lng=)

**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.

54d. In practice, citizens can access privatization regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

1) Laws and regulations are relatively easy to access.

According to third source, there were some 136 public units, enterprises and assets sold, leased, transferred etc. to the private sector (mostly in the South, which used to be governed by a socialist regime) up to year ending 2007 without the Higher Privatization Committee being involved, as they were distributed to various Ministries.

The procedures for this activity are not clearly known, and with the Privatization Law of 1999 still lacking procedural bylaws, it is reasonable to assume that the application of the Law could have been easily compromised.

In 2009, the Head of the Privatization Committee (second source), who is also the Prime Minister, called for a status report on privatization and the current situation of privatized enterprises. The third source states that only 9 enterprises were privatized under the auspices of the HPC, but it is not clear how such deals were consummated.

The fourth report indicates that it is still unknown how most of the public assets were privatized, nor where the proceeds of the deals went, etc.

Thus, it is easy to see that making the regulations accessible is not enough if there is no oversight of their application in due time. (The sale of the units took place from 1999 until 2008 and possibly beyond.) However, it was only in 2009 that the HPC and Parliament sought to find out how the privatization of major public assets was undertaken (third and fourth source). This was 10 years after the law was issued.

**References:**

1) Official Gazette and official press.

2) <http://www.14october.com/news.aspx?newsno=83600>

3) <http://www.yafea1.com/vb/showthread.php?t=31967>

4) <http://www.alahale.net/details.asp?id=2846&catid=3>

**100:** Records (defined here as the rules governing the competitive privatization process) 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.

54e. In practice, citizens can access privatization regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Again, access to laws and regulations that are meaningless on the ground is not meaningful in the context of transparency of privatization activities, since these activities have so far been carried outside the context of these regulations and the Head of the Privatization Committee has to wait ten years to learn how privatization of a significant number of Government entities and assets was undertaken (Second Source).

**References:**

1) SNACC — Law 45 of 1999 for Privatization.

2) <http://www.alahale.net/details.asp?id=2846&catid=3>

**100:** Records (defined here as the rules governing the competitive privatization process) 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 NGOs. 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 NGOs trying to access this information.

---

Category 5. Government Oversight and Controls

---

5.1. <sup>44</sup> National Ombudsman

---

55. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

100

55a. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

Yes | No

**Comments:**

Article 5 of the above law (source 1) establishes the National Supreme Anti-Corruption Authority (sometimes called Supreme National Authority for Combatting Corruption or SNACC)

The Authority provides “quarterly reporting to the parliament and President on tasks it has carried out,” according to Article 8 of Anti-corruption Law. Its members are selected from a list of 30 candidates nominated by the Shura (Consultative) Assembly, the members of which are appointed by the President.

The 11 members of the SNACC are then chosen by vote of Parliament from the list of 30 nominees.

There are fuzzy lines that compromise the independence of the SNACC. There is some duplication of roles with that of Central Organization for Control and Auditing (COCA) which is governed by the Second Source.

**References:**

1) Anti-corruption Law No ( 39 ) for 2006 – <http://snaccyemen.org/details.asp?id=146&catid=33> — Eng

2) Republican Decree of Law No. 39 Concerning the Central Organization for Control and Auditing (COCA) — <http://snaccyemen.org/details.asp?id=103&catid=33>

**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.

---

## 56. Is the national ombudsman effective?

18

56a. In law, the ombudsman is protected from political interference.

Yes | **No**

**Comments:**

The Anti-corruption Law Article 3 states that the purpose of the Law is “to establish an independent National Authority with legal Anti-Corruption authorization and has the right of tracking its practices according to this Law.”

It also states in Article (6): “a. The Authority will have a corporate body and legal framework and financial and administrative autonomy.”

However, the selection of its Board of Trustees is still controlled by the Presidency, indirectly, as shown in the previous question, and it must report to the Parliament and Presidency.

**References:**

1) Anti-corruption Law No ( 39 ) for 2006 – <http://snaccyemen.org/details.asp?id=146&catid=33> — Eng

2) Republican Decree of Law No. 39 Concerning the Central Organization for Control and Auditing (COCA) — <http://snaccyemen.org/details.asp?id=103&catid=33>

**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.

56b. In practice, the ombudsman is protected from political interference.

100 | 75 | 50 | **25** | 0

**Comments:**

The observations of the 2006 Global Integrity Report are pretty much applicable here in this regard:

"With the nominations coming from the Consultative Assembly (all of whose members are appointed) and endorsed by a House of Representatives, where the ruling party is almost guaranteed an overwhelming majority, it is inconceivable to suggest that appointments to the Supreme National Anti-Corruption Committee (SNACC) can be totally free from political association. (The Chairman of SNACC is a member of the ruling party, the General People's Congress.)

"The same is true for the heads of the Central Organization for Control and Auditing (COCA) and the Public Property Court, and the chairman of the Judiciary Council. The senior positions within SNACC are bound to be politically inspired, even if not necessarily without compromise to professional and even ethical standards. One may ascertain that there are going to be certain elements of officialdom that will remain untouchable by any authority."

On the other hand, much publicity in the media and on the SNACC website has been made in regard to the number of cases that SNACC has investigated or passed to the General Prosecutor. However, most of these cases are of no or little significance or are legally unenforced cases. The last Organisation for Economic Co-operation and Development (OECD) Report on Integrity in Procurement in regard to independent sources (private sector) suggested "the need for an anti-corruption enforcement agency, in addition to the current monitoring and reporting agency, SNACC (which regularly reports to Parliament). SNACC also reports to the Presidency."

The same report above states:

"During 2008, SNACC received 305 corruption complaints, of which 91 (30 percent) were investigated and five referred to the Attorney General Office's for prosecution. A recent diagnostic review of the legal and regulatory framework for combating corruption in Yemen revealed that existing laws need to be further refined to make it easier to prosecute high-ranking officials accused of wrongdoing.

"In response, in late 2008, the authorities announced plans to introduce legal changes to allow speedier prosecution of accused officials. Another sign of turnaround and increased public confidence: the SNACC announced that the number of cases received in January 2009 alone was equal to the total number of cases received in 2008."

While the second and third source indicate cases that have undergone some judicial proceedings and even job suspensions, they are mostly very low-level cases, and dismissal from a job may not entail suspension of pay.

#### References:

- 1) <http://www.oecd.org/dataoecd/32/9/45916397.pdf>
- 2) <http://www.yemenonline.info/news-1806.html>
- 3) [http://www.yemenlatestnews.com/general/24307-yemen\\_s\\_snacc\\_to\\_refer.html](http://www.yemenlatestnews.com/general/24307-yemen_s_snacc_to_refer.html)

**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.

56c. In practice, the head of the ombudsman agency/entity is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

#### Comments:

The Anti-corruption Law states:

"Membership will not be dropped unless there is a major violation of the duties and regulations of the Authority and according to final court verdict."

Dismissal decision of members is taken by the majority of the Board of Trustees of Supreme National Authority for Combating Corruption (SNACC), which also chooses its chair from among the members.

Membership in the Board is for a non-renewable term of 5 years for the members. There is no record of any dismissals, so far.

Since SNACC has not tackled any cases involving senior Government officials (it cannot by law), such a dismissal has yet to be tested.

**References:**

1) Anti-corruption Law No ( 39 ) for 2006 – <http://snaccyemen.org/details.asp?id=146&catid=33> – Eng

2) Search in media for any dismissals.

**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.

56d. In practice, the ombudsman agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

From a recent report by the Organisation for Economic Cooperation and Development (OECD):

“Several senior government officials and representatives of the private sector identified strengthening professionalism and expertise in public organisations as the key challenge.”

The same source also states: “It is of utmost importance to ensure that Supreme National Authority for Combating Corruption (SNACC) has the necessary capacities to ensure full implementation of these two laws. Proper implementation and uniform application of sanctions in every case of non-compliance is the only way to prevent and manage conflict-of-interest situations in the Yemeni public service.”

The same report notes that even with adequate staffing, “A major challenge for the Government is retaining qualified employees within the High Tender Board (HTB) and other key oversight and monitoring agencies, such as the SNACC in implementing public procurement reforms in Yemen. Key national oversight institutions (including the HTB, High Authority for Tender Control. (HATC), Central Organization for Control and Auditing (COCA) and SNACC) have recognised the importance of attracting and retaining qualified staff and made efforts to invest in capacity building by offering financial incentives, organising study tours and exchanges and providing trainings.

“Co-operation among these four institutions could be further reinforced through, for instance, rotation job opportunities.”

Second source:

“This required the designation of an official premise to operate out of. A building in Tahrir that was previously occupied by the Ministry of Education was chosen for this location. The implementation of physical structure also involved the hiring of an administrative staff to run SNACC and handle technical, administrative, and financial issues.”

It is not certain that the qualifications of the staff are of a high quality, or have the professional background in anti-corruption, as observed by international organizations and the private sector of Yemen. Especially as anti-corruption is a relatively new function in Yemeni government, and judging by the effectiveness of other watchdogs in alleviating corruption (COCA, with several years of experience), there are doubts as to the ability of SNACC to be any more effective, as second source clearly notes:

“Another challenge is the lack of expertise in the field, even worldwide. According to Almarani (Suad Almarani, the Assistant to the Head of the International Cooperation Sector of SNACC), anti-corruption is a relatively new concept across the globe, and particularly in the Middle East.”

**References:**

1) <http://www.oecd.org/dataoecd/32/9/45916397.pdf>

2) <http://www.yemen-today.com/go/development/3009.html>

**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.

56e. In practice, agency appointments support the independence of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

**Comments:**

The findings of the 2008 Global Integrity Report are still applicable here since the Board of Trustees of SNACC has yet to finish its first term:

"With the nominations coming from the Consultative Assembly (all of whose members are appointed) and endorsed by a House of Representatives, where the ruling party is almost guaranteed an overwhelming majority, it is inconceivable to suggest that appointments to the Supreme National Anti-Corruption Committee (SNACC) can be totally free from political association. (The Chairman of SNACC is a member of the ruling party, the General People's Congress.)"

The same is true for the heads of the Central Organization for Control and Auditing (COCA) and the Public Property Court, and the chairman of the Judiciary Council. The senior positions within SNACC are bound to be politically inspired, even if not necessarily without compromise to professional and even ethical standards. One may ascertain that there are going to be certain elements of officialdom that will remain untouchable by any authority."

Since the initial nomination is done by the Shoura Council (whose members are appointed by the President), there is a fine line that compromises the independence accordingly.

Third source states:

"Its 11 members were elected from a pool of 30 potential candidates chosen by the presidential-appointed upper house, raising concerns about their ability to be truly independent of the executive and hold officials to account."

Also, the weakness of the SNACC staff capacities underscores the absence of a fully objective process of staff selection, even at the Secretariat level.

**References:**

- 1) 2008 Global Integrity Report
- 2) OECD Report — <http://www.oecd.org/dataoecd/32/9/45916397.pdf>
- 3) <http://freedomhouse.org/template.cfm?page=140&edition=9&ccrcountry=207&section=91&ccrpage=43> .

**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.

56f. In practice, the ombudsman agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

The above source 1 states:

"The Supreme National Authority for Combating Corruption (SNACC) has a separate budget, to which the standard budgeting rules and procedures are applied. The authority's chairman enjoys the same power as that granted to the Ministers of Finance and Civil Service and Insurance in terms of using funds allocated for its budget and managing its activities and personnel."

Source 2 states:

"The group is financially and administratively independent, meaning that they request 'one figure' for funding from the government and are allowed to employ whoever they choose."

SNACC, the Central Organization for Control and Auditing (COCA) and the Higher Tender Bond also receive donor support from the UN Development Programme, US Aid, the National Democratic Institute and other donors, mostly in the form of technical assistance; however, aid could include cash funding of workshops, seminars or training (See third source):

“USAID also provides support to SNACC [Supreme National Authority for Combating Corruption], HTB [Higher Tender Board], and COCA [Central Organization for Control and Audit] to improve transparency and credibility within these key government institutions.”

**References:**

- 1) <http://siteresources.worldbank.org/INTMNAREGTOPGOVERNANCE/Resources/Jan08ArunonYemen.pdf>
- 2) <http://pomed.org/blog/2010/12/pomed-notes-corruption-challenges-in-yemen.html/>
- 3) <http://www.globalsecurity.org/military/library/news/2010/03/mil-100317-irin01.htm>

**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.

56g. In practice, the ombudsman agency (or agencies) makes publicly available reports.

100 | 75 | 50 | **25** | 0

**Comments:**

The first source states:

“The first round report for 2009 to President Ali Abdullah Saleh and the Parliament about its activities during the first half of the current year so as to implement part 16 of article No. 8 from Law No. 39 for the year 2006 concerning combating corruption.”

The agency stated that they obtained a copy of the report, but no other independent source or even donors indicated getting a copy of it.

Even Supreme National Authority for Combating Corruption (SNACC) recognizes that it also relies on reports of its co-watchdog organization:

“The reports of the Central Organization for Control and Audit constitute major references for violations and deviations committed by some entities,” says Yassin Abdu Saed (SNACC Media Director) (second source).

The report is also not available in SNACC website.

Efforts to access the SNACC website by researcher to obtain copies of issued SNACC reports were unsuccessful, even to pages previously accessed heretofore for texts of certain laws.

It is worth noting that references to SNACC reports were made by official or pro government newspapers or Internet sites.

**References:**

- 1) <http://www.sabanews.net/en/news184127.htm> — An official agency of the Government.
- 2) <http://yementribune.com/blog/?p=1205> – relying on report by Al-Thawra Newspaper – official newspaper.

**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.

56h. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

There are several press reports about the number of reports that have been investigated or are under investigation by the Supreme National Authority for Combating Corruption (SNACC), but the problem still remains that the Law prevents SNACC from investigating or pursuing senior government officials.

The second source shows that SNACC receives reports but has not really done any tangible efforts to get the prosecution of cases, as it relies on the judicial authority for that.

The third source states:

"At the conclusion of a meeting on Saturday, the state-commissioned Supreme National Authority for Combating Corruption (SNACC) said it will investigate allegations of corruption in the oil sector in Yemen, published by Elaph newspaper"

Criticisms of SNACC (even by members of Parliament in the ruling party interviewed by Al-Jazeera) suggest that in essence, SNACC is unable to be effective partly due to its weak mandate and partly because the laws restrict its ability to pursue corrupt officials, or reach decisive rulings on corruption cases (fourth source).

**References:**

- 1) <http://www.alarabonline.org/index.asp?fname=%5C2011%5C02%5C02-13%5C982c1.htm&dismode=x&ts=13-2-2011%2011:55:19> – Arabic
- 2) <http://www.yemenies.net/showthread.php?t=2172> – Arabic
- 3) <http://yementribune.com/blog/?p=1122>
- 4) [http://aljazeera.net/NR/exeres/B0E7815D-A371-4F49-A7C4-CBBB98FD081F.htm#wbc\\_purpose=basic\\_Current](http://aljazeera.net/NR/exeres/B0E7815D-A371-4F49-A7C4-CBBB98FD081F.htm#wbc_purpose=basic_Current)

**100:** 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.

**75:**

**50:** 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.

**25:**

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

56i. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

By Law, the Supreme National Anti-corruption Committee (SNACC), is not empowered to pass judgment or issue sentences on corruption cases. Corruption cases are referred to the judiciary, where seldom have any measures been taken to penalize corrupt officials.

Officials and citizens all state that SNACC has not been able to get any meaningful corruption cases prosecuted and ruled on. At best, "they are referred to the courts and there they get lost in the aisles of the judiciary" (second source).

