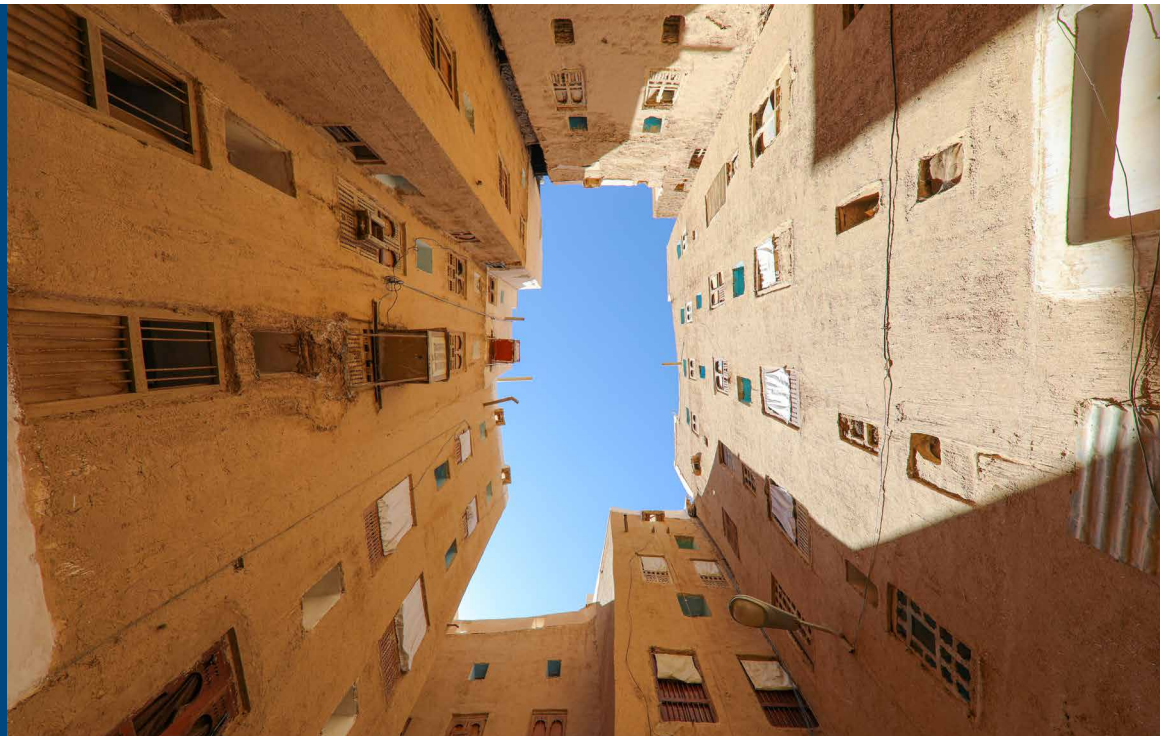


RESEARCH REPORT

# Opening Space for Transitional Justice in Yemen

March 2025



**Cover Image:** The sun shines into a courtyard in Shebam City, Hadramout Governorate, Yemen, in 2022. (UNDP Yemen)

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International Center for Transitional Justice (ICTJ) works across society and borders to challenge the causes and address the consequences of massive human rights violations. We affirm victims' dignity, fight impunity, and promote responsive institutions in societies emerging from repressive rule or armed conflict as well as in established democracies where historical injustices or systemic abuse remain unresolved. ICTJ envisions a world where societies break the cycle of massive human rights violations and lay the foundations for peace, justice, and inclusion. For more information, visit [www.ictj.org](http://www.ictj.org)

## **About the United Nations Peace Support Facility for Yemen**

The United Nations Peace Support Facility for Yemen was established in 2019 to support national and subnational peace processes. The facility is managed by UNDP Yemen.

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## Introduction

Following Yemen's 2011 uprising, the country went through a period of political upheaval and violence that escalated to a full-scale war in 2014. The war intensified in 2015 when a Saudi-led coalition intervened to support the internationally recognized government (IRG) against the Houthi rebels aligned with former President Ali Abdullah Saleh. Over the past decade, the war has caused an estimated 377,000 deaths,<sup>1</sup> with more than 60% resulting from indirect causes such as hunger, preventable diseases, and a lack of healthcare due to the ongoing crisis.<sup>2</sup> The war has internally displaced over 4.5 million people and forced around 3 million to flee the country, making Yemen one of the world's largest displacement crises.<sup>3</sup> More than two-thirds of Yemen's population, or approximately 21.6 million people, require humanitarian assistance, while over 17 million struggle with food insecurity.<sup>4</sup>

Even before the war, Yemen was the poorest country in the Arab world. Today, conflict has deepened historical grievances, including systemic marginalization and inequitable access to resources. The collapsing economy, combined with mounting violence, has turned a poor country into a humanitarian catastrophe, leaving millions of Yemenis grappling with insecurity and deprivation.

This report analyzes the context through a transitional justice lens to explore how such a framework could assist in addressing the causes and consequences of violence and conflict. It presents the results of a literature review, interviews, and consultations conducted as part of a research project on transitional justice in Yemen. In providing an overview of current developments in the field of transitional justice in Yemen and identifying entry points for using transitional justice as a key element in peacemaking, the report represents the most comprehensive effort in recent years to engage a socially and politically diverse Yemeni audience about their perspectives on transitional justice and peace, victims' needs and expectations, national grievances, and political and national reconciliation.

At a broad level, the report assesses the relationship between violence, peace, reconciliation, and justice in Yemen in three main ways. First, the report suggests that sustainable peace in Yemen depends heavily on the ability of the conflict's parties to work towards and achieve political reconciliation, but also that genuine and lasting reconciliation in Yemen requires addressing core

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1 Action for Humanity, "Yemen Situational Update Report," (January 2024).

2 "UN Humanitarian Office Puts Yemen War Dead at 233,000, Mostly from 'Indirect Causes,'" *UN News*, December 1, 2020.

3 Action for Humanity, "Yemen Situational Update Report."

4 "Emergencies: Yemen Humanitarian Crisis," UN Refugee Agency (UNHCR) Website, [www.unrefugees.org/emergencies/yemen](https://www.unrefugees.org/emergencies/yemen).

grievances and the country's legacy of violence and conflict. Past political and social injustices continue to play a significant role in determining the present political relationships in Yemen, particularly those between political parties. Without frank engagement with all parties on these matters, and more importantly, their genuine commitment, it will be difficult for Yemen to move forward or prevent future violence. Related to this point, the minimal inclusion of Houthis' perspectives and expectations in this report, due to factors such as restricted communication channels and security concerns, reflects the broader challenge of engaging all parties on justice-related issues in Yemen.

Second, the report contends that efforts made thus far to bring a solution to the conflict in Yemen have not sufficiently articulated the relationship between peacemaking and reconciliation. The Office of the Special Envoy for Yemen and efforts led by local mediators have played a key role in facilitating various truces between the conflict parties, with a view to a broader cessation of hostilities. The Office of the Special Envoy has also initiated discussions around a UN Roadmap "to end the war in Yemen," which includes different benchmarks towards achieving peace. However, efforts made since 2014 have yet to address the relationship between peace and reconciliation and between the latter and the legacy of the past. A continued failure to do so will limit the Office of the Special Envoy for Yemen's ability to support the country's transition toward peace and stability.

Third, the report provides a practical overview of ongoing reconciliation, mediation, and transitional justice mechanisms and activities in Yemen. Unfortunately, approaches to each area—in particular those led by the international community—remain separate and distinct from the others. Linkages and integrated action should instead be encouraged, given that all three fields share a common analysis and similar objectives. The report also shows that despite many areas of overlap, reconciliation, mediation, and transitional justice have developed differently in Yemen. Their processes and content mirror the extent to which they are consolidated as fields of practice in the country, with reconciliation and transitional justice having struggled the most to find concrete expression in the Yemeni political context. Despite the accumulated knowledge across generations on these topics—which Yemeni tribes have strongly supported and continue to promote—reconciliation and transitional justice continue to have little space in the Yemeni political arena. Finally, the report emphasizes the role of mediation as a tool with the potential to build trust between parties and enable greater depth of engagement, which is required for any future concrete action in the realm of reconciliation and transitional justice.

## Main Findings

The context in Yemen is one of ongoing conflict, human rights violations, and complicated political dynamics. And yet, within this challenging context there are and have been a range of transitional justice, reconciliation, and mediation processes and discussions. Based on an assessment of this context over the past decade, this report presents key findings that help explore pathways for building a just and sustainable peace in Yemen.

**Power sharing is not reconciliation.** Power-sharing arrangements are a common feature of peace agreements and are intended to commit parties to a common political process and guarantee them representation in the executive, the legislature, and other state institutions.<sup>5</sup> They build on the presumption that parties have agreed not to resort to violence and that they jointly

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5 Katia Papagianni, Centre for Humanitarian Dialogue, "Power-Sharing: A Conflict Resolution Tool?" Background Paper, Africa Mediators' Retreat, (April 2007).

commit to peace. However, as past experiences in Yemen demonstrate, power sharing is not sufficient for parties to engage in the costly concessions that are often required for dealing with core grievances and legacies of human rights violations and abuse. Lasting peace in Yemen calls for approaches to reconciliation by which parties build trust, contribute to deep societal healing, and help restore social and political relations based on human rights, dignity, and respect. More importantly, power sharing should be inserted in those reforms required to rebuild trustworthy institutions. Genuine reconciliation will require a stronger process to ensure that parties do not falter from the broader goals of societal healing and post-conflict recovery.

**Laying foundations for transitional justice.** Since the start of the conflict in 2014, transitional justice in Yemen has continued to develop as a discourse and field of practice under the leadership of Yemeni civil society organizations (CSOs) and key national entities, such as the National Commission of Inquiry. Their work is a sobering reminder that transitional justice is process-driven and as such, it takes place over a long period and may continue for many years before any concrete achievements emerge. One of the most important steps to take is to establish a foundation to build upon. The documentation of human rights and international law violations is the basis for future transitional justice processes of all types, not just criminal accountability. Information management and recordkeeping systems that preserve and protect information and documentation constitute a complementary building block. If records and information are not kept in accordance with professional standards and ethics, it will be very difficult to guarantee their usability in the future or, consequently, to further the goals of transitional justice.<sup>6</sup>

**Transitional justice, reconciliation, and peacebuilding.** In the framework of a future intra-Yemeni political process, transitional justice is expected to contribute to genuine and lasting reconciliation. Understanding the root causes that have led to conflict in Yemen requires a concerted effort to confront the past. In order to help Yemen move from a divided past to a shared future, peacebuilding efforts should accommodate space for justice and reconciliation. To achieve this, it is particularly important to familiarize all negotiating parties with different processes of dealing with the past to improve their understanding of the concepts. The participation of women, youth, persons with disabilities, and representatives of different minority groups is also critical to overcome attempts by elites to exclude certain groups from contributing to national reconciliation efforts.

**Interim steps for a victim-centered approach to transitional justice.** Despite the obstacles to developing a comprehensive national strategy for transitional justice in the current circumstances in Yemen, there are steps and preparations that should be taken now to open space for future processes that respond to victims' suffering. Moreover, victims and survivors have multiple needs that require immediate or short-term support that cannot wait until peace negotiations bear fruit. A mapping of the organizations providing services to victims is an important step, both in the sense of identifying gaps in assistance and service provision, as well as in preparation of a future victims assessment. Another important step is to map the harms suffered by victims. Conflict-related violations have caused many different types of harm to individuals, communities, and future generations. A mapping will be a helpful tool to categorize victims according to the type of damage and harm they have suffered. This can then inform the design of compensation schemes and other reparations measures. Enhancing the knowledge about conflict-related harm and patterns of victimization will also help the government to ensure availability of the human, technical, and financial resources necessary to implement reparations programs and deliver redress to victims.

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<sup>6</sup> International Council on Archives, Human Rights Working Group, "Basic Principles on the Role of Archivists and Records Managers in Support of Human Rights," (September 2016), 3.

**Tribal mediation, dealing with the past, and reconciliation.** Tribal mediation favors a restorative approach to mediation based on “compromise, empathy, the culture of apology and the admission of wrongdoing” in order to promote reconciliation.<sup>7</sup> While there is potential for the replicability of certain tribal principles and processes to inform and guide reconciliation and transitional justice initiatives in Yemen, there are also gaps in the understanding of the relationship between these areas. Given that one of the expected elements of reconciliation is a decrease in interparty violence, future research can be helpful in identifying the effects of tribal conflict management on interparty violence, as well as correlating the role of tribal mediation with the implementation of transitional justice measures and government reconciliation policies.

### Key Directions for Transitional Justice

This report argues that transitional justice can contribute to—though not altogether ensure—peace and reconciliation in Yemen. As a field of discourse that accommodates a broad spectrum of narratives, transitional justice is critical to understanding and dismantling the geography of violence in the country. To achieve this, the report asks three questions:

1. What can be done to strengthen the frameworks and tools already in place to advance transitional justice?
2. What measures can help connect the work being done by different organizations and entities in Yemen to foster a more collaborative approach to transitional justice?
3. What is the place of transitional justice in reconciliation in Yemen, including in the framework of a peace agreement and a future intra-Yemeni political process?

In response to these questions, the report proposes the following potential directions for transitional justice in Yemen:

- **Promoting a victim-centered approach to transitional justice:** A significant feature of transitional justice is its emphasis on a victim-centered approach. This requires prioritizing victim participation at all stages of the design and implementation of measures that seek to address their harms and grievances. In turn, these need to be based on an accurate understanding of victims in Yemen according to their backgrounds, needs, and different levels of vulnerability. Important steps in this direction include: establishing a forum for dialogue between the relevant ministries from the IRG, including the Ministry of Legal Affairs and Human Rights, and Yemeni CSOs on victims’ issues; revising the 2001 law on associations and foundations and other laws as may be relevant to allow for the registration of victims’ associations and networks; boosting governmental and civil society capacities to engage in strategic planning (including victims’ assessments, mapping of victim organizations, and other steps) in order to guide future policy-making and institutional responses.
- **Strengthening frameworks for inter-institutional cooperation and civil society participation in transitional justice efforts:** Insufficient institutional cooperation between key actors in Yemen has many implications for the development of transitional justice, as it stymies progress that could be otherwise achieved as a result of broader networks and the exchange of information and expertise. Policy development can be a helpful direction to promote a whole-of-government approach to transitional justice. It could also be helpful for mainstreaming

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<sup>7</sup> Nadwa al-Dawsari, Yemen Policy Center, “Tribal Mediation and Community Safety: Essential Foundations for Long-lasting Peace in Yemen,” (October 2024).

transitional justice in different areas of policymaking in Yemen. One step in this direction would be to adopt an institutional framework that, in addition to defining opportunities for policy collaboration, establishes concrete opportunities and avenues for Yemeni civil society participation in politics and governmental decision-making processes about transitional justice.