Some relocations, reprimands or temporary suspensions have been made for low-level judges, but in most cases, this is the job of the Judicial Inspection Department rather than that of SNACC.

**References:**

- 1) The Anti-corruption Law No. 39 for 2006
- 2) [http://aljazeera.net/NR/exeres/B0E7815D-A371-4F49-A7C4-CBBB98FD081F.htm#wbc\\_purpose=basic\\_Current](http://aljazeera.net/NR/exeres/B0E7815D-A371-4F49-A7C4-CBBB98FD081F.htm#wbc_purpose=basic_Current)

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

**75:**

**50:** 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.

**25:**

**0:** 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.

56j. In practice, the government acts on the findings of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

**Comments:**

Notwithstanding the large number of cases reported to the Supreme National Authority for Combating Corruption (SNACC), there are very few cases acted upon by the judiciary, as attested by some members of Parliament and other persons in the source above.

**References:**

1) [http://aljazeera.net/NR/exeres/B0E7815D-A371-4F49-A7C4-CBBB98FD081F.htm?wbc\\_purpose=basic\\_Current](http://aljazeera.net/NR/exeres/B0E7815D-A371-4F49-A7C4-CBBB98FD081F.htm?wbc_purpose=basic_Current)

**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's reports are often ignored, or given superficial attention. Ombudsman's reports do not lead to policy changes.

56k. In practice, the ombudsman agency (or agencies) acts on citizen complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The Supreme National Authority for Combating Corruption (SNACC) was unable to act upon complaints from the people of Hodeida on officials, dignitaries and businessmen. It took Parliament to send an investigating committee to Hodeida to investigate the complaints. When the committee confirmed the complaints and named the culprits, members of Parliament argued and fought each other and no significant action was taken to remedy the people's complaints. Thus, Parliament was powerless to respond to the people's complaints, and SNACC was far less powerful to even deal with such complaints.

The second source indicates the difficulty that any anti-corruption authority faces in doing its job. How does one deal with corruption at any level, if the members of the President's family have a free hand with the assets and resources of the Government and not face any measures to control their abuse of public funds for their own enrichment? Thus, SNACC would be unable to deal with citizen's complaints even if it wanted to:

"Yemeni oil resources have decreased, so Saleh no longer has the resources to exercise his authority. This has led to the decline of his power in the central government and its concentration in the capital Sanaa," an unnamed Western diplomat told the New York Times. The paper said the Yemeni president "presents a problem to (US) President Barack Obama," as Saleh is open to U.S. support but is not actively doing much to combat rampant corruption in his state administrations and bodies. This could limit his access to U.S. financial support," according to the paper."

**References:**

1) [http://www.yementimes.com/defaultdet.aspx?SUB\\_ID=33840](http://www.yementimes.com/defaultdet.aspx?SUB_ID=33840)

**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.

---

## 57. Can citizens access the reports of the ombudsman?

8

57a. In law, citizens can access reports of the ombudsman(s).

Yes | **No**

**Comments:**

None of the relevant laws stipulate the public access of reports of the Supreme National Authority for Combating Corruption (SNACC). In fact, the laws sometimes forbid it. Only SNACC is given these reports and only SNACC can make use of them. SNACC may turn to others for expertise advice, but it cannot make the reports public, in order not to expose the names of public officials before their "conviction."

**References:**

- 1) Anti Corruption Law No. 39 for 2006
- 2) Financial Disclosure Law No. 30 of 2006

**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.

57b. In practice, citizens can access the reports of the ombudsman(s) within a reasonable time period.

100 | 75 | 50 | 25 | **0**

**Comments:**

Some access is sometimes made available, but it often is given to official news organs and agencies.

The third source indicates that the Supreme National Authority for Combating Corruption (SNACC) reports are given to the President and Parliament "that Saba News Agency also received copies of."

**References:**

- 1) Anti Corruption Law No. 39 for 2006
- 2) Financial Disclosure Law No. 30 of 2006
- 3) <http://www.sabanews.net/en/news184127.htm>

**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.

57c. In practice, citizens can access the reports of the ombudsman(s) at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The law limits accessibility to Supreme National Authority for Combating Corruption (SNACC) reports, but available information can be found at the cost of newspapers or Internet access, as screened by SNACC censors and official press sources.

**References:**

- 1) Anti-corruption Law No. 39 for 2006
- 2) Financial Disclosure Law No. 30 of 2006
- 3) <http://www.sabanews.net/en/news184127.htm>

**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 NGOs. 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 NGOs trying to access this information.

---

## 5.2. Supreme Audit Institution

---

58. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

100

58a. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

Yes | No

**Comments:**

The Central Organization for Control and Auditing has been the official Government audit agency from the 1970s in the former North Yemen. The Law confirmed its status in the United Republic of Yemen.

**References:**

1) Republican Decree of Law No. 39 Concerning the Central Organization for Control and Auditing (COCA) – <http://snaccyemen.org/details.asp?id=103&catid=33>

**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.

---

59. Is the supreme audit institution effective?

28

59a. In law, the supreme audit institution is protected from political interference.

Yes | **No**

**Comments:**

The first source states:

"The World Bank recently stressed the necessity of the Central Organization for Control and Auditing, or COCA, and the Anti-Corruption Authority being fully and truly independent in their work, maintaining that their current supposed independence is merely ink on paper."

COCA reports to the Executive Office of the Presidency and presents its reports to Parliament and the President.

**References:**

1) Republican Decree of Law No. 39 Concerning the Central Organization for Control and Auditing (COCA) – <http://snaccyemen.org/details.asp?id=103&catid=33>

2) <http://www.yementimes.com/DefaultDET.aspx?i=1182&p=local&a=1>

**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.

59b. In practice, the head of the audit agency is protected from removal without relevant justification.

100 | 75 | 50 | 25 | **0**

**Comments:**

Article 19B of the referenced Law explicitly states that the Chairman of the Central Organization for Control and Auditing (COCA) is appointed by the Presidency (formerly Presidential Council, now just the President). There has been one case where the Chairman/President of COCA was replaced, without due cause (Ali Muqbil Ghuthaim).

Article 22 explicitly states that COCA is independent in the performance of its duties, and no entity may interfere in the affairs of COCA, its branches or staff.

Second source states: "Still, COCA does not appear to be fully independent of the executive branch."

**References:**

1) Republican Decree of Law No. 39 Concerning the Central Organization for Control and Auditing (COCA) – <http://snaccyemen.org/details.asp?id=103&catid=33>

2) <http://www.oecd.org/dataoecd/32/9/45916397.pdf>

**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.

59c. In practice, the audit agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

The first source states:

“The Central Organization for Control and Audit (COCA) is an anomaly in an otherwise weak set of state institutions. By comparison to other ministries and agencies, COCA appears to have a sufficient number of competent and professional staff.”

Indeed, had it not been for being under the domination of the Presidency, COCA could have been able to serve as an effective auditor of Government entities and could have been effective at exposing and even pursuing for the conviction of corrupt officials. COCA has brought genuine cases of tender finagling to the courts, where political interference eventually would not allow for conviction of the cases, despite convincing evidence.

This was during Ali Ghuthaim’s Chairmanship and it was after that he was replaced in 1988 by the current President of the Republic.

**References:**

1) <http://yemen.usembassy.gov/root/pdfs/reports/yemen-corruption-assessment.pdf>

2) Researcher’s experience

**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.

59d. In practice, audit agency appointments support the independence of the agency.

100 | 75 | 50 | 25 | 0

**Comments:**

The appointment of senior positions (Chairman, Vice Chairman and Deputies and Central Department Heads) are by Presidential Decree and are nominated by the Central Organization for Control and Auditing (COCA) chairs).

The technical staff appointed to COCA, based on executive procedures, have some immunity from dismissal, transfer, relocation (subject to their permission), but it is not always guaranteed.

**References:**

1) Republican Decree of Law No. 39 Concerning the Central Organization for Control and Auditing (COCA)

— <http://snaccyemen.org/details.asp?id=103&catid=33>

**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.

59e. In practice, the audit agency receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

First source states:

"The Central Organization for Control and Auditing (COCA) shall have an independent budget, which appears in the state budget as a lump-sum figure." This concurs with Article 27 of referenced Law.

The recommendations of the Parliament in approving the 2011 budget stated that COCA should be provided with the adequate funding that will enable it to undertake its duties and build its capacities (Third source).

**References:**

- 1) <http://asianombudsman.com/ORC/factsheets/YemenOmbudsmanFactsheet.pdf>
- 2) Republican Decree of Law No. 39 Concerning the Central Organization for Control and Auditing (COCA) – <http://snaccyemen.org/details.asp?id=103&catid=33>
- 3) <http://www.the-yemen.com/news.php?action=view&id=1129>

**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.

59f. In practice, the audit agency makes regular public reports.

100 | 75 | 50 | 25 | 0

**Comments:**

1) The law compels the Central Organization for Control and Auditing (COCA) to provide Parliament and the Presidency and the relevant agencies, as well as the General Prosecutor if legal proceedings are warranted, its annual reports of the execution of the budget and investigations, as the case may be. It also presents its reports to the Consultative Assembly (Shura Council), as shown by second source, which indicates that the reports are accessible to the press.

2) Sometimes COCA leaks reports to the press, as the third source indicates: "Reporting has ranged from the revelation of leaks of secret reports from COCA, the national audit bureau, to the detailing of how, in one instance, education scholarships from the Ministry of Oil reportedly only went to the children of very high-ranking officials."

**References:**

- 1) Republican Decree of Law No. 39 Concerning the Central Organization for Control and Auditing (COCA) – <http://snaccyemen.org/details.asp?id=103&catid=33>

- 2) <http://www.yementimes.com/DefaultDET.aspx?i=864&p=local&a=1=33>
- 3) <http://yemen.usembassy.gov/root/pdfs/reports/yemen-corruption-assessment.pdf>

**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.

59g. In practice, the government acts on the findings of the audit agency.

100 | 75 | 50 | 25 | 0

**Comments:**

First source:

"The Central Organization for Control and Audit (COCA) is the country's national auditing agency for public expenditures and investigative body for corruption. COCA presented its reports to parliament but did not make them publicly available. The president appoints its top officials. In cases involving high-level officials, COCA submits reports directly to the president, who has the power to veto them. Only low-ranking officials have been prosecuted for corruption since COCA's inception in 1999."

(Actually COCA was established in 1974 as the Supreme audit institution in the former Yemen Arab Republic.)

On another note, the second source states:

Despite COCA's relative internal strengths, there appear to be external political limits in how far it can exercise its mandate. While this view is largely impressionistic, low-level administrative infractions do not generally appear to be subject to these constraints; indeed, a couple of the assessment team's interlocutors complained that COCA spends too much — or equal amounts of — time and energy on "easy" (meaning politically low-stakes or non-threatening) cases.

"One observer quite familiar with COCA confirmed that large cases have been stopped from proceeding because of political pressures but did not elaborate. Thus, COCA seems to excel in the number of and quality of the audits it performs, though their level of import and consequences vary."

**References:**

- 1) <http://www.state.gov/g/drl/rls/hrrpt/2009/nea/136083.htm>
- 2) <http://yemen.usembassy.gov/root/pdfs/reports/yemen-corruption-assessment.pdf>

**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.

59h. In practice, the audit agency is able to initiate its own investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

It seems that Central Organization for Control and Auditing (COCA) has taken less of an initiative to initiating investigations since Supreme National Authority for Combating Corruption (SNACC) came into being, as the conflicts between the mandates of both

watchdog agencies began to surface. Each still claims to initiate investigations, but it is more likely that COCA is the more credible institution to undertake such investigations.

The problem that COCA faces now is two-fold. COCA is tied by its reporting to the Presidential Office in a linear sense, and this has rendered many of its good investigative work pointless. With the establishment of SNACC, it is now forced to lose some of its prestige to a relatively new and inexperienced authority, while the real problem has been the inability of COCA to get the Government to act upon its credible findings in the past. This was expressed by many COCA staff members known to the researcher (who elected to remain understandably anonymous). The researcher has worked with COCA in cases involving the Public Electricity Corporation and the Yemen Drug Company as well as in the Civil Service Modernization Project.

The fourth source in this context raises the following question:  
Is there value to creating an anti-corruption Agency in the Yemeni context? Since the effectiveness of COCA might have been better had it enjoyed greater independence and benefited from greater follow up support from the judiciary and the Government.

The second source casually reflects this:  
"As the lead government auditing institution, this relative advantage in institutional capacity is important. Still, COCA does not appear to be fully independent of the executive branch, and the cases it has chosen to prosecute, and those that it has not, have caused some concern about overly political prioritization."

**References:**

- 1) <http://yementribune.com/blog/?p=1122>
- 2) <http://yemen.usembassy.gov/root/pdfs/reports/yemen-corruption-assessment.pdf>
- 3) Interviews with COCA staff

**100:** The supreme audit institution can control the timing and pace of its investigations without any input from the executive or legislature.

**75:**

**50:** 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.

**25:**

**0:** 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.

---

## 60. Can citizens access reports of the supreme audit institution?

25

60a. In law, citizens can access reports of the audit agency.

Yes | **No**

**Comments:**

1) There is no legal stipulation for public access to Central Organization for Control and Auditing (COCA) reports but the reports are presented to the Presidency, Parliament and the concerned entity (for specific cases)

2) Article 11 states that COCA should inform the relevant government agency of its findings in cases concerning that agency. If the relevant agency does not act upon the report within 30 days, COCA can refer the case to the General Prosecution of Public Property. However, in the cases involving ministers, vice ministers and undersecretaries, the reports are given to the president.

3) Article 13 states that COCA presents its reports to the relevant entities, with copies sent to the other concerned entities and the Presidential Council (which has now been annulled, and, thus, they go to the president). COCA also sends its reports on the review of the budgets, final accounts and performance assessments of various government entities to the entities concerned, with copies to the other relevant concerned entities. COCA sends its annual review of the Final Account of the Government Budget (and the attached budgets of "autonomous" units) to the President, Parliament, the Cabinet and other relevant concerned entities.

**References:**

- 1) Republican Decree of Law No. 39 Concerning the Central Organization for Control and Auditing (COCA) — <http://snaccyemen.org/details.asp?id=103&catid=33>

**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.

60b. In practice, citizens can access audit reports within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

1) The law compels Central Organization for Control and Auditing (COCA) to provide Parliament, the Presidency and the relevant agencies, as well as the General Prosecutor if legal proceedings are warranted, its annual reports on the execution of the budget and case investigations, as the case may be. It also presents its reports to the Consultative Assembly (Shura Council), as stated by second source, which indicates that the reports are accessible to the press.

2) Sometimes COCA leaks reports to the press, as third source indicates:  
"Reporting has ranged from the revelation of leaks of secret reports from COCA, the national audit bureau, to the detailing of how, in one instance, education scholarships from the Ministry of Oil reportedly only went to the children of very high-ranking officials."

**References:**

1) Republican Decree of Law No. 39 Concerning the Central Organization for Control and Auditing (COCA) – <http://snaccyemen.org/details.asp?id=103&catid=33>

2) <http://www.yementimes.com/DefaultDET.aspx?i=864&p=local&a=1=33>

3) <http://yemen.usembassy.gov/root/pdfs/reports/yemen-corruption-assessment.pdf>

**100:** 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.

**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 reports may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

60c. In practice, citizens can access the audit reports at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The reports are discussed in Parliamentary session, which are televised (with a lot of censorship).

The reports are also leaked to newspapers. So some of the reports are accessible at reasonable costs.

The law compels Central Organization for Control and Auditing (COCA) to provide Parliament, the Presidency and the relevant agencies, as well as the General Prosecutor if legal proceedings are warranted, its annual reports on the execution of the budget and case investigations, as the case may be. It also presents its reports to the Consultative Assembly (Shura Council), as stated by second source, which indicates that the reports are accessible to the press.

They are not however able to the public from COCA's website.

**References:**

1) Republican Decree of Law No. 39 Concerning the Central Organization for Control and Auditing (COCA) – <http://snaccyemen.org/details.asp?id=103&catid=33>

2) <http://www.yementimes.com/DefaultDET.aspx?i=864&p=local&a=1=33>

3) <http://yemen.usembassy.gov/root/pdfs/reports/yemen-corruption-assessment.pdf>

**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 NGOs. 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 NGOs trying to access this information.

---

51  
5.3. Taxes and Customs: Fairness and Capacity

---

61. In law, is there a national tax collection agency?

100

61a. In law, is there a national tax collection agency?

Yes | No

**Comments:**

The Tax Authority of Yemen is responsible for collecting all Yemeni Government taxes (income, sales, stamp duty, qat, estate, etc.) as mandated by specifically by source 2 and all the relevant tax laws.

**References:**

- 1) The various tax laws issued from 1992 up to Income Tax Law for 2010 and its Executive Procedures
- 2) Republican Decree No. 29 for 1993 Concerning the Organizational By Laws for the Tax Authority
- 3) All relevant tax laws may be obtained here (Tax Authority Website) some translated into English – <http://www.tax.gov.ye/rules.php?address=5>

**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.

---

62. Is the tax collection agency effective?

38

62a. In practice, the tax collection agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

The 1st source states:  
"There are still widespread reports of bribery and intimidation; there is no internal mechanism to investigate alleged impropriety; a burdensome reporting requirement system encourages tax evasion among businesses; the Tax Authority has not earned

popular trust; and the agency's low salaries provide fertile ground for bribery," which would entail that the staff need some refining professionally, The International Monetary Fund and Price Waterhouse is providing technical assistance.

The Tax Authority is also one of six core units undergoing restructuring and "reengineering" as part of the Civil Service Modernization Project."

On another note the same source notes:

"The International Finance Corporation (IFC) Doing Business report for Yemen shows that entrepreneurs must make 32 payments, spend 248 hours, and pay 48.04 percent of gross profit in taxes. Doing Business rates Yemen 89th in the world for paying taxes based on this unsustainable tax burden."

**References:**

<http://yemen.usembassy.gov/root/pdfs/reports/yemen-corruption-assessment.pdf>

**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.

62b. In practice, the tax agency receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

The budget of the Tax Authority is presented as shown in the reference source as a part of the overall budget of the Ministry of Finance.

The Tax Authority also obtains foreign donor support for various building projects.

**References:**

1) <http://www.mof.gov.ye/files/budget/2010/c/31/pdf> – the budget of the General Tax Authority Yemen for 2010

2) <http://web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/IDA/0,,contentMDK:22311113~menuPK:3266877~pagePK:51236175~piPK:437394~the> – an indication of the donor support that the Tax Authority receives from donors such as the World Bank, the IMF and other donors.

**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.

---

63. In practice, are tax laws enforced uniformly and without discrimination?

25

63a. In practice, are tax laws enforced uniformly and without discrimination?

**Comments:**

From a study of the Yemeni and Indian Tax System Source 1:

"The tax system in both countries is said to be highly imbalanced; there is more emphasis on the indirect taxes compared to direct taxes. Indirect taxes are more than 60 percent of tax revenue and more than 5 percent of GDP."

The second source states:

"The Tax Authority in Yemen has taken important steps to reduce levels of corruption, acknowledging in discussions with the assessment team that it is "very common" for companies to offer a bribe, or for tax officials to request a bribe, to reduce a company's tax liability. In an effort to combat corruption, the Tax Authority reports recently transferring approximately 70 officials who allegedly solicited bribes from taxpayers (though should be taken with a grain of salt)."

It then goes on say:

"A production and consumption tax was introduced in 1996. Full compliance with all legally required taxes is unsustainable for an average-sized company in Yemen. As noted above, an average-sized firm must make 32 payments to the Tax Authority per year, spending an average of 248 hours, and paying 48 percent of gross profit in taxes (17. Therefore, firms must either pay bribes or operate in the informal sector to stay in business. As with many other areas for reform in Yemen, the assessment team learned that many laws as they appear on the books are deemed adequate, but the implementation of the law is lacking."

The third source states:

"Yemen's economic climate is one of the least competitive in the Arab world, and in terms of the minimum amount of capital required to set up a business, it is the second most expensive country in the world. Businesses are expected to negotiate their tax rates with government officials, as there is no standard rate evenly applied. Personal relationships with powerful officials guide the amount of tax a business has to pay and thus can determine which business succeed and which fail (Phillips 2008, 248). The World Bank's Doing Business indicators present a broad overview of Yemen's onerous tax system."

**References:**

- 1) <http://www.yemen-nic.net/contents/studies/detail.php?ID=16390&print=Y>
- 2) <http://yemen.usembassy.gov/root/pdfs/reports/yemen-corruption-assessment.pdf>
- 3) [http://www.google.com/url?sa=i&source=web&cd=24&ved=0CCsQFjADOBQ&url=http%3A%2F%2Fpdf.usaid.gov%2Fpdf\\_docs%2FPNADT858.pdf&rct=j&q=Yemen%20Tax%20Aut%20TajjEoK4rAejm522Bw&usq=AFQjCNFiZYk4oSpiSP-3S-HxCDYXA5gd7g&sig2=xjwzZK3EBW68YCKe3velTA](http://www.google.com/url?sa=i&source=web&cd=24&ved=0CCsQFjADOBQ&url=http%3A%2F%2Fpdf.usaid.gov%2Fpdf_docs%2FPNADT858.pdf&rct=j&q=Yemen%20Tax%20Aut%20TajjEoK4rAejm522Bw&usq=AFQjCNFiZYk4oSpiSP-3S-HxCDYXA5gd7g&sig2=xjwzZK3EBW68YCKe3velTA)

**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.

---

## 64. In law, is there a national customs and excise agency?

100

64a. In law, is there a national customs and excise agency?

Yes | No

**Comments:**

A copy of the third source could not be obtained because the website of the Customs Authority was not accessible.

**References:**

- 1) <http://www.business.ye/databank/index.php?mod=contents&tmp=2&do=view&cid=17&id=343>

2) Republican Decree No. 27 for the Organizational Bylaws of the Ministry of Finance – <http://www.mof.gov.ye/regulations/bylaws>

3) Organizational By – Laws of the Customs Authority

**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.

## 65. Is the customs and excise agency effective?

38

65a. In practice, the customs and excise agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

### Comments:

Source 1:

"Customs inlets of the country such as Haradh, Hudayda, Taiz and Sana'a rely on the Automated System for Customs Data (ASCYUDA) and are monitored around the clock from the customs headquarters in Sana'a; Customs staff members were trained in running and managing the new automated system in all areas that run the ASYCUDA system; an IT unit inside the Yemen Customs Authority has been formed; ..."

Source 2:

"An ongoing project for customs valuation trains customs officials in the implementation of the Customs Valuation System of the World Trade Organization (WTO) and helps the Yemen Customs Authority (YCA) be fully compliant with the WTO system."

The Customs Authority is sufficiently staffed and many do get training, much of which is funded by donors. The deficiency in professionalism may be due to the apparent corruption, which is rampant in the YCA due to poor accountability and controls, not to mention a systematic periodic staff performance evaluation system, whose inconsistent standards for evaluating staff members also contributes to the corruption in the YCA.

(Source 3):

"Yemen's weighted average tariff rate was 4.2 percent in 2009. Some import bans and restrictions, import licensing requirements, inefficient customs administration, and corruption add to the cost of trade."

### References:

1) [http://www.undp.org.ye/poverty\\_fact2.php](http://www.undp.org.ye/poverty_fact2.php)

2) <http://www.yemenembassy.org/economic/DevelopmentAssistance.htm>

3) <http://www.heritage.org/Index/country/Yemen>

**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.

65b. In practice, the customs and excise agency receives regular funding.

100 | 75 | 50 | 25 | 0

### Comments:

In addition to regular budget appropriations, the Yemen Customs Authority (YCA) receives donor assistance for training and capacity building as well as preparing for World Trade Organization (WTO) membership.

**References:**

1) Budget of the Yemen Customs Authority for 2010 — 1) <http://www.mof.gov.ye/files/budget/2010/c/31/pdf> — the budget of the General Tax Authority Yemen for 2010

**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.

---

66. In practice, are customs and excise laws enforced uniformly and without discrimination?

25

66a. In practice, are customs and excise laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

**Comments:**

Customs tariff regulations and tax laws remain inconsistent and smuggling is common, but the government has taken steps in recent years to standardize the process with Automated System for Customs Data (ASYCUDA) systems and a World Trade Organization (WTO)-compliant valuation methods.” (First source)

It is impossible to know exactly the extent of smuggling that flows both ways across Yemen’s borders. Furthermore, evaluation of the performance of the Customs (and Tax Authority) is never undertaken in a periodic manner. Stringent security measures have actually brought on more opportunities for corruption.

The same source states:

“Illicit activities include soliciting and paying bribes to facilitate or obstruct projects; leveraging dispute settlements; skewing taxation and customs tariff augmentations; and engaging in family or tribal nepotism.”

**References:**

<http://www.state.gov/e/eeb/rls/othr/ics/2009/117168.htm>

**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:**

**50:** Customs and excise laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade customs requirements.

**25:**

**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.

---

## 5.4. Oversight of State-Owned Enterprises

---

67. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

67a. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

Yes | No

**Comments:**

There are Government ministries for specific state-owned companies, such as Electricity Corporations, Overland Transport, Communications. There is the Ministry of Industry and Trade that oversees a cluster of enterprises such as the three major publicly owned cement plants in Amran, Al-Barh and Bajil.

There are also mixed-sector enterprises with mixed public-private ownership, including the Yemen Bank for Reconstruction and Development and the Yemen Drug Company.

**References:**

The laws regulating or governing the relevant state-owned companies under their mandates:

1) Electricity Law

2) Ministry of Trade and Industry (Government trade and industrial enterprises)

Ministry of Water and the Environment (Water and Sanitation utilities)

Ministry of Electricity and Energy (Public Electricity utilities)

Ministry of Telecommunications and Information Technology (Yemen Telecommunications Company, Internet Services)

**Yes:** A YES score is earned if there is an agency, series of agencies, or equivalent mechanism tasked with overseeing the conduct and performance of state-owned companies on behalf of the public. A YES score can be earned if several government agencies or ministries oversee different state-owned enterprises. State-owned companies are defined as companies owned in whole or in part by the government.

**No:** A NO score is earned if this function does not exist, or if some state-owned companies are free from government oversight.

68. Is the agency, series of agencies, or equivalent mechanism overseeing state-owned companies effective?

20

68a. In law, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies is protected from political interference.

Yes | No

**Comments:**

Each ministry has its own law, such as the Law of Electricity, and procedural bylaws. The overseeing agencies are mostly government-line ministries. Ministries are subject to sectoral laws and administrative guidelines for their work. Since they are government ministries, they are subject to political interference.

Since the supervising agencies are direct line ministries and/or agencies, they are completely under the influence of the executive authority.

The source indicates that even the military has a number of state-owned companies under its control, which of course cannot make them free from political influence.

The importance sectors of state-owned companies that are subject to strong political influence, include the Yemeni Economic Corporation (formerly under the auspices of the military) and the Safir Petroleum Company.

**References:**

<http://www.globalsecurity.org/military/world/yemen/military-intro.htm>

**Yes:** A YES score is earned only if the agency, series of agencies, or equivalent mechanism has some formal operational 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, series of agencies, or equivalent mechanism is a subordinate part of any government ministry or agency.

68b. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

The first source:

"The most serious constraints on potential investors have been the excessive presence of the government in some areas (leading to inefficient public enterprise monopolies, and over-regulation) and its weakness in others (such as justice, banking regulation, and information). In the transport sector, there is still a risk that the government's capacity to implement reforms may be lacking."

The second source indicates that most public enterprises are efficiently managed and even running by losses (including the utilities), such as the Public Electricity Corporation, which is subsidized since it cannot impose tariffs that are cost-based.

Although the oversight agencies are sufficiently staffed, most of the staff are incapable of carrying out their supervisory role because they lack professional knowledge and training. In many cases, it would not make that much of a difference if the oversight agencies existed as most of the enterprises manage to operate effectively independent from any meaningful monitoring and control by the supervising ministries.

**References:**

1) <http://siteresources.worldbank.org/INTYEMEN/Overview/20150270/YE-Transport.pdf>

2) <http://issuu.com/world.bank.publications/docs/9780821355749>

**100:** The agency, series of agencies, or equivalent mechanism has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency, series of agencies, or equivalent mechanism has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency, series of agencies, or equivalent mechanism has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

68c. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

All ministries and supervising agencies are allocated regular funding from the Government budget.

**References:**

Public Budget of the Government

**100:** The agency, series of agencies, or equivalent mechanism 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, series of agencies, or equivalent mechanism 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.

68d. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies independently initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

The supervising ministries and agencies, etc. can report any cases for investigation to the Central Organization for Control and Auditing or the Supreme National Committee for Combating Corruption, which will then initiate investigations. There are no clear delineations as to who should initiate the investigations, and rarely has any respective ministry or agency even referred such cases to the ombudsman or the audit agency, unless prompted by political reasons.

The score is low because the oversight role of many of these ministries or agencies is so weak that many Yemenis joke that the state-owned actually run their supervising ministries or agencies, because they have access to more free money and are not under the central control of the Ministry of Finance.

**References:**

1) Laws of Respective Government agencies supervising parastatals.

2) Civil Service Law No. 19 of 1992 – Civil Service Law and its By Laws – <http://snaccyemen.org/details.asp?id=116&catid=33> & : <http://www.snaccyemen.org/details.asp?id=146&catid=33>

3) COCA and Anti Corruption Law No. 6 for 2006 (<http://snaccyemen.org/details.asp?id=103&catid=33> and Law No. 39 for 2006 Concerning Anti-Corruption <http://www.snaccyemen.org/details.asp?id=146&catid=33> respectively.

100: When irregularities are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in investigating and/or in cooperating with other investigative bodies.

75:

50: The agency, series of agencies, or equivalent mechanism starts investigations, but is limited in its effectiveness or in its cooperation with other investigative agencies. The agency, series of agencies, or equivalent mechanism may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

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

68e. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

The supervising ministries and agencies are not mandated to prosecute or punish any of the entities under their control for any infraction for which the latter may be accountable. Conviction and sentencing is done by the courts. There may be some disciplinary measures sometimes imposed by the personnel committees in ministries and even the entities themselves, but these measures mainly relate to minor conduct.

**References:**

1) Laws of Respective Government agencies supervising parastatals.

2) Civil Service Law No. 19 of 1992 – Civil Service Law and its By Laws – <http://snaccyemen.org/details.asp?id=116&catid=33> & : <http://www.snaccyemen.org/details.asp?id=146&catid=33>

3) COCA and Anti Corruption Law No. 6 for 2006 (<http://snaccyemen.org/details.asp?id=103&catid=33> and Law No. 39 for 2006 Concerning Anti-Corruption <http://www.snaccyemen.org/details.asp?id=146&catid=33> respectively.

**100:** When rules violations are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in penalizing offenders and/or in cooperating with other agencies that impose penalties.

**75:**

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

**25:**

**0:** The agency, series of agencies, or equivalent mechanism does not effectively penalize offenders or refuses to cooperate with other agencies that enforce penalties. The agency, series of agencies, or equivalent mechanism may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency, series of agencies, or equivalent mechanism may be partisan in its application of power.