- **Promoting reconciliation in the peace negotiations:** The emphasis on both bringing conflict and violence to an end in Yemen and the resumption of a Yemeni-led transition process has geared peace efforts in the direction of governance arrangements that aim to support a peaceful, inclusive, and democratic system of government. While power-sharing is often a key feature of interim governance arrangements, it alone is not sufficient to sustain long-term efforts to address core grievances and heal national wounds. Reconciliation processes, which may unfold over many years, require broader and deeper engagement beyond power-sharing to ensure meaningful justice and social cohesion. To build the groundwork for this, one step would be to conduct a scoping exercise that assesses the attitudes of the main parties to the conflict vis-à-vis reconciliation and justice.
- To complement the approach proposed for the main negotiating parties, **the international community's support should focus on mobilizing stakeholders for prospective transitional justice in three key areas:** technical capacity-building; connecting with and supporting local actors involved in reconciliation processes; and leveraging support for the integration of reconciliation and transitional justice in the broader peace process framework.

## Structure of the Report

This report is organized into five chapters. The first chapter identifies the cornerstone violations and grievances highlighted by respondents, as well as what they consider to be victims' and survivors' main expectations of justice. The second chapter provides an overview of the National Dialogue Conference (NDC) and of the main attempts since 2014 to resume the political process that had been laid forth in the Gulf Cooperation Council (GCC) Initiative. This chapter also addresses some aspects related to the political dimension of transitional justice, mediation, and reconciliation. The third chapter examines three key institutional actors in the field of transitional justice in Yemen, assessing their contributions and looking at perceived gaps and steps that could help maximize their potential to support future transitional justice measures. Additionally, this chapter explores the potential of mediation efforts, reconciliation initiatives, and tribal practices to contribute to both restorative and retributive dimensions of justice and address the localized features of the Yemeni conflict. The fourth chapter looks at the perspectives and priorities shared by representatives of different political forces regarding transitional justice, national reconciliation, and their potential to repair Yemen's highly damaged social and political fabric. It also examines their prospects for representation in future political processes and other political avenues. Finally, the fifth chapter concludes by highlighting the key elements of a transitional justice process, exploring further the potential for transitional justice and national reconciliation to play a larger role in an intra-Yemeni political process. It also discusses the role of the Office of the Special Envoy for Yemen in this and identifies key entry points for further international engagement in transitional justice and national reconciliation.



## Methodology

The research conducted for this report examined different dimensions of transitional justice, each of which have informed the structure of this report. The research reveals that violations and grievances—including those that took place before 2014—have had serious repercussions on the political scene and are an inevitable expression of profound disagreements in Yemen about the nature of political power, the organization of the Yemeni state, and the need for a system of government that represents all Yemenis and promotes diversity, equity, and inclusivity. For this reason, the report adopts a two-tiered approach that provides information based on the insights shared by respondents while also contextualizing research results according to the key political, institutional, and social developments of the last 10 years.

The two main research methods used for this study were qualitative interviews with respondents and a literature review. With regards to the former, a total of 53 interviews were organized from the beginning of June 2024 to the beginning of September 2024. Twenty-three interviews were held in person, during two field trips conducted by one international and one Yemeni consultant to Amman (18 June - 5 July) and Cairo (22 July - 2 August). The remaining 30 interviews were conducted remotely from different locations, including Amman, Beirut, and Muscat. The overwhelming majority of those interviewed were Yemenis (a total of 49).

The selection of interviewees for this research study was based on their expertise in transitional justice and reconciliation, with a focus on participants with practical experience in these areas, such as political representatives, civil society members, and government officials. The research also prioritized inclusivity, communication with parties to the conflict, and opportunities for interviews, with a particular emphasis on overcoming gaps in the literature on victims and survivors in Yemen.

The literature review covered an extended period, from 2011 to 2024, with a focus on Yemeni documentation about transitional justice and reconciliation, including legal documents, governmental reports, policy papers by Yemeni organizations, reports from Yemeni CSOs, and press articles from Yemeni newspapers, among others. Some respondents submitted publications they authored on issues related to transitional justice. The review also included UN resolutions and decisions concerning Yemen, as well as thematic reports and policy papers on transitional justice and related topics published by international research institutions. Overall, the literature review accounts for 20% of this study.

Regarding gender representation in the interviews, a total of 22 women were interviewed. Female interviewees included representatives from CSOs, governmental entities, political parties, and

mediators. In general, the female respondents interviewed for this study represent a wide range of political, social, and geographic backgrounds. Among the female interviewees were also individuals from diverse racial and religious backgrounds, including one woman from the Mualadin community, one from the Muhamasheen community, one Isma'eli, and one from the Bohra minority. Interviewees also included one disability rights leader in Yemen (who is a person with a disability), one female colonel from the Yemeni Army, and a very senior female tribal mediator. Only two of the women interviewed reside in Sana'a. The majority of those interviewed are currently in Taiz and Aden, though they are not originally from these regions.

The 31 male respondents included members from political parties and movements; government officials (current and former); two members of the judiciary (the former and current presidents of Yemen's Supreme Court); journalists; researchers; one representative from the Baha'i community in Yemen; and one mediator. It is important to note the challenges in confining respondents to their professional positions or political party affiliations, particularly those from political parties or movements and the government. Many such respondents hold more than one occupation. Likewise, some respondents work with entities identified as parties to the conflict, yet this does not prevent them from assisting governmental initiatives or other national entities. This is not intended as a critique, but rather an observation of the country's complex political landscape.

The research team encountered several challenges during the study, including the sensitive nature of transitional justice in Yemen, security concerns, and limited access to some key respondents, such as Houthi representatives and international actors. Due to escalating risks, in-person interviews in Sana'a were suspended and were instead conducted remotely in Amman or Cairo. In addition, due to time constraints, it was only possible to interview a small fragment of political parties. The views and opinions expressed reflect those of the respondents and do not necessarily represent the official positions of the parties or entities they belong to. Future research on transitional justice and reconciliation should aim to engage a broader range of political parties and local governance structures in Yemen, given their critical role in articulating grievances and channeling transitional justice-related action in Yemen.

## Chapter 1: Victim Experiences and Expectations of Justice

The war in Yemen is marked by a history of systemic inequalities, political instability, and recurring cycles of violence that have profoundly affected the lives of its people. Over decades, structural marginalization, weak governance, and unequal access to resources created an environment ripe for grievances, which were further exacerbated by the outbreak of war. The war has been characterized by widespread violations, including indiscriminate attacks on civilians, extrajudicial killings, arbitrary detentions, torture, enforced disappearances, gender-based violence, destruction of properties, displacement, and forced migration. These violations have not only caused immense physical and psychological suffering but have also deepened societal divisions and perpetuated a culture of impunity.

Understanding the landscape of transitional justice in Yemen requires starting with the lived experiences of victims and affected communities who have endured a wide range of violations because of violent conflict and repression, resulting in profound harm and grievances. It is through these experiences that victims articulate their needs and shape their expectations for justice and reconciliation, underscoring their essential role in any future transitional justice process.

### Human Rights Violations, Harms, and Grievances

**Enforced disappearances and detentions:** The conflict in Yemen has led to widespread enforced disappearances and illegal detentions across various parts of the country. Respondents shared accounts of loved ones vanishing without a trace, often taken by armed groups with no information given on their whereabouts, leaving families in prolonged uncertainty and despair. They highlighted that enforced disappearances and illegal detentions are not only major issues in the current conflict but are also deeply rooted in earlier episodes of conflict and political upheaval.<sup>8</sup> Today, the situation remains dire, with thousands of Yemenis arbitrarily detained without due process.

The Houthis, who have controlled Yemen's capital, Sana'a, since 2014, have been particularly notorious for these practices. However, arbitrary detentions and enforced disappearances are not limited to Houthi-controlled areas. Other factions, including forces aligned with the Yemeni

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8 International Federation for Human Rights, "In the Name of National Security ... Human Rights Violations in Yemen," (2010); Human Rights Watch, "Disappearances and Arbitrary Arrests in the Armed Conflict with Huthi Rebels in Yemen," (October 2008).

government and forces backed by the United Arab Emirates (UAE) in the south have also used them to suppress dissent, eliminate opposition, and instill fear among the population. Victims often include political opponents, journalists, activists, academics, judges, businessmen, aid workers, and ordinary citizens perceived as threats.

**Extrajudicial killings:** Respondents reported extrajudicial killings, particularly those targeting ethnic minorities and political opponents. Extrajudicial killings typically refer to situations when someone in an official position deliberately kills a person without any legal process; however, in this report, respondents considered killings linked to the conduct of hostilities—such as the premeditated bombing of houses in regions like Arhab, Hudaydah, and Taiz—as a form of extrajudicial killing.<sup>9</sup>

**Landmines:** The use of landmines has caused significant harm, resulting in numerous casualties and creating long-term dangers for civilians. The issue of landmines is a critical humanitarian concern that continues to affect the lives of many in Yemen.

**Destruction and confiscation of property:** Respondents working on human rights described many victims' homes and properties being destroyed or confiscated by armed groups, reflecting broader documented trends of property destruction and confiscation, particularly by the Houthis. The illegal appropriation (or threat thereof) of property as a means of intimidation and control by other armed actors was also reported, but this requires additional research as the identity of the perpetrators was not always clear.

**Displacement and forced migration:** The destruction of homes and property has led to mass displacement, with many families forced to leave their homes and communities. More than 4.5 million people of Yemen's nearly 35 million total population are internally displaced due to the conflict.<sup>10</sup> According to respondents, those who have been released from detention often face forced displacement, unable to return to their homes due to fear of re-arrest or social stigmatization. This has caused a breakdown in social cohesion and further marginalized already vulnerable populations.

**Violence against women and gender-based violations:** Respondents said that the condition of women in Yemen is marked by severe repression, with their rights being systematically violated. Women face unprecedented violations, including detention, denial of proper medical care, and displacement.<sup>11</sup> Respondents described that there have also been allegations of sexual violence, particularly in Houthi-controlled areas, where women deemed “disobedient” are subjected to charges of prostitution.

In areas under Houthi control, Yemeni women continue facing significant restrictions on their freedom of movement, as authorities mandate that they must be accompanied by a mahram (male relative) when traveling. This includes women working in international nongovernmental or governmental organizations. Additionally, authorities in areas under the control of the IRG and the Southern Transitional Council (STC) are increasingly restricting women's freedom of movement.<sup>12</sup> They have enacted requirements that effectively prohibit women from traveling independently unless they can provide written approval from a male guardian. Women employed by humanitarian organizations have been particularly impacted, as these limitations have obstructed their ability to conduct fieldwork, which, in turn, affects access to aid for Yemeni

9 World Organisation Against Torture (OMCT), “What We Do: Extrajudicial Killings,” OMCT Website, [www.omct.org/en/what-we-do/extrajudicial-killings](http://www.omct.org/en/what-we-do/extrajudicial-killings)

10 “Emergencies: Yemen Humanitarian Crisis,” UNHCR Website, [www.unrefugees.org/emergencies/yemen](http://www.unrefugees.org/emergencies/yemen)

11 Amnesty International, “Yemen: One of the Worst Places in the World to be a Woman,” December 16, 2019.

12 Human Rights Watch, “Yemen: Warring Parties Restrict Women's Movement,” March 4, 2024.

women and girls. In the south, women and girls also encounter restrictions on their movement. Some have reported being stopped at checkpoints when traveling between governorates without a mahram, including in government-controlled areas.

**Child recruitment and impact on children:** Accounts from respondents underscored the exploitation of children and their recruitment for combat roles. Various factions, including the Houthis, government forces, and UAE-backed militias, have exploited children for warfare, violating both Yemeni law and international conventions.<sup>13</sup> This exploitation deprives children of their childhood and education and has pushed them into roles as fighters, spies, and checkpoint workers. The education sector is another area where children are being ideologically indoctrinated, further entrenching the culture of violence.<sup>14</sup>

**Exclusion of or discrimination or violence against religious and ethnic minorities:** Minorities in Yemen have suffered from a complex array of grievances, ranging from political exclusion to systemic discrimination and targeted violence.<sup>15</sup> Many of these grievances are deeply rooted in Yemen's social fabric and have been exacerbated by the country's legal and political framework and ongoing conflict. The Yemeni constitution declares Islam as the state religion, mandates that all legislation be based on sharia, and does not explicitly guarantee freedom of religion or belief. Respondents described how government and non-government forces have deepened the marginalization of religious minorities, using religious identities as tools to serve their political and military agendas.

Pro-government forces have targeted Houthi Shia individuals and religious sites, while radical Sunni groups have attacked Christians in areas liberated by the Saudi-led coalition.<sup>16</sup> Respondents stated that the Houthis, who currently control significant portions of Yemen, have intensified their coercive actions against religious minorities, particularly Jewish and Baha'i communities, through intimidation, arbitrary detention, and forced expulsions. They have also been accused of committing numerous abuses against places of worship and religious figures, including killings, kidnappings, and the destruction of Sunni and Salafi sites.<sup>17</sup> Christians and other minorities endure significant persecution, including legal harassment, imprisonment, and social exclusion.

Furthermore, the use of legal mechanisms to suppress minority voices is evident in the issuance of death penalties to hundreds of individuals in Sana'a, including parliament members, based on their religious or political affiliations.<sup>18</sup> Respondents suggested that violence against women, including minority women accused of being "disobedient," has been another pressing concern, reflecting a broader pattern of gender-based persecution against these disadvantaged communities.

**Physical and psychological trauma:** Respondents highlighted that widespread violations have resulted in significant physical and emotional trauma, especially among women and children. The trauma is exacerbated by the conditions of detention, where individuals endure harsh treatment and fall into poor health due to inadequate facilities. Women and children in particular have suffered from road blockades, leading to health crises and unnecessary deaths.

13 UN, "Annual Report of the UN Secretary-General on Children and Armed Conflict," June 23, 2022 (A/76/871).

14 Abdullah Al-Shadli, "By Curricular Amendments: The Houthis Are Mining Generations," *South24*, November 5, 2011.

15 United States Department of State, Office of International Religious Freedom, "Yemen 2022: International Religious Freedom Report," (2022).

16 *Ibid.*

17 *Ibid.*

18 "Rights Office Concerned Over Death Sentences Against 35 Yemeni MPs," *UN News*, March 6, 2020.