---

## 69. Can citizens access the financial records of state-owned companies?

20

69a. In law, citizens can access the financial records of state-owned companies.

Yes | **No**

**Comments:**

Information of any kind is available only in regard to those state-owned companies that are subject to privatization. There is no stipulation for public access to any information on other state-owned companies.

**References:**

Law No. 35, 1991, for Public Corporations, Companies and Authorities

Law No.7, 1999, amending Law No. 35, 1991

Law No. 45, 1999 ,Concerning Privatization, Article 4 (a)

**Yes:** A YES score is earned if the financial information of all state-owned companies is required by law to be public. State-owned companies are defined as companies owned in whole or in part by the government.

**No:** A NO score is earned if any category of state-owned company is exempt from this rule, or no such rules exist.

69b. In practice, the financial records of state-owned companies are regularly updated.

100 | 75 | 50 | **25** | 0

**Comments:**

As is the case with most government institutions, they must and do maintain records of their financial transactions and submit Final Accounts Records. More commercial organizations, such as state-owned banks, publish their financial records in official or independent newspapers.

**References:**

Law No. 35, 1991, for Public Corporations, Companies and Authorities

Law No.7, 1999, amending Law No. 35, 1991

**100:** State-owned companies always publicly disclose financial data, which is generally accurate and up to date.

**75:**

**50:** State-owned companies disclose financial data, but it is flawed. Some companies may misstate financial data, file the information behind schedule, or not publicly disclose certain data.

**25:**

**0:** Financial data is not publicly available, or is consistently superficial or otherwise of no value.

69c. In practice, the financial records of state-owned companies are audited according to international accounting standards.

100 | 75 | 50 | 25 | 0

**Comments:**

Some of the parastatals like the Public Electricity Corporation, the Economic Corporation and the Yemen Petroleum Company may not produce any audited financial statements at all, whereas other smaller and more professionally managed public sector enterprises such as the National Bank of Yemen (source 3) would produce audited financial statements. The enterprises that do not produce audited financial statements may be subject to audit by the Central Organizations of Auditing and Control.

**References:**

- 1) Law 39, 1992, Concerning the Central Organization for Control and Auditing
- 2) Law 45 of 1999 Concerning Privatization of Parastatals — <http://www.alestethmar.net/?/9147/story/> – Arabic
- 3) [http://www.nbyemen.com/reppdf/nby\\_2009\\_e.pdf](http://www.nbyemen.com/reppdf/nby_2009_e.pdf)
- 4) <http://www.ybrd.com.ye/Arabic/downloads/Report%20YBRD%20Arabic%202007.pdf>

**100:** Financial records of all state-owned companies are regularly audited by a trained third party auditor using accepted international standards.

**75:**

**50:** Financial records of state-owned 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:** State-owned 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.

69d. In practice, citizens can access the financial records of state-owned companies within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Most state-owned companies that do provide financial reports are slow to make them accessible to the public, even if they are audited. However, the fully government-owned National Bank of Yemen is more current on financial statements ( for 2009).

Meanwhile, mixed-sector-owned banks like the Yemen Bank for Reconstruction and Development (YBRD) are far behind (only going to 2007) in presenting their audited statements to the public, which are based on the regular reporting of the Final Accounts, which are not functional.

**References:**

- 1) [http://www.nbyemen.com/reppdf/nby\\_2009\\_e.pdf](http://www.nbyemen.com/reppdf/nby_2009_e.pdf)
- 2) <http://www.ybrd.com.ye/Arabic/downloads/Report%20YBRD%20Arabic%202007.pdf>

**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.

69e. In practice, citizens can access the financial records of state-owned companies at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Not all public enterprises do an independent audit, in which case, the Central Organization for Control and Auditing (COCA) may undertake an audit of the state-owned companies, but on a regular schedule; however, they will present their final accounts reports at the completion of each year.

The trend is that enterprises that are going to be privatized will present audited reports. These reports are usually published in some newspapers or on the Internet. But reports of other companies, such as the Yemen Cement Company (which has three large cement plants) are not.

**References:**

- 1) Privatization Law No. 45 of 1999 — <http://www.alestethmar.net/?/9147/story/>
- 2) Republican Decree of Law No. 39 Concerning the Central Organization for Control and Auditing (COCA) — <http://snaccyemen.org/details.asp?id=103&catid=33>
- 3) <http://www.ybrd.com.ye/Arabic/downloads/Report%20YBRD%20Arabic%202007.pdf>

**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 NGOs. 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 NGOs trying to access this information.

---

47  
5.5. Business Licensing and Regulation

---

70. Are business licenses available to all citizens?

44

70a. In law, anyone may apply for a business license.

Yes | No

**Comments:**

The third source states that the Investment Law “ensures equality between Yemeni, foreign and expatriate capital without distinction or discrimination between rights, duties and measures.”

"The Commercial Law encourages investments and attracts new investors in various sectors. The Commercial Company Law facilitates registration procedures and attracts foreign trade investments."

There are some additional conditions for foreign wives of Yemeni citizens and for women, who must have the permission of their husbands; and foreigners, who must have Yemeni partners, according to the Commercial Law.

**References:**

1) Investment Law No. 22, 2002,

Executive Bylaws for Law No. 22, 2002, Concerning Investment

Law of Commercial Registration No. 33, 1991, Concerning Trade Registration, and subsequent amending laws No. 31, 1997, Law No. 14 1999

Commercial Law No. 32, 1991, and its Amended Law No. 6 of 1998

**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.

70b. In law, a complaint mechanism exists if a business license request is denied.

Yes | **No**

**Comments:**

Article 14, in the first source, allows the Minister the final decision on complaints.

The Court may also be appealed to (Article 60 of Investment Law) if none of the other measures in Section VII of Investment Law are helpful.

However, there is no specific mechanism for redress in this case. After exhausting the normal channels of appeal, an applicant can resort to the Supreme Court "within a period not exceeding one month from the date of the Registrar's decision."

**References:**

1) [http://www.moit.gov.ye/moit/sites/default/files/Registration%20Law\\_0.pdf](http://www.moit.gov.ye/moit/sites/default/files/Registration%20Law_0.pdf) – Commercial Registration

2) [http://www.yemenembassy.org/economic/eng\\_law.pdf](http://www.yemenembassy.org/economic/eng_law.pdf) – Investment Law

**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.

70c. 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:**

First source states that it takes 20 days, which is unreasonable, since it is well known that there is quite a bureaucratic process involved in the processing of applications with most authorities, unless one has a connection and pays a bribe.

**References:**

1) <http://www.doingbusiness.org/data/exploreeconomies/yemen/starting-a-business>

2) INVESTMENT LAW NO. 22 OF 2002 — [http://www.yemenembassy.org/economic/eng\\_law.pdf](http://www.yemenembassy.org/economic/eng_law.pdf)

3) Commercial Registration Law — [http://www.moit.gov.ye/moit/sites/default/files/Registration%20Law\\_0.pdf](http://www.moit.gov.ye/moit/sites/default/files/Registration%20Law_0.pdf)

**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:**

**0:** Licensing takes more than three months for most groups. Some groups may wait six months to one year to get necessary licenses.

70d. 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:**

The cost calculated comes to Yrls 177,000 (US\$823). This does not take into account bribes and the capital requirements.

According to Corporate Business Law, the minimal capital requirements are Yrls 1,000,000 (US\$5,000) for a limited partnership and Yrls 5,000,000 (US\$25,000) for shareholding companies, of which a sizable sum will be spent for registration (nearly US\$900). For limited companies this amounts to a minimum of 20 percent of the capital requirements. For a poor country like Yemen, the cost can be prohibitive and hardly encourages the entrepreneurial spirit.

“The overall freedom to start, operate and close a business is restrained by Yemen’s regulatory environment.”

**References:**

- 1) <http://www.doingbusiness.org/data/exploreeconomies/yemen/starting-a-business>, which was updated June 2010
- 2) Companies Law – <http://ye2.mofcom.gov.cn/aarticle/lawsofhostcountry/foreigntradehost/200609/20060903048882.html>

**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.

**71. Are there transparent business regulatory requirements for basic health, environmental, and safety standards?**

33

71a. In law, basic business regulatory requirements for meeting public health standards are transparent and publicly available.

Yes | No

**Comments:**

There are a number of general and specific laws and regulations in regard to health and environmental protection. However, enforcement is generally weak and in almost all sectors in this area. the practical application is far below acceptable standards.

**References:**

- 1) Law of Environmental Protection No. 26 of 1995 – [http://www.beaah.com/home/Env-articles/lawsOfEnv/yemen-Law26\\_ar-](http://www.beaah.com/home/Env-articles/lawsOfEnv/yemen-Law26_ar-)

[1.html](#)

2) Law No. 37, 1992, Concerning Practice of Health Profession replaced by Law No. 26 of 2006 Regulating Medical and Pharmaceutical Practices

3) Fishing and Marine Life Regulations

<http://www.yemen.gov.ye/portal/القوانينوالقرارات/tabid/2419/Default.aspx> — English and Arabic

4) [http://msehsr1.tripod.com/YHLMMD\\_page\\_1.htm](http://msehsr1.tripod.com/YHLMMD_page_1.htm) Reference of health regulations

4) Sanitation/Hygiene Law No. 39 of 1999 – <http://www.justice-lawhome.com/vb//showthread.php?t=14044> — Arabic

**Yes:** A YES score is earned if basic regulatory requirements for meeting public health standards are publicly accessible and transparent.

**No:** A NO score is earned if such requirements are not made public or are otherwise not transparent.

71b. In law, basic business regulatory requirements for meeting public environmental standards are transparent and publicly available.

Yes | **No**

**Comments:**

There are also declarations designating certain areas as protected zones for their unique ecological and environmental zones for conservation purposes. However, it is well known that their protection is not complete and many important dignitaries have claimed private control in such zones, such as Socotra and the coastline along the Gulf of Aden.

In addition, Yemen faces serious problems in water conservation, for which regulations are either lacking or not enforced effectively. Thus, the laws are not deemed to be useful because they do not provide the most basic requirements for environmental protection. This makes the issue of their accessibility insignificant.

**References:**

1) Law No. 26, 1991, Concerning Environmental Protection [http://www.beaah.com/home/Env-articles/lawsOfEnv/yemen-Law26\\_ar-1.html](http://www.beaah.com/home/Env-articles/lawsOfEnv/yemen-Law26_ar-1.html)

2) Law No. 46, 1991, Concerning Fishing and Exploitation of Marine Life <http://www.yemen.gov.ye/portal/القوانينوالقرارات/tabid/2419/Default.aspx> — English and Arabic

3) <http://www.globalpost.com/dispatch/middle-east/091106/yemen-water-green-technology-culture>

**Yes:** A YES score is earned if basic regulatory requirements for meeting public 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.

71c. In law, basic business regulatory requirements for meeting public safety standards are transparent and publicly available.

Yes | **No**

**Comments:**

These laws are available and the website of the Ministry of Interior provides easy access to many relevant regulations. Regulations can be found in some of the relevant areas, such as electricity.

**References:**

1) Labor Law, 1995, amended by Law No. 25, 2003, Law No. 11, 2001, and Law No. 25, 2007, Article 35,

2) Civil Law No. 14, 2002, Part II, Chapter 1; Chapter 3

3) Traffic Police Law No. 46, 1991, and other police services

4) <http://www.star28.com/site/site-9262.html>

**Yes:** A YES score is earned if basic regulatory requirements for meeting public safety standards are publicly accessible and transparent.

**No:** A NO score is earned if such requirements are not made public or are otherwise not transparent.

## 72. Does government effectively enforce basic health, environmental, and safety standards on businesses?

0

72a. In practice, business inspections by government officials to ensure public health standards are being met and are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

### Comments:

Even with all the regulations, it is quite easy to see that there are no regular health and safety inspections for the most common basic services.

### References:

1) Law No. 26, 1991, Concerning Environmental Protection [http://www.beaah.com/home/Env-articles/lawsOfEnv/yemen-Law26\\_ar-1.html](http://www.beaah.com/home/Env-articles/lawsOfEnv/yemen-Law26_ar-1.html)

2) Law No. 46, 1991, Concerning Fishing and Exploitation of Marine Life <http://www.yemen.gov.ye/portal/القوانينوالقرارات/tabid/2419/Default.aspx> English and Arabic

3) <http://www.globalpost.com/dispatch/middle-east/091106/yemen-water-green-technology-culture>

**100:** Business inspections by the government to ensure that public health standards are being met 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 to ensure public health standards are met 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 to ensure that public health standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

72b. In practice, business inspections by government officials to ensure public environmental standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

### Comments:

Very seldom are there inspections for compliance with environmental, health or safety standards; thus, facilities that require health inspections, such as restaurants, ports, and private clinics, may go for years without being inspected. As for those that are, a small bribe will save the facility owners from any legal proceedings.

Specific mention is made here of inspections of groundwater extraction wells (especially borehole wells), as there has been a rapid depletion of groundwater resources, which are the only currently reliable source of potable water.

The second source shows that this is a serious issue, not just for Yemen's sustainable development, but for the country's survival.

### References:

1) [http://www.beeaty.tv/new/index.php?option=com\\_content&task=view&id=3749&Itemid=72](http://www.beeaty.tv/new/index.php?option=com_content&task=view&id=3749&Itemid=72)

2) <http://www.globalpost.com/dispatch/middle-east/091106/yemen-water-green-technology-culture>

**100:** Business inspections by the government to ensure that public environmental standards are being met 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 to ensure public environmental standards are met 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 to ensure that public environmental standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

72c. In practice, business inspections by government officials to ensure public safety standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

**Comments:**

It is clear from the reports of donor organizations from 2000 to now that Yemen has done little to improve the management of its environmental resources. There are hardly any regular activities in this regard, unless they are attached to donor-financed projects, or large scale infrastructure projects like the Yemen Liquefied Natural Gas Project, which have their own environmental assessment impact components.

Even product testing and certification relies on outside testing and/or certification for imported commodities and goods and they are based often on external standards (second source).

There are still hardly any inspections for employee safety in both the public and private facilities.

**References:**

1) <http://siteresources.worldbank.org/INTYEMEN/Overview/20150250/YE-Environment.pdf>

2) <http://www.undp.org.ye/environment.php>

3) <http://forum.rtarabic.com/showthread.php?t=35143> — A report on the inefficiency of environmental management and climatic impact on Yemeni shores.

4) <http://www.electrosuisse.ch/certification/Yemen.htm>

**100:** Business inspections by the government to ensure that public safety standards are being met 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 to ensure public safety standards are met 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 to ensure that public safety standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

---

Category 6. Anti-Corruption Legal Framework, Judicial Impartiality, and Law Enforcement Professionalism

### 73. Is there legislation criminalizing corruption?

67

73a. In law, attempted corruption is illegal.

Yes | **No**

#### Comments:

In all the above laws, stipulations on "attempt" are not found in the Specific Law on Anti-corruption (Law 39 of 2006)

The only law that seems to include attempted acts of is the Law of Tenders and Auctions "for attempting to provide information (confidential) to tenderers or awarding a tender to a specific tenderer, in which case the bid is rejected."

All pertinent legislation stresses the idea of "proven crimes"; in one law, some levels of senior authority are immune from prosecution (Law 6 of 1995).