The psychological impact of the conflict is particularly profound for those who have been detained or have lost family members. The stigma attached to detention, especially for women, has led to social ostracization and further psychological harm.<sup>19</sup> The emotional trauma caused by the disappearance of loved ones and the uncertainty of their fate has left deep scars on affected families.

**Economic violations, hardship, and poverty:** Both the Houthis and the IRG have entrenched themselves in parallel economic systems in the north and south, further deepening the country's divisions.<sup>20</sup> These systems subject the population to double tariffs and conflicting currency values. Respondents described that the Houthi authorities in Sana'a have imposed heavy taxation without representation, turning basic services like electricity into revenue-generating investments rather than public services.

Respondents suggested the economic impact of the war has been devastating. Many Yemenis have lost their homes, businesses, and livelihoods, driving widespread poverty and hunger. The non-payment of salaries has further compounded the economic difficulties, forcing many public servants into financial hardship. The privatization of basic services by the Houthi authorities has also placed an additional burden on citizens.

The destruction of infrastructure, including factories and businesses, has resulted in the loss of livelihoods for many Yemenis. Bombings of factories and the closure of roads have disrupted trade and commerce, leading to a significant loss of income and economic resources.<sup>21</sup> Looting and the confiscation of property have further stripped many of their means of survival, exacerbating economic grievances.

**Social fragmentation and sectarian tensions:** The conflict has deepened social fragmentation and sectarian tensions, particularly in regions like Taiz, where respondents report that the closure of roads has created a sense of alienation and destroyed the fabric of the community. The entrenchment of national and sectarian identities has further polarized the population, making reconciliation more difficult.

**Increased vulnerability of women and children:** Women and children have borne the brunt of the conflict, with many having to become breadwinners after losing their husbands or fathers.<sup>22</sup> The vulnerability of these groups has been heightened by the lack of access to essential services, such as healthcare and education, and by the threat of violence, both within the home and in public spaces.<sup>23</sup>

**Long-term consequences for future generations:** Respondents indicated that violations and resulting grievances have long-term consequences for future generations. The recruitment of children into armed conflict and ideological indoctrination in schools are setting the stage for continued conflict and instability. The economic deprivation and social fragmentation caused by the war will likely have lasting effects, making the path to reconciliation and peace even more challenging.

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19 Sarah Al-Areqi, Yemen Policy Center, "'If Only...' Women's Resistance and Hope in the Face of Enforced Disappearance in Yemen," (December 2022).

20 Arab Center Washington DC, "Yemen's War Economy: A Key Factor in the Ongoing Conflict," September 20, 2023.

21 Jonathan D. Moyer et. al., UNDP, "Assessing the Impact of War in Yemen," (2019).

22 Anna Foster and Suaad al Salahi, "Yemen War: Women Facing Daily Struggle to Survive," *BBC*, April 15, 2023.

23 UN Population Fund, "Inclusive Safe Spaces Give Yemeni Women with Disabilities a Chance to be Their Own Breadwinners," August 3, 2023.

## Victims' Expectations of Justice

Victims of the conflict in Yemen express a range of expectations regarding justice, reflecting their diverse experiences and the varied impacts of the war across different regions. Ensuring that these diverse expectations are considered and addressed within the peace process is crucial for creating just and lasting outcomes. These expectations, identified through a combination of interviews with key stakeholders and a thorough literature review, are centered around several key themes:

**End of conflict and restoration of normalcy:** For many victims, the most immediate expectation is the cessation of violence and return to a semblance of normal life. This includes the end of the war, payment of long-overdue salaries to civil servants, and reopening of essential infrastructure, such as roads that have been closed due to the conflict. They see the cessation of hostilities and the return of basic state functions as the first step toward justice. In Aden, which has not yet recovered from the devastating effects of the 2015 fighting and where tensions persist due to rifts among political and armed actors, one respondent talked about reclaiming the state as it was before 1994, with unified institutions, clear governance, and a transparent military force.<sup>24</sup>

**Acknowledgment and recognition:** Another key set of expectations is the acknowledgment of victims' suffering by society and the warring parties, recognition of the wrongs done to them, and the establishment of truth-telling mechanisms to reveal the full extent of the atrocities committed. For example, victims in Aden feel that their suffering has been largely unacknowledged, and they seek recognition of the atrocities committed against them.

**Reparation and compensation:** A significant expectation among victims is the provision of reparations for the losses they have suffered. This includes material compensation for destroyed properties and lost livelihoods and the restitution of seized assets. Victims in Sana'a, for instance, seek compensation for the destruction and bombing of their properties. There is also a strong desire for reparations to address the economic impact of the conflict, including programs aimed at economic empowerment for the families of victims, particularly those who lost their breadwinners.

**Legal or criminal accountability and fair trials:** Victims overwhelmingly expect accountability for the crimes committed during the conflict. This includes the prosecution of perpetrators in fair trials and the revocation of immunity for those responsible for serious violations. In particular, there is a desire for the perpetrators to acknowledge their crimes, offer apologies, and face appropriate legal consequences.

**Psychological and moral support:** Beyond material compensation, victims also seek psychological and moral support as part of the transitional justice process. One respondent raised the topic of "emotional trauma." In his words, "there are many emotional grievances and emotional trauma, especially among some of the most vulnerable in society like women and children." A member of the Consultation and Reconciliation Commission (known as the CRC) also highlighted the importance of mental health and psychological support, including with regards to past mechanisms, such as the 2013 Commission for the Forcibly Retired from the Southern Governorates, that did not include this component.<sup>25</sup>

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24 "Battle for Aden: Who is Fighting Who and How Things Got Here," *Al Jazeera*, August 29, 2019.

25 The CRC representative referred to a presidential decree dated May 2023, which had authorized the Commission for the Forcibly Retired to proceed with the payment of compensation for some of the claims that the Commission had documented in the early years of its existence. While welcoming this decision, the CRC representative also pointed out

**Participation or representation:** Victims across Yemen express a strong desire to be actively involved in the transitional justice process, believing that their participation is essential for addressing their grievances and achieving sustainable peace. They also feel sidelined from national politics. In regions like Al Mahra, transitional justice is seen as an opportunity to ensure local representation in decision-making positions, thereby addressing long-standing political and economic marginalization.

**Prevention of future violations:** Victims underscore the importance of measures that prevent future violations, such as criminalizing hate speech and reforming institutions to ensure that those responsible for past abuses cannot hold positions of power. They also call for the support of existing initiatives like local commissions dealing with land disputes. Furthermore, victims emphasize the importance of incorporating their needs and experiences into any future peace agreements and restoring the constitution to guarantee the protection of rights and the balance of power in Yemen.

Amid these calls for justice, there is a sense of skepticism, too. Many respondents doubt the effectiveness of current national and local mechanisms, pointing to issues of political manipulation, lack of resources, and ongoing instability. Respondents highlight the absence of political will as a fundamental barrier, with armed groups and competing international interests casting long shadows over any peace efforts. They worry that without stronger international support, particularly from the UN, efforts to document abuses and protect vulnerable communities might falter.

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that said decision did not include any provisions concerning mental health or psychosocial assistance for the claimants. Decree No. (42) of 2023 of the President of the Presidential Leadership Council, May 15, 2023.

## Chapter 2: The Political Context

### National Dialogue Conference (NDC) 2013-2014

The NDC constituted a very significant part of Yemen's transition process.<sup>26</sup> It was initiated in Riyadh upon the signature of the GCC Initiative in November 2011, with the support of the five permanent members of the Security Council and the European Union.<sup>27</sup> The accord ended the 33-year term of Ali Abdullah Saleh as president of Yemen and confirmed Abdrabbuh Mansour Hadi as interim president.<sup>28</sup> Elections in February 2012 confirmed Hadi as the new president of Yemen. A law issued in January 2012, while Hadi was still vice-president, granted immunity to Ali Abdullah Saleh from legal and judicial prosecution. The provisions of the law also applied to "acts carried throughout the reign of President Ali Abdullah Saleh, up to the date it is issued."<sup>29</sup> In addition to parliamentary elections in 2012, the GCC Initiative and the accompanying Transition Implementation Plan also committed Yemen to a national dialogue process "to bring together political parties, social groups, women, youth and regional actors to work out the terms of a new constitution and hold fresh, local, parliamentary and presidential elections by 2014."<sup>30</sup>

The GCC Initiative provided a framework "for a political settlement in Yemen."<sup>31</sup> It secured the departure of Ali Abdullah Saleh and helped form a transitional government.<sup>32</sup> The GCC Initiative was complemented by an implementation mechanism that divided the transition process into two phases.<sup>33</sup> During the first phase, a government of national unity was to establish, among other tasks, a conference for national dialogue. The crux of the second phase was the official transfer of power, and it would also include the convening of the NDC, formation of its preparatory body, and establishment of other bodies as may be needed.<sup>34</sup> The NDC was expected to be "comprehensive," which meant that it was not to be limited to those political parties participating in the government of national unity. Instead, it should be "for all forces

26 Erica Gaston, United States Institute of Peace, "Process Lessons Learned in Yemen's National Dialogue," (February 2014).

27 Christina Bennet, "The Importance of Regional Cooperation: The GCC Initiative in Yemen," in *Planning Ahead for a Post Conflict Syria: Lessons from Iraq, Lebanon, and Yemen* (Washington D.C.: International Peace Institute, 2013).

28 Ibid.

29 Amnesty International, "Yemen's Immunity Law: Breach of International Obligations," (2012).

30 Bennet, "The Importance of Regional Cooperation."

31 Ibrahim Sharqieh, Brookings Doha Center, "A Lasting Peace? Yemen's Long Journey to National Reconciliation," (February 2013), 1.

32 Ibid., 3.

33 Agreement on the Implementation Mechanism for the Transition Process in Yemen in Accordance with the Initiative of the Gulf Cooperation Council, December 5, 2011.

34 Ibid.

and political actors, including youth, the Southern Movement, the Houthis, other political parties, civil society representatives, and women.”<sup>35</sup>

According to the implementation mechanism, the NDC was expected to address several issues, including “taking steps aimed at achieving national reconciliation and transitional justice, and measures to ensure that violations of human rights and humanitarian law do not occur in the future.”<sup>36</sup> This was reaffirmed in the 2012 Immunity Law, which committed the “national reconciliation government to submit a draft law or draft laws to Parliament with regards to national reconciliation and transitional government.”<sup>37</sup>

**Preparations for the NDC:** According to the Implementation Agreement of the GCC Initiative, the government of national unity had been tasked with the establishment of a liaison committee to “engage effectively with youth movements from all parties in the squares and elsewhere in Yemen” in order to initiate an “open conversation about the future of the country.”<sup>38</sup> According to two respondents, there was agreement on 20 items that required state intervention before the NDC, such as the Sa’ada issue and the southern issue.<sup>39</sup> However, “these points were blown up and ignored and the government went directly into the dialogue.” As a result of this failure, the two respondents and multiple other youth representatives resigned from the committee.

**No preliminary steps for national reconciliation:** One criticism of the NDC process is that even though the idea of a national dialogue was a good one, it should have been preceded by preliminary steps toward national reconciliation. Indeed, the government of national unity was not founded on national reconciliation. As one respondent noted, “the dialogue was carried out at the same time as war was raging in Al Jawf, Ma’rib and Sa’ada.” According to another respondent, “the NDC dismantled the state’s constitution and political entities.” This should not have happened without a strong foundation based on national reconciliation. From his perspective, instead of strengthening national unity, the NDC did not just fail; it caused further fragmentation. As the respondent explained, “conducting the dialogue in a fragile state was a terrible idea. The reforms should have been gradual.”

**Participation of a new set of actors:** At the same time, the NDC did succeed in promoting participation among new actors. It included youth, women, and civil society representatives and representatives from political parties and movements not represented in the government of national unity, among others. According to one respondent, this was important because “[some] political forces at the time (i.e., Houthis and southerners) were not registered political parties and did not have a place in politics.” The conference was a broad, open forum based on the

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35 Ibid.

36 Ibid.

37 Law No. 1 of 2012 of Yemen Concerning the Granting of Immunity from Legal and Judicial Prosecution, January 21, 2012. English translation available in: Amnesty International, “Yemen’s Immunity Law.”

38 Ibid.

39 The Sa’ada issue revolves around the Houthi movement, which originated in Yemen’s northwestern Sa’ada province, where the Zaydi Shiite Hashemite community sought to restore the Yemeni imamate and revive its cultural and political influence in response to rising Salafist ideologies and Saudi interference. The Houthis, officially known as Ansarullah, have been involved in a prolonged conflict with Yemen’s government, escalating their rebellion into a civil war after seizing the capital, Sana’a, in 2014. See United States Institute of Peace, “Who are Yemen’s Houthis?” July 7, 2022; Asher Orkaby, Washington Institute for Near East Policy, “The 1968 Siege of Sana: A Houthi Historical Parallel,” November 10, 2014. The southern issue revolves around the Southern Movement in Yemen, also known as al-Hirak, that advocates for the separation of southern Yemen from the north, reflecting complex sentiments of self-determination and historical grievances. Supporters argue that it represents a struggle against northern “occupation” and seeks to restore the former state of South Yemen, which was unified with North Yemen in 1990. Emerging from the aftermath of the 1994 civil war, the movement gained momentum with protests beginning in 2007, primarily in Aden, opposing perceived political and economic marginalization by the northern government. While some view it as a straightforward secessionist endeavor, others see it as a legitimate quest for autonomy and rights for the southern population. “Yemen Profile – Timeline,” BBC; Human Rights Watch, “In the Name of Unity,” (2009); Afrah Nasser, Arab Center Washington DC, “The Thorny Relationship between Yemen’s Government and the Southern Transitional Council,” May 3, 2023.

principle of dialogue. It facilitated open discussions on many difficult and sensitive issues, such as the Sa'ada question, the southern question, and transitional justice. However, even though the NDC had made significant progress in terms of representativity, it nevertheless left out important constituencies. These mainly included religious minorities and people with disabilities.

### Summary of NDC Outcomes on Transitional Justice

The NDC outcomes constitute a summary of the most important conclusions reached by the nine working groups that convened between March 2013 and January 2015.<sup>40</sup> They were part of a broader transition framework and were designed to provide direction for the constitutional commission tasked with the preparation of a new draft constitution. As will be discussed in more detail in a later section, however, this framework was undermined by a lack of implementation and various obstacles that hindered progress.

The outcomes were considered “building blocks” for the vision of a civil, federal Yemeni state.<sup>41</sup> They were informed by a reckoning with Yemen’s history and legacy of conflict and violence through an “accurate diagnosis of the past and recognition of the mistakes committed.”<sup>42</sup> The process of political transition was understood as a process of change through a “collective commitment to reparations, fair compensation, healing of past wounds, the establishment of trust between citizens and between these and the public institutions.”<sup>43</sup> A specific working group was established under the heading “Transitional Justice and National Reconciliation,” a topic that also featured prominently in other working groups, in particular those on southern issues and Sa’ada.<sup>44</sup>

In the case of the Southern Working Group, the outcomes included specific “dealing with the past” provisions to address key grievances related to events that had occurred in the south after the unification in 1990. Redressing past injustices was also a key condition for the creation of a new federal state structure (“the new federal state will need to be built in full recognition of the grievous errors and injustices that have been committed in the South”).<sup>45</sup> Many of the grievances to be addressed concerned housing, land, and property (HLP) issues, such as the restitution of seized land and properties.

The outcomes of the Sa’ada Working Group essentially addressed the effects of the six distinct rounds of conflict that occurred in the Sa’ada governorate between 2004 and 2010.<sup>46</sup> More specifically, the working group purposed many of its outcomes towards “mending all the wounds in Yemen” and to “mending the damages” caused by violence and conflict in Sa’ada.<sup>47</sup> Many different types of measures were proposed, including some with clear reparative and remedial goals. In addition, the Sa’ada Working Group also proposed measures for victims of the Sa’ada wars. These included proposals for the establishment of care for the families of martyrs, wounded, and disabled; compensation for internally displaced persons who lost property and possessions; and financial compensation and psychological support for those held in incommunicado detention in connection with the wars in Sa’ada, amongst others.

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40 “National Dialogue Conference Outcomes Document,” 2013, [www.peaceagreements.org/masterdocument/1400](http://www.peaceagreements.org/masterdocument/1400)

41 *Ibid.*, 228.

42 *Ibid.*

43 *Ibid.*, 229.

44 *Ibid.*, 6-13.

45 *Ibid.*, 6.

46 *Ibid.*, 13-24.

47 *Ibid.*

The Working Group on Transitional Justice and National Reconciliation had a double function: identify issues of national scope and suggest solutions for those issues within the context of the constitution, the country's legal framework, and its national policies.<sup>48</sup> The outcomes reached by the working group included clear definitions for terms used for transitional justice and reconciliation purposes, such as “victims,” “truth-telling,” “memorialization,” “accountability,” “national reconciliation,” and others.<sup>49</sup> The working group also submitted many proposals for the issues identified by other working groups, such as the groups on recovery of stolen assets and looted property.<sup>50</sup> Proposals included remedies and reparations, such as collective reparations schemes (Tihama, Mareb, Mahara, Socotra<sup>51</sup>); apologies; reparations; fair compensation for “those who have been subject to human rights violations during wars”; and “care and honour” for the families of army and security personnel and of popular committees (local armed groups that played a role in maintaining security and engaging in conflict) killed in the line of duty.<sup>52</sup> Finally, one of the most emblematic outcomes of the working group was the proposal for the establishment of a “Transitional Justice Body” with “legal personality and financial and administrative autonomy” to implement the law on transitional justice and national reconciliation.<sup>53</sup>

### Overview of Post-2014 Political Processes

In 2014, Yemen's political landscape underwent a dramatic shift when the Houthis seized control of the capital, Sana'a, effectively toppling the internationally recognized government of President Abdrabbuh Mansour Hadi.<sup>54</sup> This was made possible through an alliance with former President Ali Abdullah Saleh, whose deep-rooted political influence merged with the Houthis' ambitions.<sup>55</sup> The takeover was fueled by widespread discontent with Hadi's government and ongoing economic and political crises.<sup>56</sup> By early 2015, the Houthis had expanded their control over large parts of the country, including key military installations, creating a political vacuum and further destabilizing state institutions.<sup>57</sup> Saudi Arabia viewed the Houthis' rise as a sign of growing Iranian influence. In response, it led a coalition of regional allies, primarily backed by the United States and the United Kingdom, to launch Operation Decisive Storm in March 2015 to restore Hadi's government.<sup>58</sup> This intervention escalated the conflict into a regional war, leading to a devastating and protracted struggle that has deeply fragmented Yemen, exacerbated its humanitarian crises, and left a lasting impact on its stability and its people.

Since the outbreak of the conflict, the political process in Yemen has been marked by numerous rounds of peace talks, often mediated by international actors, aimed at bridging the deep divisions between warring factions and laying the groundwork for a sustainable peace process.

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48 Ibid., 24-33.

49 Ibid., 25.

50 Ibid., 30.

51 Ibid., 31.

52 Ibid., 30. The so-called popular committees refer to armed groups mobilized in some of Yemen's governorates to counter specific threats. For instance, in 2012, popular committees were mobilized in Abyan to counter Al Qaeda in the Arabian Peninsula. Armed Conflict Location & Event Data (ACLED), “Yemen Conflict Observatory Conflict Profile.” According to Yemeni analyst Farea al Muslimi, after the start of the conflict in 2014, parties to the conflict continued to resort to popular committees. They mobilized local forces outside of “formal configurations” to rally armed support and overpower and consolidate control over rivals. See Farea al Muslimi, Carnegie Endowment for International Peace, “The Popular Committee Phenomenon in Yemen: Fueling War and Conflict,” April 1, 2015.

53 “National Dialogue Conference Outcomes Document,” 35. The inclusion of “legal personality” likely reflects an intention to underscore the importance of independence while not guaranteeing it.

54 “Yemen Crisis: Houthi Rebels Announce Takeover,” *BBC*, February 6, 2015.

55 “Yemen's President and Houthis Reach Agreement,” *Al Jazeera English*, January 22, 2015.

56 Mohammed Ghojari, “Tens of Thousands of Yemeni Houthis Protest Against Fuel Reform, Government,” *Reuters*, August 18, 2014.

57 “Yemen in Crisis: Who Are the Houthis and What Do They Want?” *Esquire Middle East*, April 6, 2015.

58 “Saudi Arabia Launches Yemen Air Strikes as Alliance Builds Against Houthi Rebels,” *The Guardian*, March 26, 2015.

As illustrated in Box 1, despite some breakthroughs, the negotiations have frequently stalled or failed to achieve their intended outcomes, reflecting the complex and evolving nature of Yemen's political landscape.

### Box 1: Key Post-2014 Peace Initiatives

**Geneva I (June 2015):**<sup>i</sup> The first UN-sponsored peace talks, which ended without significant progress due to deep divisions between the warring parties.

**Geneva II (December 2015):**<sup>ii</sup> Although marked by initial optimism, this round also concluded without concrete results, with ceasefire agreements quickly breaking down.

**Kuwait Talks (April-August 2016):**<sup>iii</sup> Lasting over three months, the longest negotiations to date ultimately ended in stalemate because both parties could not agree on power-sharing arrangements.

**Geneva III (September 2018):**<sup>iv</sup> Planned talks failed to occur as logistical disputes prevented the Houthi delegation from leaving Sana'a.

**Stockholm Agreement (December 2018):**<sup>v</sup> This marked a significant breakthrough, leading to a ceasefire in Hudaydah, prisoner exchanges, and a mutual understanding concerning Taiz, although its implementation has been slow.

**Riyadh Agreement (November 2019):**<sup>vi</sup> This was a power-sharing deal brokered by Saudi Arabia between the IRG and STC aimed at addressing tensions in southern Yemen. While it provided temporary stability, its implementation has faced challenges.

**Jordan (January 2021):**<sup>vii</sup> Another round of UN-led talks in Geneva focused on the exchange of prisoners but failed to produce a broader peace settlement.

**Oman Backchannel (2021-Present):**<sup>viii</sup> Indirect talks facilitated by Oman are ongoing, concentrating on confidence-building measures and humanitarian access.

NOTES: i. "Yemen Crisis: Geneva Talks Fail to Produce Ceasefire," *BBC*, June 19, 2015.

ii. OSESGY, "Yemen Peace Talks, Switzerland, December 2015," December 15, 2015.

iii. "Yemen Peace Talks in Kuwait Stall Over Differences," *Al Jazeera English*, April 24, 2016; "Yemen Peace Talks in Kuwait End Amid Fighting," *Al Jazeera English*, August 7, 2016.

iv. OSESGY, "Statement of the Special Envoy for Yemen to the Press on the Consultations in Geneva," September 5, 2018.

v. UN Mission to Support the Hudaydah Agreement (UNMHA), Stockholm Agreement, December 13, 2018.

vi. The Royal Embassy of Saudi Arabia in Washington, D.C., "The Riyadh Agreement," (December 2019).

vii. OSESGY, "Press Release on the Start of the Fifth Meeting of the Supervisory Committee on Prisoners and Detainees," January 24, 2021.

viii. Abdullah Baabood, Berghof Foundation, "Omani Perspectives on the Peace Process in Yemen," (2021).

### Key Political Developments Since 2014

**The formation of the Southern Transitional Council (STC) in 2017:** The STC was established in May 2017 after significant fallout between then-President Abdrabbuh Mansour Hadi and Aden's governor, Aidarous al-Zubaidi. The STC was formed in response to Hadi's dismissal of al-Zubaidi, a move that reflected deep-seated southern grievances against the central govern-

ment. Backed by the UAE, the STC quickly became the leading force within the Southern Movement, which advocates for the independence of South Yemen. The council's formation marked a critical escalation in Yemen's conflict, intensifying the divide between the IRG and the south. Despite attempts to integrate the STC into broader peace efforts, such as through the Riyadh Agreement and the PLC, the STC remains a powerful, UAE-supported adversary of the government, complicating efforts for a unified resolution to the conflict.

**The Stockholm Agreement (2018):** The Stockholm Agreement, reached on December 13, 2018, was a significant accord between the warring parties in Yemen brokered under the auspices of the UN. The agreement was composed of three main components: the Hudaydah Agreement, a Prisoner Exchange Agreement, and the Taiz Agreement. The UN Security Council endorsed the accord through Resolution 2451.

The Hudaydah Agreement focused on the city of Hudaydah and its key ports—Hudaydah, Salif, and Ras Issa—mandating a ceasefire and the redeployment of forces to prevent further escalation. The Prisoner Exchange Agreement sought to facilitate the release of thousands of detainees from both sides, aiming to build trust between the parties. The Taiz Agreement called for the de-escalation of hostilities in the war-torn city of Taiz and the opening of humanitarian corridors.

Despite its initial promise, the Stockholm Agreement has been criticized for its limited implementation. The agreement prevented the Yemeni government's forces from recapturing Hudaydah, a strategic port city, just as Houthi forces were reportedly on the brink of defeat. This outcome allowed the Houthis to consolidate their control over Sana'a and expand their territorial influence, shifting from a defensive to an offensive stance. Consequently, the Houthis strengthened their position, posing new threats to the government-controlled areas, including the resource-rich region of Ma'rib.

While the Stockholm Agreement temporarily halted large-scale fighting around Hudaydah and facilitated some prisoner exchanges, it has not led to a comprehensive resolution of the conflict. The partial implementation and shifting dynamics it enabled have continued to influence the broader trajectory of the war, with many seeing it as a missed opportunity for lasting peace.

**The Riyadh Agreement (2019):** The Riyadh Agreement, signed on November 5, 2019, aimed to merge the Yemeni government and the STC security forces to address escalating tensions in southern Yemen. Specifically, it sought to integrate STC forces into the Ministries of Interior and Defense, with a Saudi-led coalition committee overseeing implementation. This agreement followed intense clashes, particularly after the killing of senior STC commander Munir Al-Yafa'i, which heightened hostilities between the STC and government forces.

While the agreement established local ceasefires in Abyan Governorate and led to the formation of a unity cabinet and the appointment of new governors in Shabwah and Aden, its major objectives have largely gone unimplemented. Most deadlines were missed, and the promised integration of STC military and security units into government ministries never materialized. The agreement effectively resulted in a de facto partition of Yemen between STC and government-controlled areas, rather than the national unity it intended to create. The failure to fully implement the agreement also led to increased political violence, with opposing factions using the ceasefire to abduct and assassinate rivals, particularly in Aden. By January 2020, the STC had withdrawn from joint committees working to implement the Riyadh Agreement, and by August

of the same year, it suspended its participation in all talks related to the agreement, signaling the agreement's collapse and the deepening of divisions within Yemen.<sup>59</sup>

**De facto truce (2022):** The UN-brokered truce in April 2022 represented a significant, yet fragile pause in the prolonged conflict that started in 2014. Initially set for two months and subsequently extended, the truce led to a notable reduction in hostilities, particularly in areas like Ma'rib and Hudaydah, and facilitated crucial humanitarian access to regions previously cut off from aid. Key components of the truce included the nationwide ceasefire, opening of humanitarian corridors, prisoner exchanges, resumption of commercial flights from Sana'a, and the arrival of fuel shipments to Hudaydah. Despite these positive developments, the truce faced many challenges, including frequent violations and unresolved issues such as political power-sharing and economic control. Although it drew on the parties' commitment to enact its terms and follow through on their implementation, the truce was not sufficient for parties to transcend their political disagreements and negotiate a comprehensive political settlement. The truce came to an end in October 2022. Even though some truce-induced conditions persist, and frontlines have remained mostly static through the end of 2024, the fragility of the truce highlights the deep challenges in setting the stage for a comprehensive peace process in Yemen.<sup>60</sup> Box 2 highlights the similar example of Libya and its challenges pursuing peace and transitional justice amidst conflict.

### Box 2: Peace Processes in Libya

Since the 2011 uprising that ousted Muammar Gaddafi, Libya has experienced successive civil wars and proxy conflicts fueled by international interference. Over 40 years of dictatorship, followed by more than a decade of internal divisions and violence, have created thousands of victims. While numerous attempts have been made to deal with the past and address the widespread human rights violations, these efforts have yielded little tangible progress due to ongoing conflicts, political fragmentation, and the absence of a peace agreement among key factions. Libya's case underscores the importance of bottom-up approaches, an inclusive process, and the integration of local realities into reconciliation strategies. These lessons are particularly relevant for Yemen, where similar challenges of political fragmentation, foreign interference, and security issues persist.

- Lack of political will/support: Political actors in Libya have prioritized power-sharing over accountability. Law No. 29 of 2013, which mandated the establishment of a Fact-Finding and Reconciliation Commission to investigate grave human rights violations, was never implemented due to political instability and division.<sup>1</sup> Moreover, the 2015 Libyan Political Agreement aimed at forming a unity government but largely ignored transitional justice, sidelining efforts to address past violations. The fragmented government structure, with competing factions such as the government of national unity (GNU) and the Eastern-based House of Representatives, has also impeded sustained focus on justice and reconciliation. Similarly, the roadmap "For the Preparatory Phase of a Comprehensive Solution," developed during the Berlin 2020 process, envisioned a national reconciliation process that has been largely ignored. Political actors prioritized short-term power-sharing arrangements over transitional justice, viewing accountability as a threat to their positions.