#### References:

Law No. 39, 2006, Concerning Combating Corruption — 1) Anti-corruption Law No ( 39 ) for 2006 – <http://snaccyemen.org/details.asp?id=146&catid=33> – Eng

Law No. 30, 2006, Financial Disclosure

Penal Code No. 12, 1994, and subsequent amendments . Law No. 19, 1991, Concerning Civil Service, Articles 111, 117 (g), 122, 125 (b)

Law No. 6, 1995, Prosecution and Indictment of Senior Government Officials – [http://www.f-law.net/law/showthread.php/11431-%D9%82%D8%A7%D9%86%D9%88%D9%86-%D8%A7%D8%AC%D8%B1%D8%A7%D8%A1%D8%A7%D8%AA-%D8%A7%D8%AA%D9%87%D8%A7%D9%85-%D9%88%D9%85%D8%AD%D8%A7%D9%83%D9%85%D8%A9-%D8%B4%D8%A7%D8%BA%D9%84%D9%8A-%D9%88%D8%B8%D8%A7%D8%A6%D9%81-%D8%A7%D9%84%D8%B3%D9%84%D8%B7%D8%A9-%D8%A7%D9%84%D8%AA%D9%86%D9%81%D9%8A%D8%B0%D9%8A%D8%A9-%D8%A7%D9%84%D8%B9%D9%84%D9%8A%D8%A7-1995\(%D8%A7%D9%84%D9%8A%D9%85%D9%86\)](http://www.f-law.net/law/showthread.php/11431-%D9%82%D8%A7%D9%86%D9%88%D9%86-%D8%A7%D8%AC%D8%B1%D8%A7%D8%A1%D8%A7%D8%AA-%D8%A7%D8%AA%D9%87%D8%A7%D9%85-%D9%88%D9%85%D8%AD%D8%A7%D9%83%D9%85%D8%A9-%D8%B4%D8%A7%D8%BA%D9%84%D9%8A-%D9%88%D8%B8%D8%A7%D8%A6%D9%81-%D8%A7%D9%84%D8%B3%D9%84%D8%B7%D8%A9-%D8%A7%D9%84%D8%AA%D9%86%D9%81%D9%8A%D8%B0%D9%8A%D8%A9-%D8%A7%D9%84%D8%B9%D9%84%D9%8A%D8%A7-1995(%D8%A7%D9%84%D9%8A%D9%85%D9%86))

Tenders and Auctions (Procurement Law) <http://www.snaccyemen.org/details.asp?id=80&catid=33>

**Yes:** A YES score is earned if corruption laws include attempted acts.

**No:** A NO score is earned if this is not illegal.

73b. In law, extortion is illegal.

Yes | **No**

#### Comments:

If we assume the word "extortion" as defined by Webster's Online Dictionary (English translation — <http://www.websters-online-dictionary.org/definitions/extortion?cx=partner-pub-0939450753529744%3Av0qd01-tldq&cof=FORID%3A9&ie=UTF-8&q=extortion&sa=Search#922>), then in none of these laws or any laws dealing with corruption is extortion cited as being illegal (i.e. taking money or property by coercion or threat, etc.).

Nor is the Arabic word that fits into this definition ("ibtizaz") found specifically in any of these laws.

#### References:

1) Law No. 39 for 2006 Concerning Anti-Corruption <http://www.snaccyemen.org/details.asp?id=146&catid=33>

2) <http://snaccyemen.org/details.asp?id=116&catid=33> – Civil Service Law No. 19 of 1991

3) <http://www.snaccyemen.org/details.asp?id=121&catid=33> – Law of Financial Disclosure — Arabic

4) Bylaws of Administrative and Financial Violations – Republican Decree No. 17 of 1995 as Law Concerning General Provisions of Violations — <http://damanat4hr.maktoobblog.com/446938/%D9%82%D9%88%D8%A7%D9%86%D9%8A%D9%86-%D9%88%D8%AA%D8%B4%D8%B1%D9%8A%D8%B9%D8%A7%D8%AA-%D9%8A%D9%85%D9%86%D9%8A%D8%A9-%D9%84%D8%A7%D8%A6%D8%AD%D8%A9-%D8%A7%D9%84%D8%AC%D8%B2%D8%A7%D8%A1%D8%A7%D8%AA/>

**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.

73c. In law, offering a bribe (i.e. active corruption) is illegal.

Yes | No

**Comments:**

The law does refer to crimes that are cited in Penal Law, but with bribery being the major area of corruption in Yemen, the Law Against Corruption would be expected to either refer to specific articles in the Penal Law or be rewritten to refer to bribery as one of the crimes that is mandated to be prosecuted.

This is why the researcher believes that the legislation concerning this type of corruption is unclear or vague, as the word “knowingly” offers significant leeway for avoiding indictment or conviction. Thus, the “yes” answer here is given with strong reservations.

**References:**

1) Law No. 39 for 2006 Concerning Anti-corruption, <http://www.snaccyemen.org/details.asp?id=146&catid=33>

2) <http://snaccyemen.org/details.asp?id=116&catid=33> – Civil Service Law No. 19 of 1991

3) <http://www.snaccyemen.org/details.asp?id=121&catid=33> – Law of Financial Disclosure – Arabic

4) Bylaws of Administrative and Financial Violations – Republican Decree No. 17 of 1995 as Law Concerning General Provisions of Violations — <http://damanat4hr.maktoobblog.com/446938/%D9%82%D9%88%D8%A7%D9%86%D9%8A%D9%86-%D9%88%D8%AA%D8%B4%D8%B1%D9%8A%D8%B9%D8%A7%D8%AA-%D9%8A%D9%85%D9%86%D9%8A%D8%A9-%D9%84%D8%A7%D8%A6%D8%AD%D8%A9-%D8%A7%D9%84%D8%AC%D8%B2%D8%A7%D8%A1%D8%A7%D8%AA/>

**Yes:** A YES score is earned if offering a bribe is illegal.

**No:** A NO score is earned if this is not illegal.

73d. In law, receiving a bribe (i.e. passive corruption) is illegal.

Yes | No

**Comments:**

Amazingly, the anti-corruption law incidentally ONLY specifically mentions bribes in this context in Article 30 (Clause 5):

“Bribing foreign staff and staff of international public corporations to illegally do or/and not to do work in order to receive a commercial benefit or advantage, as stated in Penal Law.”

The law does refer to crimes cited in Penal Law, but with bribery being the major area of corruption in Yemen, the Law Against Corruption would be expected to either refer to the specific articles in the Penal Law or rewrite them as part of the crimes for which they have a mandate to tackle accordingly. That is why the researcher believes that the legislation concerning this type of corruption is unclear or vague, as the word “knowingly” offers significant leeway to avoid indictment or conviction.

Thus the “no” answer here is given because the receipt of a bribe is not cited in any context specifically in the Anti-corruption Law, without prejudice to the indirect referral to “crimes stipulated by the Penal Code” in the Anti-Corruption Law.

On the other hand, the bylaws that set out the administrative and financial violations do not include bribery as one of these infractions of public service, with a casual reference to the Penal Code and other relevant laws.

**References:**

1) Law No. 39 for 2006 Concerning Anti-Corruption <http://www.snaccyemen.org/details.asp?id=146&catid=33>

2) <http://snaccyemen.org/details.asp?id=116&catid=33> — Civil Service Law No. 19 of 1991

3) <http://www.snaccyemen.org/details.asp?id=121&catid=33> — Law of Financial Disclosure — Arabic

4) Bylaws of Administrative and Financial Violations — Republican Decree No. 17 of 1995 as Law Concerning General Provisions of Violations — [http://damanat4hr.maktoobblog.com/446938/%D9%82%D9%88%D8%A7%D9%86%D9%8A%D9%86-](http://damanat4hr.maktoobblog.com/446938/%D9%82%D9%88%D8%A7%D9%86%D9%8A%D9%86-%)

**Yes:** A YES score is earned if receiving a bribe is illegal.

**No:** A NO score is earned if this is not illegal.

73e. In law, bribing a foreign official is illegal.

Yes | No

**Comments:**

Amazingly, the Anti-corruption Law incidentally ONLY specifically mentions bribes in this context in Article 30 (Clause 5):

“Bribing foreign staff and staff of international public corporations to illegally do or/and not to do work in order to receive commercial benefit or advantage, stated in Penal Law.”

**References:**

Article 30 of 2006 of the Anti-corruption Law — <http://www.snaccyemen.org/details.asp?id=146&catid=33>

**Yes:** A YES score is earned if bribing a foreign official is illegal.

**No:** A NO score is earned if this is not illegal.

73f. In law, using public resources for private gain is illegal.

Yes | No

**Comments:**

This is mentioned generally in the source four and briefly in the Penal Code, but again, the anti-corruption Law makes no specific mention of this infraction.

In addition, the military officials, specifically senior officials are exempted, in interviews with some of the people demonstrating as loyalists of the regime during the recent political crisis, many conceded that they were paid from Government funds for their support to the President.

It is also known that government cashiers often use public funds in their trust by investing them in trade or real estate, and returning the amounts, while keeping the gains.

**References:**

1) Law No. 39 for 2006 Concerning Anti-corruption, <http://www.snaccyemen.org/details.asp?id=146&catid=33>

2) <http://snaccyemen.org/details.asp?id=116&catid=33> — Civil Service Law No. 19 of 1991.

3) <http://www.snaccyemen.org/details.asp?id=121&catid=33> — Law of Financial Disclosure — Arabic

4) By – Laws of Administrative and Financial Violations — Republican Decree No. 17 of 1995 as Law Concerning General Provisions of Violations — <http://damanat4hr.maktoobblog.com/446938/%D9%82%D9%88%D8%A7%D9%86%D9%8A%D9%86-%>

5) Law of Tenders, Auctions and Stores No. 23 of 2007 — <http://www.snaccyemen.org/details.asp?id=80&catid=33>

**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.

73g. In law, using confidential state information for private gain is illegal.

Yes | No

**Comments:**

While there are general stipulations to this effect in many of the criminal and civil service codes, etc. the fifth source (the Procurement Law) does give specific mention to such disclosure; however, the penalty is rejection of the bid of the beneficiary but without citing the penalty for the civil servant involved. The "yes" answer here is given with great reservation.

**References:**

- 1) Law No. 39 for 2006 Concerning Anti-Corruption <http://www.snaccyemen.org/details.asp?id=146&catid=33>
- 2) <http://snaccyemen.org/details.asp?id=116&catid=33> – Civil Service Law No. 19 of 1991
- 3) <http://www.snaccyemen.org/details.asp?id=121&catid=33> – Law of Financial Disclosure – Arabic
- 4) By – Laws of Administrative and Financial Violations – Republican Decree No. 17 of 1995 as Law Concerning General Provisions of Violations – <http://damanat4hr.maktoobblog.com/446938/%D9%82%D9%88%D8%A7%D9%86%D9%8A%D9%86-%D9%88%D8%AA%D8%B4%D8%B1%D9%8A%D8%B9%D8%A7%D8%AA-%D9%8A%D9%85%D9%86%D9%8A%D8%A9-%D9%84%D8%A7%D8%A6%D8%AD%D8%A9-%D8%A7%D9%84%D8%AC%D8%B2%D8%A7%D8%A1%D8%A7%D8%AA/>

**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.

73h. In law, money laundering is illegal.

Yes | No

**Comments:**

This is covered by the fifth source (Law and Decree); in addition, the Anti-corruption Law mentions it.

**References:**

- 1) Law No. 39 for 2006 Concerning Anti-corruption, <http://www.snaccyemen.org/details.asp?id=146&catid=33>
- 2) <http://snaccyemen.org/details.asp?id=116&catid=33> – Civil Service Law No. 19 of 1991
- 3) <http://www.snaccyemen.org/details.asp?id=121&catid=33> – Law of Financial Disclosure – Arabic
- 4) Bylaws of Administrative and Financial Violations – Republican Decree No. 17 of 1995 as Law Concerning General Provisions of Violations – <http://damanat4hr.maktoobblog.com/446938/%D9%82%D9%88%D8%A7%D9%86%D9%8A%D9%86-%D9%88%D8%AA%D8%B4%D8%B1%D9%8A%D8%B9%D8%A7%D8%AA-%D9%8A%D9%85%D9%86%D9%8A%D8%A9-%D9%84%D8%A7%D8%A6%D8%AD%D8%A9-%D8%A7%D9%84%D8%AC%D8%B2%D8%A7%D8%A1%D8%A7%D8%AA/>
- 5) [http://www.anti-moneylaundering.org/middleeast/Republic\\_of\\_Yemen.aspx](http://www.anti-moneylaundering.org/middleeast/Republic_of_Yemen.aspx), with links to both the Law and the Decree 89 for 2006 for its Executive Procedures

**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.

73i. In law, conspiracy to commit a crime (i.e. organized crime) is illegal.

Yes | No

**Comments:**

With so many officials said to be involved in siphoning off public funds and Yemen said to be harboring many Al-Qaeda operatives with the knowledge of the ruling regime, it is not clear how effective these laws are.

**References:**

1) Law No. 1 of 2010 Concerning Money Laundering and its Executive Bylaws — <http://www.customs.gov.ye/yca/news.php?action=view&id=89>

and this link: <http://alwatanaye.net/showdetails.php?id=64757>

Replaced Law

1.Law No. 35 of 2003 and.Decree 89 of 2006, Concerning Money Laundering and Anti-terrorism

**Yes:** A YES score is earned if organized crime is illegal.

**No:** A NO score is earned if this is not illegal.

---

## 6.2. Anti-Corruption Agency or Equivalent Mechanisms

---

74. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

100

74a. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

Yes | No

**Comments:**

The problem is that there is some conflict in some of the mandates of both authorities, but the Supreme National Anti-Corruption Committee (SNACC) reports to both the Presidency and Parliament, whereas the Central Organization for Control and Auditing (COCA) reports only to the Presidency.

COCA was basically carrying out the fight against corruption effectively, but was stalled from taking measures to prosecute any important officials because of certain laws that grant immunity to some officials and some services, such as military and security.

**References:**

1) Anti-corruption Law No ( 39 ) for 2006 — <http://snaccyemen.org/details.asp?id=146&catid=33> – Eng

2) Law No. 39 of 1992 and its Executive Bylaws

**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.

---

75. Is the anti-corruption agency effective?

22

75a. In law, the anti-corruption agency (or agencies) is protected from political interference.

Yes | **No**

**Comments:**

The Supreme National Anti-Corruption Committee (SNACC) is theoretically an independent entity that "carries out its duties with complete independence and neutrality without any interference from anyone or any entity, the latter of which is deemed to be a crime punishable by law."

Public property is under the Judicial Authority, which is theoretically independent now, as the Supreme Judicial Council is headed by the chair of the Supreme Court.

The Central Organization for Control and Auditing (COCA) is still under the control of the president's office, and it is the entity more qualified to undertake investigative work on corruption.

The appointment of the chair of SNACC is by nomination of SNACC committee members who are appointed by the Consultative Assembly (appointed by the President); the thirty nominees are then presented given to Parliament which selects 11 members. Since the ruling party (the General People's Congress) is almost always guaranteed to be in the majority, it is hard to see how the agency can stay independent.

**References:**

1) Anti-corruption Law No ( 39 ) for 2006 — <http://snaccyemen.org/details.asp?id=146&catid=33> – Eng

**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.

75b. In practice, the anti-corruption agency (or agencies) is protected from political interference.

100 | 75 | 50 | 25 | **0**

**Comments:**

From the first source:

"A system of grand corruption has emerged over the last several decades thriving on the combination of weak state institutions and a fragmented elite structure. In the absence of strong state institutions, informal patronage networks have proliferated. Indeed, patronage networks cripple what little capacity state institutions have. Allies are rewarded and other elites pacified by grand patronage payoffs in exchange for political quiescence. Yemen's recent oil wealth is the main source of state patronage. The fact that Yemen's oil is projected to run out in about a decade's time suggests that the current structure of corruption is not sustainable. Economic growth, not compatible with grand corruption, is needed for basic needs and services to be met and for the state to be sustainable in the near term. Failing that, significant political instability may be on the horizon.