(continued)

<sup>59</sup> "Yemen's Southern Separatists Pull Out of Riyadh Agreement Committees," *Reuters*, January 1, 2020; "Yemen's Southern Separatists Withdraw from Riyadh Peace Deal," *Al Jazeera*, August 26, 2020.

<sup>60</sup> Sana'a Center for Strategic Studies, "The Yemen Review Quarterly: July-September 2024," October 16, 2024.

**Box 2 (continued)**

While the GNU already had a reconciliation bill, which it proposed without credible victim participation and public consultations, the House of Representatives adopted its own reconciliation bill in January 2025, demonstrating that even on the concept of reconciliation the two factions are pursuing their own agendas, driven mainly by an interest in controlling oil production and profit.

- **Need for inclusive dialogue:** Transitional justice discussions in Libya have often excluded key stakeholders. For example, the exclusion of civil society and victims' groups during the drafting of Law No. 29 in 2013 meant that the law failed to address the diverse needs of Libya's affected communities. The draft Reconciliation Strategy, shared with CSOs in June 2022, failed to consider the views of marginalized groups and victims of past violations.<sup>ii</sup> Furthermore, the draft has been criticized for being gender-blind and for not ensuring a transparent selection process for members of the proposed truth commission. Tribal groups in the south and women's organizations have also been underrepresented in these processes, undermining their legitimacy and effectiveness.
- **Influence of foreign interventions:** External actors with competing interests have exacerbated Libya's divisions by supporting different factions. For example, Turkey's backing of the GNU and Russia's support for Khalifa Haftar's Libyan National Army have obstructed unified judicial and institutional approaches. These foreign interventions have not only complicated the reconciliation process but have also delayed efforts to organize elections, a key component of the roadmap for peace.
- **Institutional weakness and governance issues:** Weak and fragmented institutions have impeded Libya's transitional justice processes. The Fact-Finding and Reconciliation Commission envisioned in Law 29 was never operationalized due to a lack of resources and political backing. Attempts by UN Support Mission in Libya and the African Union to promote national reconciliation have also faced difficulties, as these initiatives have been disconnected from the realities on the ground. For example, the African Union's efforts to convene a reconciliation conference have been repeatedly postponed due to political stagnation and deliberate obstruction by certain factions.
- **Security challenges:** The presence of armed groups and the continuous threat of violence have hampered transitional justice initiatives. For example, militias in Tripoli have intimidated and attacked victims, witnesses, and activists, discouraging participation in reconciliation processes.<sup>iii</sup> Threats against activists have severely limited their capacity to operate safely. The pervasive violence has also disrupted documentation and evidence-collection efforts, essential for truth-seeking and accountability. The slow progress of the national reconciliation process, despite public support, reflects the immense challenges posed by the security situation. Additionally, international support for CSOs has been insufficient, further weakening their impact.

NOTES: i. Libyan Law No. (29) of 2013 on Transitional Justice.

ii. "Presidential Council Launches Strategic Vision for the National Reconciliation Project Today," *Libyan News Agency*, June 23, 2022.

iii. Francesca Folda, ICTJ, "A Path for Hope in Libya Through Civil Society," November 21, 2022.

**UN Envoy's peace efforts and the challenge of bilateral talks:** The Office of the Special Envoy for Yemen has been at the forefront of the international community's efforts to mediate peace in a conflict that has torn the country apart for nearly a decade. Despite numerous setbacks, the Special Envoy's office has worked tirelessly to broker ceasefires, facilitate humanitarian access, and bring the warring factions to the negotiating table. However, these efforts have increasingly been sidelined by direct bilateral talks between Saudi Arabia and the Houthi movement, which have overshadowed and complicated the UN's broader peace initiatives.

In recent years, Saudi-Houthi negotiations, often occurring outside the formal UN-led peace process, have led to significant, albeit limited, agreements, such as local ceasefires and prisoner exchanges. Yet, these talks have also marginalized other critical Yemeni stakeholders and undermined the Office of the Special Envoy for Yemen's goal of achieving a comprehensive and inclusive peace. The situation reached a critical juncture when Saudi Arabia, under threat from renewed Houthi attacks, coerced the Yemeni government to reverse financial sanctions imposed by the Central Bank of Yemen in Aden (CBY-Aden). These sanctions, which aimed to economically isolate the Houthi-controlled north, were seen as the government's last bargaining chip to redress the power imbalance ahead of anticipated peace talks.

The CBY-Aden's move to revoke the licenses of several banks and potentially cut them off from the international banking system was a bold attempt to regain control over the national financial system and pressure the Houthis into concessions. However, the Houthis responded with threats of renewed attacks on Saudi Arabia, prompting Riyadh to force the Yemeni government to abandon these measures. The reversal, under enormous Saudi pressure, exposed the government's dependence on Saudi support and highlighted the kingdom's dominance in Yemeni politics. This episode not only revealed the fragile nature of the Yemeni government's position but also illustrated how Saudi Arabia's priorities, particularly its desire to extricate itself from the Yemeni quagmire, have at times conflicted with broader peace objectives.

The Office of the Special Envoy for Yemen, caught in the middle of this complex dynamic, has been compelled to support de-escalation measures, including the repeal of the CBY-Aden's sanctions. While its efforts have been crucial in maintaining a semblance of dialogue between the parties, the growing influence of Saudi-Houthi bilateral talks has complicated the path to a comprehensive peace. The crisis surrounding the CBY-Aden's sanctions also underscored the limitations of the UN's role when powerful external actors, like Saudi Arabia, exert their influence to protect their interests, often at the expense of the Yemeni government's autonomy and the broader peace process.<sup>61</sup>

**UN Envoy's roadmap for Yemen:** In December 2023, the Office of the Special Envoy for Yemen announced a new roadmap, building on Saudi-Houthi talks, aimed at revitalizing the stalled peace process.<sup>62</sup> This plan focused on implementing ceasefire agreements, reopening humanitarian corridors, and stabilizing Yemen's shattered economy. The roadmap also emphasized the need for an inclusive peace process, involving all Yemeni factions and addressing the conflict's root causes.

**Impact of the war on Gaza on Yemen's peace efforts:** The war on Gaza has significantly slowed down peace efforts in Yemen, as rising regional tensions and military escalations, particularly in the Red Sea, have diverted attention and resources away from the Yemeni conflict. The UN Special Envoy for Yemen, Hans Grundberg, warned that these developments have created a deadlock in negotiations, halting the progress made in previous months. The conflict in Gaza has also exacerbated the instability in Yemen, with Houthi attacks on maritime navigation further complicating the situation. This regional upheaval has not only delayed peace talks but also risks undermining the fragile ceasefire in Yemen, potentially leading to a resurgence of violence if diplomatic efforts are not re-prioritized. The involvement of the Houthis in broader regional conflicts, including their attacks on international shipping and threats against Israel, has further strained the prospects for peace, as these actions have drawn in external powers and reshaped the strategic calculations of the parties involved.

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61 Kali Robinson, Council on Foreign Relations, "Yemen's Tragedy: War, Stalemate, and Suffering," May 1, 2023.

62 Office of the UN Special Envoy for Yemen, "Update on Efforts to Secure a UN Roadmap to End the War in Yemen," December 23, 2023.

## Understandings of Transitional Justice, Reconciliation, and Mediation

In Yemen, the notions of transitional justice, reconciliation, and mediation are all used in relation to the violence and human rights violations that have been committed and the grievances those violations have given rise to. As these notions are used in distinct, albeit related and sometimes overlapping ways, it is important to consider how they are understood in the context of the political processes.

**Transitional justice and reconciliation:** The Implementation Agreement of the GCC Initiative mandated the government of national unity to convene a comprehensive “conference for national dialogue” to discuss, inter alia, “steps aimed at achieving national reconciliation and transitional justice and measures to ensure that violations of human rights and humanitarian law do not occur in the future.”<sup>63</sup> In the sense of the Implementation Agreement, then, transitional justice was expected to contribute to national reconciliation. With some exceptions, this was also the understanding of the majority of the respondents interviewed. However, while the Implementation Agreement referenced transitional justice, the approach taken in practice, particularly through the draft law on transitional justice,<sup>64</sup> lacked concrete provisions on prosecution and accountability.<sup>65</sup>

Here, it is important to highlight the distinction between *political* reconciliation and *national* reconciliation. Political reconciliation is generally understood as a settlement or agreement reached between the major armed and political forces in Yemen to end the conflict and lay down the foundations needed for lasting peace and security in the country. For many, without an agreement to end the conflict and address “human rights issues and the constitution,” it would be nearly impossible to work on national reconciliation and transitional justice. As one interviewee explained, “to have transitional justice, we must first have a political resolution of the conflict.”

A political settlement should not, however, be mistaken for being the same as national reconciliation, nor should the former replace the latter. One respondent warned against the dangers of “reconciliation according to political agreements.” For the interviewee, an example of this type of political reconciliation was the amnesty law issued for former Yemeni president Ali Abdullah Saleh. Another example of political reconciliation was the power-sharing agreement that put an end to the civil war that took place in the North Yemen Republic between 1968 and 1970.<sup>66</sup> The difference between political and national reconciliation, then, is the emphasis of national reconciliation on addressing past grievances as part of an effort to restore the necessary conditions for Yemen to come together as a nation.

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63 Agreement on the Implementation Mechanism for the Transition Process in Yemen in Accordance with the Initiative of the Gulf Cooperation Council, December 5, 2011.

64 In parallel to the discussions occurring within the Transitional Justice and Reconciliation Working Group at the NDC, the Ministry of Legal Affairs prepared a draft law on transitional justice and national reconciliation. According to the draft, national reconciliation was one of three other aims the law was purporting to achieve. (“This law aims ... to achieve a political transition in Yemen based on the principles and values of tolerance and forgiveness and national reconciliation and the rejection of all forms of violence and prosecution.”) Draft Law on Transitional Justice and National Reconciliation.

65 The draft transitional justice law was also bound by the 2012 Immunity Law, which shielded former President Ali Abdullah Saleh and those who had worked under him from prosecution. Instead of judicial accountability mechanisms, it proposed a non-judicial body, the Equity and National Reconciliation Commission, as well as restorative justice measures such as uncovering the truth related to harms dating from 1994, reparations to victims, and the preservation of memory.

66 Power-sharing has allowed political elites to dominate the political structure of the state. According to author Gerald M. Feierstein, “the current conflict is more accurately seen as a continuation of over 60 years of failed state formation leading to a cycle of violence, coups, assassinations and open warfare.” Gerald M. Feierstein, Middle East Institute, “Yemen: The 60-year War,” (February 2019), 1. In addition, as scholar Ibrahim Sharqieh has argued, even if power-sharing agreements are an expression of a certain degree of “political reconciliation,” they do not guarantee national reconciliation, which requires dealing with the past and addressing the grievances of parties in conflict to forge a new social contract. See Sharqieh, “A Lasting Peace?” 3.

While political reconciliation is necessary to end the conflict, the recognition of harms suffered and grievances held by victims is seen as a necessary condition for lasting peace. Victims “needed to be protected” and their dignity restored. Furthermore, the involvement of victims and other vulnerable groups particularly affected by conflict was viewed as crucial to build confidence and lend credibility to a national reconciliation process. As one respondent explained, “the rights of victims need to be guaranteed during national reconciliation and transitional justice.” The goals of transitional justice “should not be dissociated from the goals of unity and especially of national reconciliation.” Some respondents were understandably concerned about the potential destabilizing effect of justice measures such as truth telling. As one respondent explained, “first, we need to understand how much we can reveal of the truth of what happened without putting at risk our national reconciliation.” Political reconciliation alone, however, can easily limit or contradict the aims of transitional justice. One purpose of transitional justice in such a context therefore is to ensure that “peace” is not reached at the expense of victims’ rights, nor does it reinforce inequality.

**The implementation gap in Yemen’s national reconciliation framework:** The GCC Initiative constituted a comprehensive framework not only for a political settlement in Yemen, but also for structured political phases and initiatives aimed at fostering a genuine process of transitional justice and national reconciliation. Together with the NDC, they were expected to create “the proper environment for national reconciliation.”<sup>67</sup> However, while some measures were taken to address certain longstanding grievances, such as the public apology by the then-president of Yemen to southerners and Houthis for wars waged against them during Ali Abdullah Saleh’s rule, several obstacles hindered the progress.<sup>68</sup> These included the preparatory phase’s failure to address critical issues like the southern issue and the northern question and limited public knowledge and awareness about national reconciliation and transitional justice. Moreover, Yemen’s fragile state, compounded by ongoing conflicts in Al Jawf and Ma’rib at the time of the conference, further impeded implementation.

Whereas one of the goals of the NDC was to contribute to national reconciliation and many saw it as a “constructive reconciliatory exercise,” there remains no clear understanding about what such reconciliation could look like today.<sup>69</sup> The Consultation and Reconciliation Commission (CRC) (discussed in depth below) recently formed the Reconciliation and Transitional Justice Committee, which has begun work on a document about “the principles for political agreement.”<sup>70</sup> However, the CRC does not represent all the political forces in Yemen. Additionally, national reconciliation did not feature in the UN roadmap announced by the Office of the Special Envoy for Yemen in December 2023. The roadmap only includes a set of measures to “engage in preparations for the resumption of an inclusive political process under UN auspices.”<sup>71</sup>

For many Yemenis, a future political process cannot get “around the issue of dealing with the past.” This includes violations related to the ongoing conflict as well as deep-seated grievances

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67 Ibid., 1.

68 Mohammed Ghobari, “Yemeni Government Apologizes for Wars Waged by Former President,” *Reuters*, August 21, 2013.

69 Ibrahim Jalal, Yemen Policy Center, “Yemen’s Incomplete National Dialogue: Insights on the Design and Negotiations Dynamics,” (June 2022).

70 According to OHCHR’s 2023 report concerning the implementation of technical assistance provided to the National Commission of Inquiry to investigate allegations of violations and abuses committed by all parties to the conflict in Yemen, in 2023 the Consultation and Reconciliation Commission reportedly adopted three documents, including a “principles for reconciliation among political components of the Government of Yemen.” Report of the United Nations High Commissioner for Human Rights, “Implementation of Technical Assistance Provided to the National Commission of Inquiry,” 5.

71 “UN Envoy Welcomes Significant Step Towards Ceasefire in Yemen,” *UN News*, December 26, 2023.

that may predate the most recent period of conflict. While violations are often associated with specific events occurring since 2014, grievances may be seen as among the root causes of conflict, or as “remembered injustices,” that may have occurred decades (or longer) prior but that continue to play a role in justifying and sustaining conflict in Yemen.<sup>72</sup>

Whereas many violations committed since 2014 are attributed to the Houthis, there is a sense of collective responsibility for grievances pre-dating 2014, given that all parties have contributed to feelings of anger and disrespect. Paradoxically, however, there continues to be disagreement about “how far back” a Yemeni transitional justice process should go. Box 3 highlights the importance of deciding matters like these in an inclusive way, with as much involvement from victims and others as possible.

**Reconciliation and mediation:** The term mediation is used to describe the intervention of a third person—the mediator—to oversee dialogues or interventions agreed to by two or more parties in conflict with one another. In some situations, reconciliation is pursued or accompanied by mediation (for example, in Yemen, with tribal mediation and reconciliation), but one does not always guarantee the other. In Yemen, mediation is seen as an important confidence-building approach that could help reach milestone agreements, for instance, the release and/or exchange of detainees. There have been successful mediation efforts in Taiz, Hadramout, Ma'rib, Aden, and other places. However, the majority of these efforts correspond to locally-led initiatives which cannot be guaranteed to succeed in other areas or contexts. While important for building momentum, successful mediation efforts do not guarantee reconciliation.

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72 Ibid.

### Box 3: National Reconciliation in Lebanon

Lebanon's national reconciliation attempts, including the National Reconciliation Accord known as the Taif Agreement (1989), the General Amnesty Law (1991), the Mount Lebanon Reconciliations (in the 2000s),<sup>i</sup> and the Doha Agreement (2008), have been predominantly led by political and religious elites and have failed to address victims' grievances, ensure accountability, or foster national unity.

- **Inadequate public involvement:** The Taif Agreement, which ended the Lebanese Civil War that lasted from 1975 to 1990, was negotiated by political elites under external sponsorship and lacked meaningful public consultation. The agreement was perceived as a top-down process that did not address victims' grievances.<sup>ii</sup>
- **Power-sharing agreements:** The Taif Agreement redistributed political power between Christian and Muslim elites but did not resolve underlying sectarian tensions or ensure justice for war-related atrocities. Similarly, the Doha Agreement (2008), which resolved a political crisis that nearly plunged the country back into civil war, prioritized temporary stability by granting concessions to rival factions without addressing root causes, such as sectarian patronage.<sup>iii</sup>
- **Lack of inclusivity:** These agreements excluded the voices of victims, women, youth, and civil society. For example, the General Amnesty Law of 1991 pardoned crimes committed during the civil war and was passed without public debate. The blanket amnesty ignored victims' rights to truth and justice, sidelining communities who bore the brunt of the violence.
- **Neglect of accountability and justice:** Reconciliation in Lebanon consistently sacrificed accountability for political expediency. The General Amnesty Law granted amnesty to perpetrators, enabling them to transition into political leadership, perpetuating a culture of impunity that permeates all aspects of life in Lebanon. The absence of accountability for gross violations and the selective approach to criminal justice has left victims bereft of their right to justice.<sup>iv</sup>
- **Limited role of civil society:** Civil society efforts were marginalized in official reconciliation processes, leaving a gap between state-led initiatives and grassroots advocacy.
- **Missed opportunities for grassroots initiatives:** Local reconciliation efforts, such as those between displaced communities in Mount Lebanon, attempted to rebuild trust and reintegrate communities after the civil war.<sup>v</sup> However, these initiatives were often unsupported by the state and overshadowed by elite-driven political agendas that failed to provide long-term frameworks for reconciliation or reparations.<sup>vi</sup>

These processes entrenched sectarian divisions, allowed grievances to fester, and perpetuated a fragile state of coexistence. The failure to address victims' needs or pursue justice and accountability created an enduring culture of impunity. Elite-driven approaches have prioritized temporary peace over comprehensive justice, leaving Lebanon vulnerable to recurring political and social crises.

NOTES: i. Zeina Antonios, "Looking Back: From the Mountain War to Druze-Christian Reconciliation," *L'Orient Today*, September 8, 2023

ii. ICTJ, "Failing to Deal with the Past: What Cost to Lebanon?" (January 2014).

iii. ICTJ, "Lebanon's Legacy of Political Violence: A Mapping of Serious Violations of International Human Rights and Humanitarian Law in Lebanon, 1975–2008," (September 2013).

iv. ICTJ, "Confronting the Legacy of Political Violence in Lebanon: An Agenda for Change," (October 2014).

v. Tom Perry, "In a Lebanese Village, Civil War Wounds Take Decades to Heal," *Reuters*, September 1, 2016.

vi. ICTJ, "Failing to Deal with the Past."



## Chapter 3: Transitional Justice Mechanisms in Yemen

With the start of conflict in 2014, transitional justice lost the prominence it had enjoyed in the early days of the transition process. While early UN Security Council resolutions provided ample support for transitional justice, for instance by calling upon the Government of Yemen to adopt a law on transitional justice and national reconciliation, with the outbreak of war in 2014, transitional justice progressively faded from the scope of Security Council support. According to a report published by the Sana'a Center in March 2024, out of 17 Security Council resolutions adopted between April 2015 and July 2023, only two included references to accountability in Yemen.<sup>73</sup>

Decreased support for transitional justice was also notable in the case of Yemen's IRG. In the 2019 report submitted for the Universal Periodic Review, the government postponed the "launching of the transitional justice process in accordance with the outcome of the comprehensive national dialogue." This was reaffirmed in the governmental report submitted under the Convention on the Elimination of All Forms of Discrimination Against Women in 2020, as well as in the 2023 report submitted to the Committee on Economic, Social, and Cultural Rights.

Nevertheless, the National Commission for the Investigation of Alleged Human Rights Violations (commonly known as the National Commission of Inquiry) has continued working steadily since its establishment in 2012. As of September 2024, the Commission had published a total of 12 reports. The Commission's primary mandate includes the monitoring and investigation of human rights violations committed on the territory of Yemen by all parties to the conflict. However, throughout the years, the Commission has also highlighted other transitional justice aspects in its work, such as reparations.

The establishment of the PLC in April 2022 brought new emphasis on transitional justice. The Council is composed of eight members who represent "the wide political and military influences across the country."<sup>74</sup> One of the Council's affiliated bodies is the 50-member CRC that supports the PLC and its efforts to consolidate "national consensus, unity of ranks and desired

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73 Marta Mendes and Yazeed Al-Jeddawy, Sana'a Center for Strategies Studies, "Engaging Victims in Peace-making and Transitional Justice in Yemen," March 24, 2024.

74 Hammud Nasser Alqadami, "The Formation of a New Leadership Council in Yemen," Future for Advanced Research and Studies, April 14, 2022, <https://futureuae.com/ar-4/Mainpage/Item/7247/legitimacy-united-the-formation-of-new-leadership-council-in-yemen>

partnership on all levels.”<sup>75</sup> In April 2024, the CRC established five permanent committees, including one focusing on reconciliation and transitional justice. Another important development was the 2023 Presidential Decree approving different decisions made by a 2012 committee “for Handling the Cases of Employees Deported from their Jobs in the Security and Military Fields in the Southern Governorates” (commonly known as the Commission for the Forcibly Retired).<sup>76</sup>

The establishment of the PLC was also accompanied by developments in the judiciary, which included the designation of a new attorney general in May 2022, as well as a new round of appointments in September 2023 for the Supreme Court of Yemen. Another important development was the decision made by decree in August 2022 to reshuffle the entire membership of the Supreme Judicial Council. This included the first appointment of a female judge in the Council’s history.

At the level of Yemeni CSOs, two important developments took place in 2023. One was the July launch of a Declaration for Justice and Reconciliation by over 40 CSOs that sets their common vision for achieving justice and reconciliation in Yemen. The other was the establishment in March of a Yemeni Network for Victims’ Associations, which comprises representatives from 12 Yemeni CSOs, federations, and trade unions working on a broad repertoire of grievances and violations.

## **The Institutional Framework of the Internationally Recognized Government for Transitional Justice**

### **National Commission for the Investigation of Alleged Human Rights Violations**

The National Commission of Inquiry was established in 2012 by the president of Yemen with the goal of monitoring and investigating alleged violations of human rights committed by all parties to Yemen’s conflict since 2011. The Commission is composed of 10 commissioners supported by nine assistant investigators and 41 field monitors. Since its establishment, the Commission has published 12 periodic reports on its monitoring, documentation, and investigation activities. According to the Commission, a total of 29,701 violations have been documented between January 2016 and the publication of its 12th report in September 2024. This number corresponds to a total number of 63,772 victims.<sup>77</sup>

It is important to note that the Commission does not have a mandate to prosecute and adjudicate cases. Instead, the Commission prepares case files, which it transmits to the Office of the Attorney General for further investigation and ultimately, prosecution. Likewise, even though the Commission can make recommendations regarding remedies and reparations for victims and survivors, the responsibility of providing judicial remedies at the national level falls upon Yemen’s domestic courts as well as the government, which must ensure the implementation of legal reforms and reparations initiatives. In 2017, the Commission made a proposal for the establishment of a specialized jurisdiction to hear and adjudicate cases concerning international humanitarian law and international human rights law violations. According to the Office of the

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75 Waddah al-Jalil, “Yemen Stresses Role of Consultation and Reconciliation Commission in Backing Presidential Council,” *Asharq al-Awsat*, August 15, 2022, <https://english.aawsat.com/home/article/3816841/yemen-stresses-role-consultations-and-reconciliation-commission-backing>

76 Mohammed Nasser, “Yemeni Presidential Decree Settles Issue of Over 52,000 Dismissed Employees,” *Asharq al-Awsat*, May 21, 2023, <https://english.aawsat.com/arab-world/4339306-yemeni-presidential-council-settles-issue-over-52000-dismissed-employees>

77 National Commission for the Investigation of Alleged Human Rights Violations (NCIAHRV), “Press Release: NCIAHRV Announces the Launch of Its 12th Periodic Report,” September 11, 2024.

High Commissioner for Human Rights (OHCHR), the proposal also sought to contribute to reflections with other actors from the justice system on “how such a court could best assist in the realization of victims’ right to truth, justice and reparations and in an overall transitional justice process that contributes to the prevention of future violations and to reconciliation within communities.”<sup>78</sup>

The reports of the National Commission include recommendations for non-judicial measures, such as collective measures or institutional reforms. However, no concrete steps have been taken in this regard. The Commission has primarily focused on documenting violations and preparing case files. Additionally, it has worked to raise awareness about non-judicial reparations through its reports and advocacy efforts, highlighting victims’ rights and recommending measures like institutional reforms and community initiatives. It has also directed advocacy efforts toward the government, civil society, and international organizations to promote a comprehensive approach to transitional justice and reparations. However, tangible and sustainable actions to implement these measures or significantly raise public awareness remain limited.<sup>79</sup>

Despite the Commission’s 12 years of documenting violations and raising awareness about victims and reparations, it was referenced by few respondents. This is symptomatic of the general lack of knowledge among Yemenis, including those in “high-level” positions, about existing transitional justice mechanisms in Yemen. As one respondent said, “there is a real problem, which is the lack of awareness among our political leaders of technical fields such as transitional justice, and their lack of competencies.” Another comment made about the Commission concerned the possibility of repurposing its documentation—which is undeniably one of the most comprehensive repositories of the conflict—for other transitional justice uses. One respondent highlighted the “good job” the National Commission was doing in “building an archive” about violations and abuses. The information collected by the Commission could be used by the country’s judicial authorities at a later stage for prosecution purposes, but this does not have to be its sole purpose. As the respondent explained, the Commission’s “archives” could also be very useful to help Yemen “to work on transitional justice with seriousness.”

**The Commission of Inquiry and the PLC:** Since April 2022, the Commission has reported directly to the PLC.<sup>80</sup> However, it is not yet clear how the Commission relates to other structures established under the PLC, in particular the CRC. The CRC’s creation of five distinct “specialized committees” in early 2024 (including one on transitional justice and reconciliation), combined with the lack of clarity concerning its internal regulations and mandate, have obfuscated potential areas of overlap and collaboration between the National Commission of Inquiry and the CRC. As noted in OHCHR’s 2023 report to the Human Rights Council, “it remains uncertain whether the National Commission of Inquiry will be given a formal role in informing the discussions of the CRC.”<sup>81</sup>

78 Report of the United Nations High Commissioner for Human Rights, “Implementation of Technical Assistance Provided to the National Commission of Inquiry,” (A/HRC/54/74, September 22, 2023), 9.

79 NCI/VHR, “The 11th Periodic Report on the Activities Carried out by the NCI/VHR, Covering the Period 01/08/ 2022 to 31/07/2023;” “The 12th Periodic Report on the Activities Carried out by the NCI/VHR, Covering the Period from 01/08/ 2023 to 31/07/2024.”

80 According to OHCHR’s 2023 report concerning the implementation of technical assistance provided to the National Commission of Inquiry to investigate allegations of violations and abuses committed by all parties to the conflict in Yemen, “the National Commission of Inquiry reports directly to the President of Yemen and the Supreme Judicial Council. As of April 7, 2022, the President transferred his power to an eight-member Presidential Leadership Council. It is understood that the National Commission now reports to the new Council.” Report of the United Nations High Commissioner for Human Rights, “Implementation of Technical Assistance Provided to the National Commission of Inquiry, 2.

81 Ibid., 5.

In addition, the Commission remains a temporary and ad hoc entity. It was established by presidential decree, but it is not mentioned in any current piece of legislation, including the Code of Criminal Procedure.<sup>82</sup> In practical terms, this puts the Commission in a vulnerable position, as it depends on the PLC for mandate renewal. Another potential source of vulnerability is the omission in the 2012 presidential decree establishing the Commission of any provision specifying when its mandate is considered “complete.”<sup>83</sup> From this perspective, the establishment of the CRC in 2022 and of the sub-committee on reconciliation and transitional justice in 2024 creates more uncertainty for the National Commission of Inquiry, which is why it is important to formalize the relationship between the two entities as soon as possible. At the same time, however, the lack of a specified duration could also be seen as an advantage, as it could allow the Commission to continue its work beyond the end of the conflict, as has occurred in other contexts.