"There are five main elite groups that profit from the structure of corruption in Yemen. The two most important are also the two with the most overlap: tribes and the military-security establishment. Leaders of key tribes constitute the lion's share of top military and security officers. A similar pattern is found in the security forces. Yemen's military controls an extensive array of commercial activities, some legal and some extra-legal."

All recent corruption assessments do not indicate that corruption has been at all affected by the existence of Supreme National Authority for Combating Corruption (SNACC). Some have suggested that the Central Organization for Control and Auditing (COCA) was at least documenting clear cases of corruption, while facing difficulty in prosecution of perpetrators. Notwithstanding the claims made by SNACC of finding hundreds of cases, it remains to be seen if any actions will be carried out to bring the perpetrators to justice.

**References:**

1) <http://yemen.usembassy.gov/root/pdfs/reports/yemen-corruption-assessment.pdf>

2) <http://www.carnegie.ru/events/?fa=3034>

**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.

75c. In practice, the head of the anti-corruption agency (or agencies) is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

**Comments:**

Article 11 states that membership in the Supreme National Anti-Corruption Committee (SNACC) may only be rescinded if the member commits a violation in the undertaking of his duties and only after a court ruling (after referral to the court by majority vote of the members of SNACC). It is not clear, however, what these violations would be.

An extensive search in various media channels (official, partisan and independent) and among acquaintances in the relevant government agencies provided no evidence of the head of an anti-corruption agency being dismissed for his actions, for the simple reason that there none of them have made any significant moves to test the limits of their "mandates."

There has yet to be any head of SNACC removed because of not having touched any of the real power centers of corruption in Yemen.

There is no question in anyone's mind that if the agency attempts to go after some of the relatives of the President, whose wealth is evidenced by the unusually extravagant lives they lead, the head of SNACC and all those under him will be dismissed. SNACC cannot even get the law that protects senior officials from prosecution changed to allow for prosecution if there is substantial proof of the official being corrupt.

**References:**

The Anti Corruption Law No. 39 for 2006

**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.

75d. In practice, appointments to the anti-corruption agency (or agencies) are based on professional criteria.

100 | 75 | 50 | 25 | 0

**Comments:**

Source 2 (issued in 2009) states:

"In 2007, parliament elected 11 members to the Supreme National Anti-Corruption Committee (SNACC), whose chair and deputy chair serve a two-and-a-half-year term and can serve another two-and-a-half-year term, subject to SNACC consent, whereas regular SNACC members can serve only one five-year term. Note the 11 members were chosen from the 30 nominees selected by the Consultative Assembly, whose membership is fully appointed by the President."

No new members have been chosen since. To a certain extent the members of SNACC and the senior officers in the Central Organization for Control and Auditing (COCA) (appointed by the President), as well as the Public Property Courts and Prosecution are all controlled by the Executive Authority, do have qualified personnel in the senior positions of these organizations and from various sectors of Yemeni society.

Third source:

SNACC's 11 members were elected from a pool of 30 potential candidates chosen by the president-appointed upper house, raising concerns about their ability to be truly independent of the executive and hold officials to account.  
<http://freedomhouse.org/template.cfm?page=140&edition=9&ccrcountry=207&section=91&ccrpage=43>

**References:**

- 1) Law No. 39 for 2006 Concerning Anti-corruption, <http://www.snaccyemen.org/details.asp?id=146&catid=33>
- 2) <http://www.state.gov/g/drl/rls/hrrpt/2009/nea/136083.htm>
- 3) <http://freedomhouse.org/template.cfm?page=140&edition=9&ccrcountry=207&section=91&ccrpage=43>

**100:** 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.

**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 arising from personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

75e. In practice, the anti-corruption agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

From a recent report by the Organization for Economic Cooperation and Development (OECD):

"Several senior government officials and representatives of the private sector identified strengthening professionalism and expertise in public organisations as the key challenge implementing public procurement reforms in Yemen."

The same source also states: "It is of utmost importance to ensure that Supreme National Authority for Combating Corruption (SNACC) has the necessary capacities to ensure full implementation of these two laws. Proper implementation and uniform application of sanctions in every case of non-compliance is the only way to prevent and manage conflict-of-interest situations in the Yemeni public service."

The same report notes that even with adequate staffing, "A major challenge for the Government is retaining qualified employees within the High Tender Board (HTB) and other key oversight and monitoring agencies, such as the SNACC. Key national oversight institutions (including the HTB, High Authority for Tender Control. (HATC), COCA and SNACC) have recognised the importance of attracting and retaining qualified staff and made efforts to invest in capacity building by offering financial incentives, organising study tours and exchanges and providing trainings. Co-operation among these four institutions could be further reinforced through, for instance, rotation job opportunities."

Second source:

"This required the designation of an official premise to operate out of. A building in Tahrir that was previously occupied by the Ministry of Education was chosen for this location. The implementation of physical structure also involved the hiring of an administrative staff to run SNACC and handle technical, administrative, and financial issues."

It is not certain that the qualifications of the staff are of a high quality, or have the professional background for anti-corruption, as observed by international organizations and the private sector of Yemen. Especially as anti-corruption is a relatively new function in Yemeni government, and judging by the effectiveness of other watchdogs in alleviating corruption (COCA, which has several years of experience), there are doubts as to the ability of SNACC to be any more effective, as second source clearly notes:

"Another challenge is the lack of expertise in the field, even worldwide. According to Almarani (Suad Almarani, the Assistant to the Head of the International Cooperation Sector of SNACC), anti-corruption is a relatively new concept across the globe, and particularly in the Middle East."

**References:**

- 1) <http://www.oecd.org/dataoecd/32/9/45916397.pdf>
- 2) <http://www.yemen-today.com/go/development/3009.html>

**100:** The agency (or agencies) has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency (or agencies) has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

25:

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

75f. In practice, the anti-corruption agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

The above source 1 states:

"The Supreme National Authority for Combating Corruption (SNACC) has a separate budget, to which the standard budgeting rules and procedures are applied. The authority's chairman enjoys the same power as that granted to the Ministers of Finance and Civil Service and Insurance in terms of using funds allocated for its budget and managing its activities and personnel."

Source 2 states:

"The group is financially and administratively independent, meaning that they request "one figure" for funding from the government and are allowed to employ whoever they choose."

SNACC, Central Organization for Control and Auditing (COCA) and the Higher Tender Board also receive donor support from the UN Development Programme, US Aid, National Democratic Institute and other donors, mostly in the form of Technical Assistance, but aid could include cash funding of workshops, seminars or training (See third source):

"USAID also provides support to SNACC [Supreme National Authority for Combating Corruption], HTB [Higher Tender Board], and COCA [Central Organization for Control and Audit] to improve transparency and credibility within these key government institutions."

**References:**

1) <http://siteresources.worldbank.org/INTMNAREGTOPGOVERNANCE/Resources/Jan08ArunonYemen.pdf>

2) <http://pomed.org/blog/2010/12/pomed-notes-corruption-challenges-in-yemen.html/>

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: The agency's funding sources are unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

75g. In practice, the anti-corruption agency (or agencies) makes regular public reports.

100 | 75 | 50 | 25 | 0

**Comments:**

The first source states:

"First round report for 2009 to President Ali Abdullah Saleh and the Parliament about its activities during the first half of the current year so as to implement part 16 of article No. 8 from Law No. 39 for the year 2006 concerning combating corruption."

The agency stated that they obtained a copy of the report, but no other independent source or even donors indicated they had received a copy of the report.

Even the Supreme National Authority for Combating Corruption (SNACC) recognizes that it also relies on reports of its co-watchdog organization:

"The reports of the Central Organization for Control and Audit constitute major references for violations and deviations committed by some entities," said Yassin Abdu Saed (SNACC Media Director) — second source. The report is also not available in SNACC website.

Efforts to access the SNACC website by the researcher to obtain copies of issued SNACC reports were unsuccessful, even to pages previously accessed heretofore for texts of certain laws!

It is worth noting that references to SNACC reports were made by official or pro government newspapers or internet sites.

**References:**

- 1) <http://www.sabanews.net/en/news184127.htm> – An official agency of the Government.
- 2) <http://yementribune.com/blog/?p=1205> – relying on report by Al-Thawra Newspaper – official newspaper.

**100:** The agency (or agencies) 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 (or agencies) makes publicly available reports to the legislature 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.

75h. In practice, the anti-corruption agency (or agencies) has sufficient powers to carry out its mandate.

100 | 75 | 50 | 25 | 0

**Comments:**

Source 1:

Some Yemeni laws contradict the laws that grant the Supreme National Authority for Combating Corruption (SNACC) its power. For example, under Yemeni law, immunity from prosecution is given to some high-ranking government officials. However, this goes against SNACC's laws. In addition, the Attorney General is stated as the only entity that can prosecute by Yemeni law, but SNACC also has the ability to prosecute. Currently, SNACC is working with international experts to find the contradictions and work on amendments. "It's important that we're open to amendment and development," said Almarani.

In addition, some laws give senior officials and military and security officials immunity from prosecution, such like the second source and third source.

The Law No. 11 of 1995 prevents any follow-up on senior officials and it is thought that SNACC is becoming a center of corruption itself, with its staff getting high salaries, allowances and bonuses, while actual results on corruption cases are minuscule.

**References:**

- 1) <http://www.yemen-today.com/go/development/3009.html>
- 2) ) Bylaws of Administrative and Financial Violations — Republican Decree No. 17 of 1995 as Law Concerning General Provisions of Violations — <http://damanat4hr.maktoobblog.com/446938/%D9%82%D9%88%D8%A7%D9%86%D9%8A%D9%86-%D9%88%D8%AA%D8%B4%D8%B1%D9%8A%D8%B9%D8%A7%D8%AA-%D9%8A%D9%85%D9%86%D9%8A%D8%A9-%D9%84%D8%A7%D8%A6%D8%AD%D8%A9-%D8%A7%D9%84%D8%AC%D8%B2%D8%A7%D8%A1%D8%A7%D8%AA/>

**100:** 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).

**75:**

**50:** The agency (or agencies) has most of the powers needed to carry out its mandate with some exceptions.

**25:**

**0:** The agency (or agencies) lacks significant powers which limit its effectiveness.

75i. In practice, when necessary, the anti-corruption agency (or agencies) independently initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

There are several press reports about the number of reports that have been investigated or are under investigation by the

Supreme National Authority for Combating Corruption (SNACC), but the problem still remains that the law prevents SNACC from investigating or pursuing senior government officials.

The second source shows that SNACC receives reports but has not really done any tangible efforts to prosecute these cases, as it relies on the judicial authority for that.

The third source states:

" At the conclusion of a meeting on Saturday, the state-commissioned Supreme National Authority for Combating Corruption (SNACC) said it will investigate allegations of corruption in the oil sector in Yemen published by Elaph newspaper."

Criticisms of SNACC (even by members of Parliament in the ruling party, who were interviewed by Al-Jazeera) suggest that in essence, SNACC is unable to be effective partly due to its weak mandate and partly because the laws restrict its ability to pursue corrupt officials, or reach decisive rulings on corruption cases (fourth source).

**References:**

- 1) <http://www.alarabonline.org/index.asp?fname=%5C2011%5C02%5C02-13%5C982c1.htm&dismode=x&ts=13-2-2011%2011:55:19> – Arabic
- 2) <http://www.yemenies.net/showthread.php?t=2172> – Arabic
- 3) <http://yementribune.com/blog/?p=1122>
- 4) [http://aljazeera.net/NR/exeres/B0E7815D-A371-4F49-A7C4-CBBB98FD081F.htm?wbc\\_purpose=basic\\_Current](http://aljazeera.net/NR/exeres/B0E7815D-A371-4F49-A7C4-CBBB98FD081F.htm?wbc_purpose=basic_Current)

**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 start investigations but not complete them, or may fail to detect offenders. The agency (or agencies) may be partisan in its application of power.

---

## 76. Can citizens access the anti-corruption agency?

25

76a. In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The Supreme National Authority for Combating Corruption (SNACC) was unable to act upon a complaint of the people of Hodeida regarding officials, dignitaries and businessmen. It took Parliament to send an investigating committee to Hodeida to investigate the complaints.

When the committee confirmed the complaints and named the culprits, members of Parliament argued and fought each other instead, so no significant action was taken to remedy the people's complaints. Thus, Parliament was powerless to respond to the people's complaints, and SNACC was far less powerful to even deal with such complaints.

The second source indicates the difficulty that any anti-corruption authority faces in doing its job. How does one deal with corruption at any level, if the members of the President's family have a free hand with the assets and resources of the Government and not face any measures to control their abuse of public funds for their own enrichment? Thus, SNACC is unable to deal with citizen's complaints even if it wanted to:

"Yemeni oil resources have decreased, so Saleh no longer has the resources to exercise his authority. This has led to the decline of his power in the central government and its concentration in the capital Sanaa," an unnamed Western diplomat told the New York Times. The paper said the Yemeni president "presents a problem to (US) President Barack Obama," as Saleh is open to U.S. support but is not actively doing much to combat rampant corruption in his state administrations and bodies. "This could limit his access to US financial support," according to the paper.

**References:**

- 1) [http://www.yementimes.com/defaultdet.aspx?SUB\\_ID=33840](http://www.yementimes.com/defaultdet.aspx?SUB_ID=33840)

2) <http://www.thefreelibrary.com/Yemen-corruption--a0216631174>

**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.

76b. In practice, citizens can complain to the anti-corruption agency (or agencies) without fear of recrimination.

100 | 75 | 50 | 25 | 0

**Comments:**

It is not clear to what extent reporters of corruption are protected for whistle-blowing on officials involved in corruption or on attempts at corruption, but Supreme National Authority for Combating Corruption (SNACC) is still seeking to evaluate the extent of this protection as the first source states.

Source 1 states:

“The self evaluation will include a number of themes and questions on the public sector and the rules of public officials, the protection of witnesses and informants as well as experts, in addition to strengthening international cooperation in the aspects of combating corruption.”

It is subtly suggested in the above that SNACC senses a weakness in its ability to protect public informers from recrimination.

On the other hand, public informers will not be encouraged to report high officials protected by laws like Law 11 of 1995, which protects senior government officials from prosecution, while such informers are said to be protected by some hidden articles in Law 39 of 2006 for Combating Corruption.

In any case, the specific law for the protection of whistle-blowers has yet to be issued in Yemen.

**References:**

1) <http://www.sabanews.net/en/news190142.htm>

2) Anti-corruption Law No. 13 for 2006 — 1) Anti-corruption Law No ( 39 ) for 2006 — <http://snaccyemen.org/details.asp?id=146&catid=33> — Eng

**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.

---

77. Is there an appeals mechanism for challenging criminal judgments?

58

77a. In law, there is a general right of appeal.

Yes | No

**Comments:**

There are mechanisms for appealing judicial rulings, but they are often influenced by political pressures from the executive.

Fourth source:

"There are courts of first instance, which hear civil, criminal, commercial, and family matters; decisions can be appealed to courts of appeal. The Supreme Court rules on the constitutionality of laws, hears cases brought against high government officials, and is the last court of appeal for all lower court decisions. The judiciary, especially at the lower levels, is susceptible to pressure and influence from the executive branch."

**References:**

1) Yemeni Constitution, Article 153 (d) — Amended 2001

— <http://www.unhcr.org/refworld/category.LEGAL,,,YEM.3fc4c1e94.0.html>

2) Law for Judicial Litigation and Civil Execution No. 40, 2002, Amended by Republican Decree No. 2 of 2010, <http://www.malak-rouhi.com/vb/showthread.php?s=dfd2f2804ca0bc7fc8dc27c6c91f25ce&t=11653>

3) Penal Procedures Law, Articles 417, 421, <http://moj-yemen.net/PDF/Part1/13.pdf>

3) <http://www.nationsencyclopedia.com/Asia-and-Oceania/Yemen-JUDICIAL-SYSTEM.html>

4)

**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.

77b. In practice, appeals are resolved within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Political implications weigh in heavy in appeals procedures:

Source 1: Before Yemen's dramatic shift as an ally in the War on Terror:

"He (an Al-Qaeda member) resurfaced in February 2008, when he walked unannounced into the courtroom of the appeal court in Sana'a, escorted by two bodyguards to appeal against a 10-year absentia jail sentence. He left the court after the court hearing. He left after a reduction of the sentence to ten years.

The speed of this appeal was sped up by political decision, as the Government then was rather cozy with Al-Qaeda and other extremists operating in Yemen."

Similar facilitations of appeals are demonstrated by the following (second source):

"An appeal court endorsed Saturday a ruling by a lower court to acquit 19 alleged al-Qaeda members who were accused of plotting to assassinate Westerners and blow up a hotel frequented by Americans. The trial was widely seen as a showcase of how serious Yemen was in the fight against terror."

Source 3 shows how the appeals mechanism is influenced by political winds since the Government was carrying out a war against the Houthis rebels in Sa'ada, who were calling for equal religious rights.

Source 4 discusses when the appeal is for a Yemeni journalist exercising freedom of the Press, but was convicted on allegations that he violated the Press Laws and Yemen's security.

**References:**

- 1) <http://www.topnews.in/yemen-appeals-court-reduces-jail-term-uswanted-alqaeda-suspect-285986>
- 2) <http://www.aawsat.com/english/news.asp?section=1&id=6933>
- 3) <http://en.trend.az/regions/world/ocountries/1408299.html>
- 4) [http://marebpress.net/news\\_details.php?lng=english&sid=12419](http://marebpress.net/news_details.php?lng=english&sid=12419)

**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.

77c. In practice, citizens can use the appeals mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The article cites Yemen as ranking third in court costs in the region in general (World Bank Report on doing business in Yemen at 16.5 percent, followed by Kuwait. Court costs in Yemen in general can be prohibitive to many of those who are on trial as they are mostly poor or without steady income. The appeals process differs from case to case, and may be affordable to middle class litigants; but again, this would depend on the complexity of the case.

**References:**

- 1) <http://www.mayonews.net/ad/showdetails.php?id=9918>

**100:** In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge criminal judgments. Attorney fees are not a barrier to appeals.

**75:**

**50:** In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge criminal judgments. Attorney fees present somewhat of a barrier to pursuing appeal.

**25:**

**0:** The prohibitive cost of utilizing the appeals mechanism prevents middle class citizens from challenging criminal judgments. Attorney fees greatly discourage the use of the appeals process.

---

78. In practice, do judgments in the criminal system follow written law?

25

78a. In practice, do judgments in the criminal system follow written law?

100 | 75 | 50 | 25 | 0

**Comments:**

While the source 1 may be somewhat old, it does provide some significant backing to the extra reliance on legal evidence associated with crimes, i.e., the reliance on torture to exact confessions:

"Sana'a, in mid-2004, tried some of these detainees for two key terrorist attacks, but not without considerable controversy stemming in large part from the extensive and secretive pretrial arrest periods of the defendants, which gave credibility to allegations of torture and forced confessions."

This does not just apply to Al-Qaeda suspects, but also to journalists, Shiite rebels in the North and, more recently, Southern Yemeni protesters (source 2).

In civil cases, and even criminal cases, there is more adherence to written law unless there is interference from political or social dignitaries.

"Despite efforts in recent years by the Yemeni government to reform the judiciary and enhance its capacity, the court system remains the weakest link of the three branches of government, susceptible to interference from the executive branch and unable to implement its rulings in many parts of the country" (Source 3).

**References:**

- 1) [http://www.humansecuritygateway.com/documents/ALNAKHLAH\\_ReviewYemeniJusticeSectorFacingJihadistViolence.pdf](http://www.humansecuritygateway.com/documents/ALNAKHLAH_ReviewYemeniJusticeSectorFacingJihadistViolence.pdf)
- 2) <http://armiesofliberation.com/archives/2009/11/03/unconstitutional-court-sentences-two-journalists-for-critical-article/>

**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.

---

## 79. In practice, are judicial decisions enforced by the state?

0

79a. In practice, are judicial decisions enforced by the state?

100 | 75 | 50 | 25 | 0

**Comments:**

The judiciary, especially at the lower levels, is susceptible to pressure and influence from the executive branch.. This is further confirmed by first source:  
"Corruption, compounded by a weak judicial system that is vulnerable to political influence, remains widespread."

This charge continuously plagues Yemen's judiciary, where some organs of the government would not carry out the judicial rulings (of courts or prosecution).

The second gives some illustrations.

A lower score is given in view of the worsening situation of enforcement of court rulings, sometimes leading to fighting over land or the issuance of a court decision (Source 4).

**References:**

- 1) <http://www.heritage.org/index/country/yemen>
- 2) <http://www.emptyquarter.net/?p=229>
- 3) <http://www.globalsecurity.org/intell/world/yemen/index.html>
- 4) <http://www.moainpress.net/narticle.php?sid=234> – Arabic

**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.

---

## 80. Is the judiciary able to act independently?

75

80a. In law, the independence of the judiciary is guaranteed.

Yes | No

### Comments:

Source 2 states:

"Article 147 guarantees the independence of the judiciary, and stipulates that the Supreme Judicial Council is the highest judicial authority in the land."

### References:

- 1) Article 147 of the Yemeni Constitution — <http://www.unhcr.org/refworld/category,LEGAL,,,YEM,3fc4c1e94,0.html>
- 2) [www.arabruleoflaw.org/countryprofiles/yemen.html](http://www.arabruleoflaw.org/countryprofiles/yemen.html)

**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 includes 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.

80b. In practice, national-level judges are protected from political interference.

100 | 75 | 50 | 25 | 0

### Comments:

Judges are appointed by the Executive Branch at all levels, including the Head of the Supreme Judicial Council (SJC) and its members (The President is no longer the Head of the SJC, but appoints the Head of the Supreme Court who head the SJC now).

Second source:

"Yemen has a Supreme Judicial Council, as prescribed by the constitution. The Council exercises significant authority over the judiciary, although the senior judicial positions are direct presidential appointments.

"The Council is headed by the president and has two other executive branch members (the minister of justice and the deputy minister). The other members are judicial, though all are presidential appointments (directly or indirectly)."

On a number of occasions, the judges are pressured to rule against opponents of the regime, with pardons to be issued by the President, even in life and death sentences.

### References:

- 1) Law of Judiciary: <http://snaccyemen.org/details.asp?id=111&catid=33>, up to 1994

<http://www.ebnalyaman.com/ip/jpb/lofiversion/index.php?t3289.html> 2006 Amendments

- 2) <http://www.undp-poggar.org/publications/judiciary/nbrown/yemen.html>

- 3) A list of sites of various pardons of the President — [http://www.google.com/search?sourceid=navclient&ie=UTF-8&rlz=1T4ADRA\\_enYE395YE398&q=Saleh+pardons](http://www.google.com/search?sourceid=navclient&ie=UTF-8&rlz=1T4ADRA_enYE395YE398&q=Saleh+pardons)

**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.

80c. In law, there is a transparent and objective system for distributing cases to national-level judges.

Yes | No

**Comments:**  
Judges must take cases assigned to their judicial jurisprudence (geographical or specialized cases) and the articles sets out the limits of the cases to be handled by them.

**References:**  
Law of Judicial (Court) Procedures No.40, 2002

**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.

80d. In law, national-level judges are protected from removal without relevant justification.

Yes | No

**Comments:**  
The President still has the power to appoint national-level judges, or those who appoint them or nominate them (such as the Minister of Justice and Supreme Judicial Council members).

**References:**  
1) Article 151 of the Constitution — <http://www.unhcr.org/refworld/category/LEGAL,,,YEM,3fc4c1e94,0.html>  
2) Law of Judiciary — <http://snaccyemen.org/details.asp?id=111&catid=33>, up to 1994  
<http://www.ebnalyaman.com/ip/jpb/lofiversion/index.php?t3289.html> 2006 Amendment

**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.

---

## 81. Are judges safe when adjudicating corruption cases?

81a. In practice, in the last year, no judges have been physically harmed because of adjudicating corruption cases.

Yes | **No**

**Comments:**

The chair of the East Sana'a City was assaulted along with 2 of his sons on October 14, 2010 (first source).

Second source reports on a fourth attack on judges by the carjacking of a Al-Dhalia Judge.(second source).

Third source reports the case of a judge who was shot and wounded in his home in Sana'a (October 2010) and was put under intensive care in the hospital. The motive was unclear, but was the shooting was preceded by argument over a case under his adjudication.

**References:**

- 1) <http://www.felixnews.com/news-7699.html>
- 2) <http://www.alganob.net/g/showdetails.asp?id=5572>
- 3) [http://www.almasadaronline.com/index.php?page=news&article-section=1&news\\_id=12213](http://www.almasadaronline.com/index.php?page=news&article-section=1&news_id=12213)

**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. YES is a positive score.

**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.

81b. In practice, in the last year, no judges have been killed because of adjudicating corruption cases.

Yes | **No**

**Comments:**

Source 1: Judge Mohammed Abdullah Dughaish was killed in Lahj Governorate in mid-2010.

**References:**

- 1) <http://www.yemenpost.net/Detail123456789.aspx?ID=3&SubID=2425>

**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. YES is a positive score.

**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.

---

## 82. Do citizens have equal access to the justice system?

32

82a. In practice, judicial decisions are not affected by racial or ethnic bias.

100 | 75 | 50 | 25 | **0**

**Comments:**

During the Government War on the Houthis in Sa'ada, many suspected Houthis (mostly followers of Zeidi sect, a small Shiite sect found in Yemen, Saudi Arabia and Azerbaijan) were summarily given harsh sentences for allegedly taking part in the conflict on the side of the Houthis. They were calling for a cessation of systematic efforts to eradicate their sect, especially in Sa'ada Governorate and uphold the Salafi (Wahhabi Sect) in their governorate.

The fourth source gives some background of the conflict.

**References:**

- 1) [http://www.msnbc.msn.com/id/33356817/ns/world\\_news-mideast/n\\_africa/](http://www.msnbc.msn.com/id/33356817/ns/world_news-mideast/n_africa/)
- 2) <http://yemenonline.info/news-1341.html>
- 3) [http://www.kuwaittimes.net/read\\_news.php?newsid=ODUyNjcwODY4](http://www.kuwaittimes.net/read_news.php?newsid=ODUyNjcwODY4)
- 4) <http://freedom syndicate.com/fair0000/latimes00075.html>

**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.

82b. In practice, women have full access to the judicial system.

100 | 75 | 50 | 25 | 0

**Comments:**

1) The first source indicates some exceptional cases when women (in this case an 8 – years old girl – was able to obtain access, which was in a highly publicized case.

2) The second source, while citing a somewhat older source (2005) than the date of publication of the report, did however bring a broad view of the ability of women to have access to justice, much of which still has relevance:

“The 2005 Common Country Assessment report mentioned that problems of poor access to and weak administration of justice remain widespread and are particularly serious for women, especially in rural areas where the traditional tribal system is male-centric and the formal court system dysfunctional. Women face difficulties in accessing the courts because of social restraints and other cultural, procedural and administrative impediments inside the courts. With high illiteracy rates, population dispersion and absence of public awareness campaigns, citizens remain unaware of their constitutional and legal rights and are unable to exercise them. Weak administrative capacity and lack of adequate infrastructure of the judiciary (Ministry of Justice and the courts) compound the problem. The litigation process is slow, and is marked by failure to execute court rulings, thus leading to lack of public trust in the Judiciary.”

**References:**

- 1) <http://www.wluml.org/node/4571>
- 2) <http://www.mulabi.org/epu/5ta%20ronda/Women's%20Guides%203%20PDFs/Yemen%20QG%20Women%20Rights.pdf> Issued 2008/2009

**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. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

**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. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

**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. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

82c. In law, the state provides legal counsel for defendants in criminal cases who cannot afford it.

Yes | No

**Comments:**

The article cited above states:

"The right of defense is guaranteed and the suspects may undertake their defense by themselves or may seek the assistance of a defense representative at any stage of the criminal case, including the investigation stage. The Government should provide an accredited lawyer for the poor and those who cannot afford to obtain a defense lawyer."

**References:**

1) Constitution of the Republic — [http://www.unhcr.org/refworld/category/LEGAL,,\\_YEM,3fc4c1e94\\_0.html](http://www.unhcr.org/refworld/category/LEGAL,,_YEM,3fc4c1e94_0.html)

2) Article (9) Clause (1) of Law No. 13 of 1994 Concerning Criminal Trial Procedures

— <http://alansi45.blogspot.com/2009/11/blog-post.html>

**Yes:** A YES score is earned if the government is required by law to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

**No:** A NO score is earned if there is no legal requirement for the government to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

82d. In practice, the state provides adequate legal counsel for defendants in criminal cases who cannot afford it.

100 | 75 | 50 | 25 | 0

**Comments:**

Under the Constitution and by law, the Government must provide attorneys for indigent defendants; however, in practice this never occurs. While the reference cited is somewhat old, it is still true that hundreds of detainees are being held for months, and sometimes years, without recourse to a trial or even defense lawyers during detention:

"Government provide legal aid to indigent defendants, but the law does not explicitly prohibit trying criminal defendants without a lawyer, and the judicial budget currently does not allow for defense attorneys. Judges at times 'appoint' attorneys present in their courtrooms to represent indigent defendants; however, such attorneys legally are not required to take the case, although most accept in order to avoid displeasing judges before whom they must appear later."

This is true in the case of those who were detained in relation to the War in Sa'ada and the Southern Separatist Movement:

"Over the past years security forces have also arbitrarily detained hundreds of men not taking part in the fighting simply because they come from the same region as the rebels, locking them up without charge or trial. A number were detained as hostages to force relatives to surrender, or even because they were journalists who published stories about the conflict. In detaining hundreds of people without charge or trial, Yemen has violated its fundamental human rights obligations" (source 2).

**References:**

1) <http://jurist.law.pitt.edu/world/yemen.htm>

2) <http://www.guardian.co.uk/commentisfree/2008/nov/16/yemen-islam>

**100:** State-provided legal aid is basic, but well-trained and effective in representing the rights of impoverished defendants.

**75:**

**50:** State-provided legal aid is available, but flawed. Legal aid may be unavailable to some impoverished 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 impoverished defendants. State legal aid/public defenders may be consistently incompetent or unwilling to fairly represent all defendants.

82e. In practice, citizens earning the median yearly income can afford to bring a legal suit.

100 | 75 | 50 | 25 | 0

**Comments:**

The ability of members of the middle class to be considered as a dynamic economic, social and legal participants is overshadowed by the fact that they are small and have a small share of the overall income.

The middle class is very small in Yemen. This is a serious constraint on social mobilization. The middle class has been basically disseminated by the ruling elite because they saw it as a potential political competitor so they made every effort to ensure the middle class disappears, by impoverishing the people, making them easier to control."

Moreover, the middle class in Yemen is more a social and intellectual status rather than an indication of sufficient income to afford to incur exorbitant trial costs in presenting suits, unless the suit would bring in a handsome reward if won.