### Other Commissions Established During the National Dialogue Conference

The National Commission of Inquiry, the Southern Yemen Land Remedies Commission, the Committee to Address the Land-takings in Hudaydah Governorate, and the Commission for the Forcibly Retired from the Southern Governorates were all established between 2012 and 2014. The government of national unity established these various commissions in an effort to respond to some of the grievances identified during the transition period, including during the NDC.

Two of these entities—the Commission to Address Issues of Employees Forced Out of Their Jobs in the Civil, Security and Military Fields (known by its shorter version, the Commission for the Forcibly Retired) and a Commission on Land-Related Disputes—were created by presidential decree in 2013, following the NDC Technical Committee’s submission of 20 demands the year prior.<sup>84</sup> With the start of the conflict in 2014, however, the two commissions struggled to remain operational.<sup>85</sup>

In the case of the Commission for the Forcibly Retired, the economic and financial impact of the conflict caused significant delays in the payment of compensation to the civil, security, and military servants from the southern governorates whose cases had been processed by the Commission. Soon after its establishment in 2013, the Commission approved a total of 17,261 valid claims.<sup>86</sup> However, it was not until 2023 that some of the payments to claimants were issued, and even now, there continue to be many thousands of pending cases.<sup>87</sup>

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82 Ibid.

83 Ibid., 2.

84 Eleven of these 20 demands concerned “the southern issue,” including the “reinstatement of all military and civil personnel retired as a result of the 1994 civil war; the return of all confiscated southern property and funds; and the return of agricultural lands to those farmers who had received them through the People’s Democratic Republic of Yemen (PDRY) land reform. Helen Lackner, International IDEA, “Yemen’s Peaceful Transition from Autocracy: Could it Have Succeeded?” (2016).

85 For more information on the two commissions, in particular the Commission on the Forcibly Retired in the Southern Governorates, see Jens Kambeck, Center for Applied Research and Partnership on the Orient, “Returning to Transitional Justice in Yemen: A Backgrounder on the Commission on the Forcibly Retired in the Southern Governorates,” July 26, 2016.

86 Anne-Linda Amira Augustin, *South Yemen Independence Struggle: Generations of Resistance* (American University of Cairo Press, 2021), 117.

87 “In May 2023, PLC Chief Rashad al-Alimi issued a decree to settle the status of 52,766 dismissed civilian, security, and military employees in the southern provinces, still pending since the 1994 civil war. This decision was seen as a gesture of goodwill towards the STC, which had become a partner within the PLC.” Mohammed Al-Shuwaiter, Sana’a Center for Strategic Studies, “The Role of the Judiciary in Achieving Transitional Justice and Reconciliation in Yemen,” May 15, 2024, 12.

By the end of 2013, a total of 47,189 cases had been registered with the Commission on Land-Related Disputes.<sup>88</sup> However, many more remained to be registered, as demonstrated by a report submitted by representatives of the Southern Movement during the NDC. This report contained a listing of alleged HLP violations that occurred in the south since unification in 1990.<sup>89</sup> Furthermore, the lack of a clear and systematic approach to addressing different HLP cases already submitted made the registration and follow up of new cases increasingly more complex.<sup>90</sup> To the extent known through publicly available information, no compensation has been paid to claimants through the established fund to date. The commission's current status is not known, and it remains unclear whether any presidential decrees will be issued in the future to resolve the thousands of pending cases.

Land and property-related violations were among the key grievances addressed during the NDC. While a significant number of land issues were brought forward by the Southern Working Group, HLP violations were part of a broader pattern of violations of land and property rights across all of Yemen. For this reason, the Transitional Justice Working Group at the NDC recommended scaling up “the establishment of a special commission to address land issues in all governorates of the country which are suffering from land problems.” The Tihama Land Commission was thus established as a result of this finding.

The Tihama Land Commission was intended to address land issues and related grievances and injustices in the region. According to the Transitional Justice Working Group, the state “should remove the injustices done to the people of the Tihama...through a collective reparation scheme and by giving the Tihama region special attention in planning in the economic, social, education and services sector.”<sup>91</sup> Similar to the Commission to Address Land Disputes in the Southern Governorates, the current status of the Tihama Commission remains unclear. Box 4 offers two examples of collective reparations programs in other countries.

### Yemen's National Judiciary

The judiciary is likely to constitute a critically important component of future transitional justice efforts in Yemen. However, the entire judicial sector is currently in dire need of reform. At present, the judiciary is considered to be “widely contaminated by corruption and lack of independence.” Respondents explained that the “split” between the judges in Houthi-controlled areas and elsewhere has further aggravated the degradation of judicial power in the country.

In many areas, peak moments of conflict created political interference that affected judges' ability to remain independent. This would occur simultaneous to widespread violence against journalists and frequent political assassinations. For some respondents, there was a correlation between a further loss of judicial independence in some parts of the country and the rise in the number of people sentenced to death (many, though not all, of whom were journalists).<sup>92</sup>

While respondents expressed the greatest skepticism about judicial independence in Houthi-controlled areas, the apprehension also applies to other parts of the country where parties to the conflict took measures to exercise greater control of the judiciary. One respondent explained,

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88 Ghaidaa Alrashidy, Sana'a Center for Strategic Studies, “Land for the Powerful: Property Violations in Aden,” May 7, 2024, 10.

89 According to “Land for the Powerful,” “those who participated as representatives of the Southern Movement presented a report to the NDC that laid out HLP violations since 1990.” *Ibid.*, 2.

90 *Ibid.*, 11.

91 *Ibid.*, 31.

92 “Yemen: Human Rights Violations Against Journalists, Coming from All Quarters,” *UN News*, August 6, 2020; Khaled Ali, International Journalists' Network, “Ten Years into the Country's Civil War, Independent Media in Yemen Hangs by a Thread,” September 3, 2024.

#### Box 4: Regional Grievances and Collective Reparations

**Tunisia:** In Tunisia, decades of repression, oppressive social and economic policies, and corruption led to gross inequality and the marginalization of the country’s interior regions. After the 2011 revolution, the Truth and Dignity Commission (TDC) recognized the status of “victim regions,” which were determined according to levels of access to services and fundamental rights, including education, health care, livelihood, and a decent standard of living.<sup>i</sup> The 2013 Transitional Justice Law mandated the TDC to develop an individual and collective reparations program for victims of violations and called for the creation of the Fund for the Dignity and Rehabilitation for Victims of Tyranny (Dignity Fund) to oversee implementation of the program.<sup>ii</sup>

- **Addressing marginalization:** Acknowledging entire regions as collective victims allows for addressing systemic injustices that go beyond individual grievances, bringing socioeconomic and historical marginalization into the transitional justice framework. Actively involving marginalized communities in shaping such measures helps to ensure that their specific needs are recognized, promoting inclusivity and legitimacy. Victims and stakeholders in consultations held by ICTJ spoke about the potential of collective reparations to improve the socioeconomic empowerment and rights of women and populations in marginalized regions.
- **Broad consultations:** As seen in Tunisia’s national consultation on the Transitional Justice Law, wide consultations can enhance the effectiveness and endorsement of transitional justice frameworks. In further national consultations conducted by the TDC on reparations, marginalized regions requested basic public infrastructure; access to health services, education, and cultural resources; the protection and restoration of the environment; and the implementation of a 2017 law meant to address gender inequality and positively discriminate in favor of women.
- **Sustained commitment:** Ongoing political support is essential to ensure marginalized regions remain involved and to prevent the sidelining of their concerns as political dynamics evolve. In June 2020, the Tunisian parliament adopted a law meant to promote economic and social inclusion of marginalized populations, including in isolated, rural areas. However, an economic crisis and political tensions undermined support for reparations, including collective ones. In 2021, the Dignity Fund was dissolved.

**Morocco:** In Morocco, the Equity and Reconciliation Commission (IER) identified 11 regions, mostly in Rif or the country’s southeast, that suffered the most from state repression and economic exclusion during the “Years of Lead.” The IER operated from 2004 – 2006, a period of liberalization in the country. It called for collective reparations to these regions and communities through measures to promote equal opportunities and a process of positive discrimination.<sup>iii</sup>

- **Addressing marginalization:** By recognizing and assisting regions particularly affected by repression and exclusion, the IER drew attention to marginalization and inequality. It highlighted the potential role of reparations in addressing these issues and altering the political balance created by marginalization.<sup>iv</sup>
- **Role of civil society:** The IER would likely not have included a collective dimension in its reparations approach without advocacy and pressure from victims’ organizations and the human rights community.
- **Contributing to socioeconomic development:** Collective reparations can come in the form of social and economic projects aimed at redressing long-term injustices and promoting development in marginalized areas. These can include initiatives such as infrastructure development, educational projects, and public memorials.

*(continued)*

**Box 4** (continued)

- Expectations and implementation: The IER's call for collective reparations, along with media coverage and seminars and conferences it conducted, created high expectations for socioeconomic and cultural programs targeted at the regions. Unfortunately, implementation has relied on international donors and been limited and slow. In effect, little has been done to reduce regional inequality, which has arguably reinforced grievances and feelings of exclusion further.

NOTES: i. ICTJ, "Advancing Victims' Rights and Rebuilding Just Communities: Local Strategies for Achieving Reparation as Part of Sustainable Development," (November 2023).

ii. Messaoud Romdhani, Brookings Institution, "The Region as Victim: Transitional Justice as Class Action in Tunisia," November 24, 2020.

iii. Mustapha Hadji, ICTJ, "Moving from Mirage to Reality: Transitional Justice and Prevention in Morocco," (June 2021).

iv. ICTJ, "Morocco Still a Model for Justice in MENA, but Questions Remain," February 8, 2016.

some "judges in the south are also not fully independent and others face pressure by the STC and regional powers." At the same time, there are still judges who are "knowledgeable and professional," since the conflict has affected the judiciary "in some areas more than others. There are many judges who are corrupt, but there are judges who aren't."

Another difficulty concerns the deterioration and fragmentation of law enforcement across Yemeni territory. Currently, different armed groups and local forces exercise military control and influence over certain areas. As a result, law and order are inconsistently applied across the country, further complicating the judiciary's ability to carry out its activities. Respondents expressed a need to stop "postponing work on the justice and judicial sector because the longer we do this, the longer power in Yemen will be in the hands of the military and armed militias."

In general, there is a need to strengthen the capacity and knowledge of judges and other judicial staff on transitional justice. Capacity-building efforts should be inclusive of all actors in the criminal justice system, including the prosecutors, police, and even correctional officers. Some respondents raised the importance of reforming the judiciary in tandem with required security sector reforms. Both were seen as important steps to combat corruption, uphold the rule of law, and ensure better governance.

**Establishing a specialized jurisdiction for human rights:** At the end of 2017, the National Commission of Inquiry submitted a proposal to the Supreme Judicial Council for the establishment of a dedicated court with exclusive jurisdiction over cases it transfers. The proposal sought to mitigate the current lack of expertise and capacity within the ordinary court system to deal with human rights and international humanitarian law violations.

The proposal received mixed views from respondents. One judge believed that it would be counterintuitive to create one court to focus exclusively on human rights cases because ordinary courts also play an important role in protecting human rights. Even if this capacity was severely weakened by the conflict, from this point of view, it is important to improve the capacities and expertise of ordinary courts to deal with cases of human rights violations. In addition, ordinary courts have much better coverage across Yemen and therefore are more accessible to victims. A specialized jurisdiction, the judge warned, could entail accessibility challenges for many. It should be noted that this criticism could be mitigated by the creation of many branches or out-

reach units across Yemen rather than a single court or judicial office to serve the entire country. Moreover, a specialized jurisdiction can be integrated within the existing court system by assigning specific cases to dedicated sub-offices, units, or judicial panels.

For another respondent, the ordinary court system has no capacity in the current circumstances to handle human rights cases. A human rights court would constitute an ad hoc measure to provide victims of serious human rights and other international laws violations with an effective remedy and, possibly, reparations. Helpfully, there are precedents in Yemen concerning the establishment of specialized criminal jurisdictions.

### **Consultation and Reconciliation Commission (CRC)**

The CRC was created in April 2022 as a sub-structure operating under the PLC. The Commission consisted of 50 members, but beyond this, very little was initially known about it.<sup>93</sup> In March 2023, the CRC finally adopted operating bylaws. It also initiated the drafting process of two additional documents: the principles for reconciliation among the political parties and military forces represented in the PLC/CRC and a general framework for a unified political vision for a comprehensive peace process.<sup>94</sup> At the time of writing, however, it is not clear whether either of these documents has been officially adopted. As noted previously, at the beginning of April 2024, the CRC formed five permanent committees, including a Reconciliation and Transitional Justice Committee.<sup>95</sup> All five have a similar composition, which includes a committee chairman, a deputy, a rapporteur, and members varying in number. The composition of the five committees tends to mirror that of the PLC with regard to the political and military backgrounds represented.

While members of the Reconciliation and Transitional Justice Committee understand transitional justice as a goal to strive toward (although not at any cost), an obstacle to its work is the uncertain path towards national reconciliation and transitional justice. Without any reliable prospects of a comprehensive political settlement, it is difficult for the Committee to commence meaningful work on its subject matter. Given this, and the fact that an additional 50 members of the CRC are yet to be designated, the Committee is presently focusing on political reconciliation between the political parties and military forces represented in the PLC/CRC. One respondent mentioned that the Reconciliation and Transitional Justice Committee is currently working on a document called “Principles for Political Agreement.”

**A foundation for future transitional justice work:** Despite the immediate challenges of working on transitional justice, committee members believe they can still do something valuable. As one explained, “we don’t have to put everything on hold. There are things that can be done in the interim because we all agree on transitional justice as a principle, as an idea.” In recent months, committee members have begun looking at violence targeting political parties in Yemen. Many Yemeni politicians from all political backgrounds have experienced some form of political violence by members of other parties or their supporters. Sometimes, acts of violence are even perpetrated by members of the same party. Each party represented in the Reconciliation and Transitional Justice Committee is therefore working on its own “database of grievances,” which

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93 The CRC is supposed to consist of 100 members. To date, only 50 have been designated. Participants in charge of the social file during the Riyadh talks (which preceded the establishment of the PLC) considered it to be a matter of importance that the CRC “informally add whomever deemed necessary of Yemen’s wisemen to contribute to the efforts of peaceful talks and reconciliation.” See Marta Mendes and Yazeed Al-Jeddawy, Sana’a Center for Strategic Studies “Engaging Victims in Peace-making and Transitional Justice in Yemen,” March 24, 2024, 28.

94 Report of the United Nations High Commissioner for Human Rights, “Implementation of Technical Assistance Provided to the National Commission of Inquiry,” 5.