The second source illustrates further:

"I have witnessed many more beggars at the roundabouts and in front of restaurants. The middle class in Yemen is disappearing, the rich are becoming richer, while the poor are becoming poorer," said Haitham Abdullah, a university student from Sana'a."

Any member of the "middle class" working for the Government would not be able to afford to afford lawsuits, but employees of the private sector, in specialized technical positions or management positions might.

**References:**

1) <http://www.islamweb.net/emainpage/index.php?page=articles&id=165935>

2) [http://www.yementimes.com/defaultdet.aspx?SUB\\_ID=35075](http://www.yementimes.com/defaultdet.aspx?SUB_ID=35075)

100: In most cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. Attorney fees do not represent a major cost to citizens.

75:

50: 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. Attorney fees are a significant consideration in whether to bring a case.

25:

0: The cost of engaging the legal system prevents middle class citizens from filing suits. Attorney fees are high enough to discourage most citizens from bringing a case.

82f. In practice, a typical small retail business can afford to bring a legal suit.

100 | 75 | 50 | 25 | 0

**Comments:**

First Source:

"Laws regulating commercial, economic and investment activities in Yemen are generally good and consistent with the international commercial legislation. Their implementation however is fraught with several difficulties such as the disqualification of commercial practitioners and their lack of knowledge concerning sources and rules of business, in addition to the limited effectiveness of the judiciary in adjudicating cases that depend to a large extent on the person of the judge rather than on established legal traditions."

There were 11,000 cases handled by the commercial courts of Yemen over the year 2008 (1430 AH) of which approximately 5,000 were resolved. The remainder were passed on to the following year. Assuming that the only a small percentage of these would be involving large corporate entities, and since there are very few known corporate litigation cases, it would be safe to say that most commercial outlets would be retail in nature and thus, commercial suits would be affordable to them. (There are no detailed breakdown of commercial cases handled by the commercial courts).

**References:**

- 1) <http://www.arabruleoflaw.org/compendium/Files/MENACLS-NationalReport-YemenEn.pdf>
- 2) Ministry of Justice Statistics 1430 AH and 1430 (2008) — <http://www.moj-yemen.net/ehsaiat.asp?service=2009/3.pdf>

**100:** In most cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. Attorneys fees do not represent a major cost to small businesses.

**75:**

**50:** In some cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. In other cases, the cost is prohibitive. Attorney fees are a significant consideration in whether to bring a case.

**25:**

**0:** The cost of engaging the legal system prevents small businesses from filing suits. Attorney fees are high enough to discourage most small businesses from bringing a case.

82g. In practice, all citizens have access to a court of law, regardless of geographic location.

100 | 75 | 50 | 25 | 0

**Comments:**

Most of the courts are found in district centers and governorate centers. With the population of Yemen widely dispersed, many people would have to bear transport costs and perhaps accommodation costs. But the number of costs is increasing from year to year. Earlier studies have shown, however, that the remote and poor would have difficulty of finding access to courts. There has not been significant improvement in this area.

**References:**

<http://www.ysc.org.ye/Courts.asp>

**100:** Courtrooms are always accessible to citizens at low cost, either through rural courthouses or through a system of traveling magistrates.

**75:**

**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.

---

## 6.4. Law Enforcement: Conflicts of Interest Safeguards and Professionalism

---

83. Is the law enforcement agency (i.e. the police) effective?

25

83a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

100 | 75 | 50 | 25 | 0

**Comments:**

Yemen's reliance on a patronage system has done much to reduce the performance capability of the law enforcement agencies. Most of the security organs are commanded by the President's close relatives (sons, nephews, in-laws) while others are held by fellow tribesmen (political security).

**References:**

[http://books.google.com/books?id=yAdmjiAuTvgC&pg=PA247&lpg=PA247&dq=state-sponsored+patronage+Yemen&source=web&ots=cXswaSacwx&sig=Hfl85jLvZZhgExGEfrtR4\\_kCBlw&hl=en&sa=X&oi=book\\_result&resnum=2&ct=result-sponsored%20patronage%20Yemen&f=false](http://books.google.com/books?id=yAdmjiAuTvgC&pg=PA247&lpg=PA247&dq=state-sponsored+patronage+Yemen&source=web&ots=cXswaSacwx&sig=Hfl85jLvZZhgExGEfrtR4_kCBlw&hl=en&sa=X&oi=book_result&resnum=2&ct=result-sponsored%20patronage%20Yemen&f=false)

**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.

83b. In practice, the law enforcement agency (or agencies) has a budget sufficient to carry out its mandate.

100 | 75 | 50 | 25 | 0

**Comments:**

Already the security budget of Yemen is eating up half of the state budget and is also getting a boost from foreign donors including the United States,

The second source:

"The terrorist operations have also caused losses in the tourism sector that amounted to one billion dollars, while these operations have negatively impacted development, poverty, and unemployment alleviation due to the allocation of large amounts to of fund to fight terrorism from an already meager budget."

**References:**

1) [http://www.roguegovernment.com/index.php?news\\_id=18879](http://www.roguegovernment.com/index.php?news_id=18879)

2) A recent official report revealed that about 40 percent of the Yemeni budget is spent on fighting terrorism.

The terrorist operations have also caused losses in the tourism sector that amounted to one billion dollars, while these operations have negatively impacted development, poverty, and unemployment alleviation due to the allocation of large amounts to of fund to fight terrorism from an already meager budget.

**100:** The agency (or agencies) has a budget sufficient to fulfill its basic mandate.

**75:**

**50:** The agency (or agencies) has limited budget, generally considered somewhat insufficient to fulfill its basic mandate.

**25:**

**0:** The agency (or agencies) has no budget or an obviously insufficient budget that hinders the agency's ability to fulfill its mandate.

83c. In practice, the law enforcement agency is protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

President Ali Abdullah Saleh and his sons and closest of kin control the military and security organs of Yemen. That in itself would surely indicate grounds for strong political influences on the work of security organs.

Source 2 is a list of the sensitive positions that the Saleh family holds in all the sensitive positions of government, which include:

Ahmed Ali Saleh, son and Commander of Republican Guards;

Yahya Mohammed Abdullah Saleh, nephew and Commander of Central Security;

Ammar Mohammed Abdullah Saleh, Nephew and Head of Home Security;

Tariq Mohammed Abdullah Saleh, Nephew, Commander of Special Guards (Special Forces).

As such, it is impossible to not expect any political influence in these major security organs.

**References:**

1) <http://yemenonline.info/news-1898.html>

2) 1) [http://www.iraqipa.net/3-2011/1-15/a12\\_12mar2011.htm](http://www.iraqipa.net/3-2011/1-15/a12_12mar2011.htm)

**100:** 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.

**75:**

**50:** 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.

**25:**

**0:** 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.

---

84. Can law enforcement officials be held accountable for their actions?

0

84a. In law, there is an independent mechanism for citizens to complain about police action.

Yes | **No**

**Comments:**

The only complaint mechanism is to resort to the courts, but there is no record of a ruling made against any law enforcement officers.

The above is a list of the sensitive positions that members of the Saleh family hold the Government, which include:

Ahmed Ali Saleh, son and Commander of Republican Guards;

Yahya Mohammed Abdullah Saleh, nephew and Commander of Central Security;

Ammar Mohammed Abdullah Saleh, Nephew and Head of Home Security;

Tariq Mohammed Abdullah Saleh, Nephew, Commander of Special Guards (Special Forces)

As such it is impossible to not expect any political influence in these major security organs.

Even the Ministry of Human Rights does not effectively deal with thousands of cases of brutality inflicted by the police and other security apparatus. It does not even have an operating website.

**References:**

1) Article 51 of the Constitution of the Republic — [http://www.unhcr.org/refworld/category/LEGAL,,,YEM;3fc4c1e94\\_0.html](http://www.unhcr.org/refworld/category/LEGAL,,,YEM;3fc4c1e94_0.html)

2) Law of Judicial Procedures — <http://www.malak-rouhi.com/vb/showthread.php?s=dfd2f2804ca0bc7fc8dc27c6c91f25ce&t=11653>

2) [http://www.iraqipa.net/3-2011/1-15/a12\\_12mar2011.htm](http://www.iraqipa.net/3-2011/1-15/a12_12mar2011.htm)

3) <http://www.mhryemen.org/>

**Yes:** A YES score is earned if there is a formal process or mechanism by which citizens can complain about police actions. A YES score is earned if a broader mechanism such as the national ombudsman, human rights commission, or anti-corruption agency has jurisdiction over the police.

**No:** A NO score is earned if there is no such mechanism

84b. In practice, the independent law enforcement complaint reporting mechanism responds to citizen's complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no effective mechanism that will help those who have suffered from security brutality of any kind.

Sources 3 and 4 report on the countless cases of brutality exercised by the Yemen Security Apparatus that have not been dealt with, from as far back as 2008. This has been condemned repeatedly by Amnesty International and other international human rights advocacy groups:

"The authorities failed to investigate possible extrajudicial executions and other killings by the security forces. Allegations of police brutality and torture or other ill-treatment were widespread. Sentences of flogging were imposed and carried out. At least 13 people were executed and hundreds of prisoners remained on death row, including minors."

Over the last two years, the Ministry of Human Rights (MHR) has not been known to bring any case of brutality by law enforcement officers to the attention of the authorities or the public at large. Even the website of MHR is not operating.

The latest brutality displayed by police forces and hired thugs of the regime happened during the peaceful protests against the regime that followed the revolts of Tunisia and Egypt. There are a strong indication that the regime is not eager to pursue the cessation of police brutality against citizens.

The researcher is personally aware of a citizen who has files of papers concerning his efforts to bring to the attention of authorities the unjust killing of his son as he was standing in front of his house watching the police quell demonstrations just a few meters away. His son was wearing only a t-shirt and a Yemeni quilt and not concealing any weapons of any kind. For two months, the man has visited every relevant government ministry, including the MHR, but was given the runaround without any hope of finding justice.

**References:**

1) Article 51 of the Constitution — [http://www.unhcr.org/refworld/category/LEGAL/,,YEM,3fc4c1e94\\_0.html](http://www.unhcr.org/refworld/category/LEGAL/,,YEM,3fc4c1e94_0.html)

2) Law Trial Procedures — <http://www.malak-rouhi.com/vb/showthread.php?s=dfd2f2804ca0bc7fc8dc27c6c91f25ce&t=11653> — website unreachable

3) <http://www.mhryemen.org/> — website blocked

3) <http://www.guardian.co.uk/world/2008/oct/24/yemen?INTCMP=ILCNETTXT3487> — Guardian — Oct. 24, 2008

4) <http://www.amnesty.org/en/region/yemen/report-2009>

**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.

84c. In law, there is an agency/entity to investigate and prosecute corruption committed by law enforcement officials.

Yes | **No**

**Comments:**

The law specifically renders the security and military institutions free from investigations from prosecution by any authorities for any infractions including corruption.

Yemen's penal code exempts the police and military from any of the proceedings of the law.

There is also a Republican Decree that prevents the prosecution of military and security services.

"For all intents and purposes, the Disciplinary Councils in the various branches of the armed forces and the security organs called for in the law are ineffective. It is unknown what, if any, corrective actions they have ever taken against corrupt or incompetent military personnel of any rank."

The Law of Crimes and Penalties does not apply to members of the security apparatus and armed forces in its stipulations, according to the third source: "With some exceptions, members of the armed forces, the Ministry of Interior and security forces are not covered by this law."

The only resort is the Court, since the defense and security organs are immune to any prosecution, by Republican Decree.

**References:**

1) Yemen Penal Code

2) Law of Military and Security Services — [http://www.yemen-nic.info/contents/laws\\_ye/detail.php?ID=11338](http://www.yemen-nic.info/contents/laws_ye/detail.php?ID=11338)

3) Article 51 of the Yemeni Constitution — <http://www.unhcr.org/refworld/category,LEGAL,,YEM,3fc4c1e94,0.html>

**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 may be internal to the police department (provided it has a degree of independence, such as an internal affairs unit) or part of a broader national mechanism such as the national ombudsman, human rights commission, or anti-corruption agency.

**No:** A NO score is earned if no such agency/entity exists.

84d. In practice, when necessary, the agency/entity independently initiates investigations into allegations of corruption by law enforcement officials.

100 | 75 | 50 | 25 | **0**

**Comments:**

None of the relevant military codes and procedures have ever been put to the test, such as in the case involving the President's son and nephew who allegedly received "commissions" from Schlumberger and other companies.

**References:**

Various Laws on disciplining military and security organs, such as Law No. 6 for Procedures of Military and Security Organs — [http://www.yemen-nic.info/contents/laws\\_ye/detail.php?ID=11338](http://www.yemen-nic.info/contents/laws_ye/detail.php?ID=11338)

Penal Law for the Armed Forces and Security Organs

**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.

84e. In law, law enforcement officials are not immune from criminal proceedings.

Yes | **No**

**Comments:**

There are no cases known where military or security officials have been prosecuted for crimes ranging from killing to issuance of false death certificates for living military personnel. However, there may be some provisions in law where law enforcement officials are not necessarily immune from criminal proceedings in some cases.

**References:**

1) Various Laws on disciplining of security and military organs — [http://www.yemen-nic.info/contents/laws\\_ye/detail.php?ID=11428&phrase\\_id=638955](http://www.yemen-nic.info/contents/laws_ye/detail.php?ID=11428&phrase_id=638955)

2) Various laws on immunity of senior officials and government officials from prosecution and the immunity of prosecution/accountability of military and security organs

3) <http://www.althawranew.net/index.php?action=showNews&id=934>

**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.

84f. In practice, law enforcement officials are not immune from criminal proceedings.

100 | 75 | 50 | 25 | **0**

**Comments:**

The first source is one of the rare cases of an officer being held accountable for abuse of duty, but only after intense public pressure.

The second case involves one of the President's nephews tied up with a bribery case of Schlumberger the giant oil contractor that has many projects in Yemen in shady dealings with Tawfiq Mohammed Abdullallah Saleh (the President's nephew):

"Zonic (Company owned by Tawfiq) also wanted a roughly 20% cut of Schlumberger's profits from the project, one document said. It added that Schlumberger didn't accept this, but its Yemen country manager at the time 'suggested that those amounts be compensated through services.' It was decided Zonic would help with personnel, computer hardware, networking and furniture for a computing center. The former country manager couldn't be reached for comment."

The son of the President Ahmed Ali Abdullah Saleh had allegedly been paid a bribe of US\$1.3 million by a U.S. company for obtaining a large telecommunications company, the managers of which were prosecuted under U.S. bribery law charges and indicted. Source 3 is on a similar case involving the President's son, who is Commander of the Republican Guards.

There are also several cases of issuance of forged death certificates for many military personnel, who wish to avoid biometric screening for being employed with more than one military unit (there by making more than one salary). Several certificates were also issued during the Sa'ada War for military deserters who did not want to face disciplinary action and thus were referred to military pension as "martyrs" (fourth and fifth Sources).

**References:**

1) <http://www.yementimes.com/DefaultDET.aspx?i=1135&p=local&a=4> — Yemen Times Newspaper — Published:06-03-2008

2) <http://blogs.wsj.com/corruption-currents/2010/10/08/oil-services-firm-schlumberger-ltd-faces-doj-bribery-probe/> — Wall Street Journal — 10-8-2010

3) <http://armiesofliberation.com/archives/2010/12/29/latinode-pleads-guilty-to-bribery-in-honduras/> — Jane Novak's Blog — December 29, 2010

4) <http://www.althawranew.net/index.php?action=showNews&id=934>

5) Interviews with various military officers and personnel.

**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.

---