95 The other four committees established are: the “Political Committee,” the “Social and Economic Committee,” the “Media, Thought and Culture Committee,” and the “Committee on Rights and Freedoms.”

includes events considered “grievous” not only due to the political violence involved but also because of the number of victims affected. While each party holds a unique perspective about which periods of Yemeni history should be addressed in a transitional justice law, they agree that these databases could be useful in helping to decide this temporal scope.

**Transitional justice law:** There are disagreements regarding the process of preparing a transitional justice law with nationwide applicability. The key question is whether the law should be approved by the PLC or if its preparation and approval should occur only once a new government of national unity is in place. One of the potential shortcomings of a transitional justice law approved by the PLC is the council’s lack of representativity. While it was “envisioned as a political body that would play a role similar to that of the House of Representatives,” the PLC primarily represents Yemen’s main anti-Houthi parties. In theory, the CRC could prepare a transitional justice draft law for approval by the PLC’s Chairman. However, under Yemeni law, the legislative authority primarily rests with Parliament, which is responsible for deliberating and approving draft laws.

Since Yemen’s House of Representatives is currently unable to function properly, approving a transitional justice law in the current situation would imply taking action without prior parliamentary approval. To avoid this scenario, some respondents suggested deferring the preparation and approval of a transitional justice law to a future national unity government. As one respondent explained, passing a transitional justice law should be one of the first steps taken “when there is a central state.” The law “needs to be approved by the Parliament; otherwise, the political parties and forces will hijack it to focus solely on the grievances that have specifically affected them.” Similar differences of opinions were reported among political party representatives, with some favoring the postponement of the law until it can be prepared by a government of national unity, while others support PLC-approval. In Box 5, the Tunisian example offers some insight into the process of passing national transitional justice legislation.

### Practices to Promote Local Reconciliation

An extensive study authored by the European Institute of Peace as part of the “Pathways for Reconciliation Project” sheds important light on the multiple meanings encompassed in the notion of reconciliation.<sup>96</sup> Based on consultations with nearly 16,000 people in nine governorates in Yemen between October 2020 and October 2021, the report distinguishes between “thin” and “thick” reconciliation, with the former referring to the end of violence with “little or no trust, respect and shared values” and the latter requiring far more widespread political and social engagement to restore victims’ dignity, reverse disenfranchisement, and address the root causes of conflict, among other issues.<sup>97</sup>

Given the nuances in different understandings of reconciliation, it is worth looking at local initiatives in addition to the national level processes described as such. One example is a community reconciliation project to facilitate the return of members of the Bohra and Khoja communities who were forcibly displaced from Crater district during hostilities in Aden in 2015. The conflict in Aden led many armed groups (such as the Islamic State, Al Qaeda, Ansar al Sharia, and others) to turn against and persecute religious minorities. Before the conflict started in 2014, approximately 150,000 Hindus, Sikhs, and Bohra were estimated to be residing

96 European Institute of Peace, “Pathways for Reconciliation in Yemen: Engagement in Shabwah, Taiz, Al-Maharah, Aden, Al-Hodeidah, Ma’rib, Sana’a, Al-Dhale’e and Hajjah,” (December 2021).

97 Heidi Burgess, “The Many Types of Reconciliation,” Beyond Intractability, March 6, 2022.

### Box 5: Tunisia’s Transitional Justice Law

Tunisia’s 2013 Transitional Justice Law was the first of its kind in the world in its creation of a comprehensive framework for addressing past violations. However, in the years since, changing political contexts and instability have hindered the law’s implementation and the country’s overall transitional justice agenda.<sup>i</sup>

- **Comprehensive framework:** The Transitional Justice Law established a comprehensive framework that included truth seeking, reparations, accountability, and institutional reform. While ensuring that all aspects of justice were included enhanced the effectiveness and legitimacy of the process, Tunisia’s experience suggests that consideration must also be given to the capacity of the institutions entrusted with implementation.
- **Role of civil society:** CSOs and victims’ groups played an important early role in the transition, raising awareness about and lobbying for transitional justice. In 2012, they contributed to the National Transitional Justice Consultation Process, helping to supervise the national dialogue and write a first draft of the law.<sup>ii</sup>
- **Lack of transparency:** The Transitional Justice Law established the TDC to investigate and report on past abuses. However, while the law provided clear guidelines for selecting its commissioners, the lack of transparency and participation in the actual selection process contributed to the politicization of the commission and ultimately undermined the public’s trust in it. Civil society groups unsuccessfully challenged the selection process and the law’s constitutionality.<sup>iii</sup>
- **Implementation obstacles:** Tunisia faced numerous obstacles to implementation of the Transitional Justice Law due to political tensions, changes in government, and a lack of political consensus on main issues. The country’s numerous societal divisions—for example, between Islamists and secularists, leftists and right-wing members, and coastal and interior regions—have led to a deadlock in the establishment of key institutions, such as the Constitutional Court. Political leaders have prioritized short-term political gains over long-term justice.
- **Societal trust and perception:** Despite having a comprehensive framework, the lack of organized and targeted communication about the transitional justice process and its goals contributed to public skepticism. This mistrust has significantly impeded the establishment of a solid democratic culture based on respect for the rule of law, regardless of who is in power.

NOTES: i. Rim El Gantri, ICTJ, “Tunisia in Transition,” (September 2015).

ii. Ibid.

iii. Ibid.

in Yemen. Many had been in the country for generations and were likely Yemeni citizens.<sup>98</sup> The reconciliation initiative focused specifically on the forcible displacement of these minorities from Aden due to sectarian violence. In addition to helping realize the safe return of those displaced, the project also drew attention to the much broader issue of seized and looted lands and property, which is one of the most widespread types of violations in Yemen.

Another local initiative mentioned by some respondents is the Reconciliation and Social Peace Committee in Taiz. The Committee is composed of political leaders and party members, as well as representatives from local CSOs. The Committee was established in the aftermath of the clashes and hostilities in the Al Hujariah region of Taiz between 2019 and 2020 to promote

98 United States Department of State, Office of International Religious Freedom, “Yemen 2023: International Religious Freedom Report,” (2023).

reconciliation between the parties involved in the fighting.<sup>99</sup> Among the measures taken by the parties to achieve political reconciliation were compensation payments to 22 victims and a 2023 report about public and private properties in Taiz city that were attacked, destroyed, or seized by different parties during hostilities and clashes.<sup>100</sup> According to one of the respondents interviewed, the Taiz Reconciliation Committee constituted a positive example that inspired others, such as smaller CSOs, to promote reconciliation and transitional justice. Recently in Taiz, a local CSO organized a one-of-a-kind community initiative to promote dialogue with influential leaders, political representatives, members from the security apparatus, and the judiciary about transitional justice. The organization is hoping to roll out the initiative to other governorates. For the organizers, “during our Taiz dialogues, it became clear that society needs to do a lot of work on the issue of transitional justice as they know very little or nothing about it.”

There are a great number of other initiatives or political movements established in recent years across Yemen to represent the interests of specific regions or to pursue specific political aspirations. Examples in the southern governorates include the Hadramout Inclusive Conference, the Southern National Coalition, and the United Alliance for the People of Shabwa, among others. These initiatives bring together people of different backgrounds: representatives of local tribes and CSOs, intellectuals and academics, political leaders, and other persons considered to have high standing in the governorate or region. Many of the movements and initiatives surveyed were instrumental in ensuring their representation in national political structures such as the PLC. This was the case of the Hadrami Inclusive Conference, which participated in the so-called Riyadh consultations in 2022. The result was the designation of a Hadrami representative in the executive body of Yemen’s IRG.

Even though many of these movements correspond to participatory initiatives that focus on obtaining political participation and representation in national decision-making structures, some of them also appear to be shaped by or purposed to resolve long-standing cultural, social, political, and economic grievances. In fact, many movements and initiatives from southern governorates appear built on different sets of grievances. This includes initiatives around HLP violations, which were particularly prevalent in southern governorates after the 1994 civil war. Despite the establishment of the Southern Yemen Land Remedies Commission in 2013, a significant number of cases from this period remain unaddressed.<sup>101</sup>

Other movements and initiatives from the southern governorates are related to grievances which, while not limited to a specific governorate, refer to individual cases or have had consequences for local communities in ways distinct from those seen in other areas. One example is the Shabwa National General Council. The Council, which was established in 2024, comprises representatives from the governorate’s cultural sector, social players (for instance, retired ministers and government officials, writers and intellectuals), former members of the security forces, and CSO representatives, among others. The Council is headed by an eight-member executive council which is responsible for its direction.

Even though the Council was created with the aim of representing the voice of Shabwah inhabitants at the national level, recently it has become increasingly involved with the issue of detainees and enforced disappearances following the June 2024 disappearance of a prominent security official from neighboring Abyan in Aden. At the beginning of August 2024, the Coun-

99 Al Shuwaiter, “The Role of the Judiciary in Achieving Transitional Justice and Reconciliation in Yemen,” 14.

100 Ibid.

101 In “Land for the Powerful: Property Violations in Aden,” the author analyses patterns of HLP violations in Aden through four historic “power shifts” and finds that these violations took on a systematic pattern following the unification of North Yemen and South Yemen in 1990. It also finds that the onset of the 2014 conflict led to a new cycle of HLP violations in Aden. Alrashidy, “Land for the Powerful.”

cil announced the establishment of a legal team to follow up on the file of detainees from the governorate.<sup>102</sup> Although the Council's involvement on this issue seems to have been triggered by the detention that occurred in June, the issue of missing persons and enforced disappearances has long been affecting the governorate. There are hundreds of cases from before the start of the 2014 conflict that remain unresolved.

## Mediation

While reconciliation and mediation are sometimes used interchangeably in Yemen, reconciliation is considered a more nuanced concept that is better suited to addressing deep grievances. Mediation has a definitively local dimension, with the potential to be replicated elsewhere in the same region or governorate. However, this will depend on the perception that the disputant parties have of the mediator's neutrality and independence. Furthermore, the sharp deterioration and degradation of Yemen's central state since 2014 has widened the political and security vacuum across the country.<sup>103</sup> As a result of this situation, and the increasingly local character of governance in Yemen, a local mediator cannot take for granted his or her ability to successfully replicate similar efforts in other governorates.

In the early years of the conflict, mediation was broadly understood as a more comprehensive concept. Over the years, the field of mediation in Yemen has become more and more restricted and is currently mostly limited to prisoner exchanges. The Office of the Special Envoy tried to use mediation efforts to reopen the roads in Taiz; however, its outcomes were minimal, as only two of Taiz's main roads were re-opened.

Mediation efforts are also increasingly concession driven, becoming less about finding common ground and more transactional in nature. In some instances, what looked like a joint mediation effort was in fact a party's unilateral decision to accept a given outcome. For one respondent, the opening of the two roads in Taiz was the result of a Houthi decision to agree to that outcome for reasons that had much more to do with their campaign in the Red Sea than with the roads in Taiz.

**Challenges facing local mediation efforts:** One mediator interviewed explained that since he started to mediate between parties to collect or receive bodies for "exchange" and hand-over, he has been arrested more than 18 times. He was also wounded once during a mediation, and his car was set on fire on another occasion. Even though he has a strong reputation as a reliable and trustworthy mediator, sometimes parties still thought that he was being "tailed" by someone from the opposing side.

That mediator managed to grow a team of 70 persons, many of them volunteers. One of the biggest challenges in the early years was a lack of funding. This made it very difficult for volunteers to be a regular presence in the field, which was precisely what was needed because of the intensity of hostilities and the high numbers of dead persons, including civilians. With more financial support came the possibility to expand activities to other areas—for instance, prisoner exchanges—and especially to start putting in place information management systems, such as records and archives. This was very important to keep track of the numbers of bodies collected. According to the respondent, "Al Jawf has become a completely bodies-free area as all the bodies

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102 "Kidnapped and Forcibly Disappeared: The Transitional Justice Crime in Aden Under Government Cover," *Yemen Youth Net*, August 31, 2024.

103 Joshua Rogers, Berghof Foundation, "Local Governance in Yemen: Theory, Practice, and Future Options," (2019).

have been handed-over.” Since 2015, a total of 10,000 detainees have been “exchanged” and close to 3,500 bodies collected.

**Connecting local, UN-led, and party-led mediation efforts:** Mediations carried out locally constituted important entry points for mediation initiatives undertaken by the Office of the Special Envoy for Yemen and by parties to the conflict. Whereas many local initiatives were self-sustained and received little outside support, the Special Envoy and parties to the conflict have traditionally relied on local mediation efforts for their own to succeed. To give an example, without successful prisoner exchanges at the local level, it would have been very difficult for the Special Envoy to organize the larger scale “exchanges” that have taken place under the OSESGY-International Committee of the Red Cross (ICRC) framework. Even though the three types of mediation efforts were distinct, and did not always occur simultaneously, they all benefited from each other.

In addition, unlike the reconciliation entities and initiatives mentioned in the previous section, mediation initiatives, in particular those established under the Stockholm Agreement (mostly prisoner exchanges and the opening of roads), are among the very few types of initiatives in which Houthi representatives have participated. Currently, there is no Houthi representation in any reconciliation initiative or structures established in the country for such purposes and even the PLC has been described as a bloc that is united against the Houthis.

**Mediation and transitional justice:** With regards to mediation and transitional justice, there is currently little overlap. According to one stakeholder involved in the mediation efforts to open roads in Taiz: “transitional justice is solution-oriented, and mediation is about trying to get concessions from the other parties.” Today in Yemen, mediation is not being employed to deal with any of the specific challenges identified within the field of transitional justice. For instance, different mediation efforts have successfully contributed to the exchange and release of thousands of detainees. However, they have failed to address the much broader issue of missing persons and enforced disappearances, which constitutes one of the most pressing issues to be addressed in a future transitional justice process. As one respondent explained, the international community supported mediation but not necessarily to tackle the underlying issues and the root causes of conflict, such as violence and poverty. “The international community focuses on the hijab, not on violence against women. They focus on mediation to release detainees, but not on the detainees themselves.”

**CSOs in mediation:** The evolution of local governance structures in Yemen because of the conflict has created a patchwork of different patterns across the country. A report on local governance published in 2022 highlights the ways in which the war impacted the functioning of local governance in Yemen.<sup>104</sup> Despite differences across the country, the conflict in general created “distinct local governance regimes with different key actors, different levels of central control, and varying levels of effective governance and service delivery.”<sup>105</sup>

The deterioration of law and order—itself a result of decaying state institutions—has directed many local civil initiatives to address certain gaps in service delivery by state and local structures. One concrete example of this trend is civil society’s growing role on the issue of detainees. CSOs have not only sought to respond to the widespread nature of detention and other situations involving deprivation of liberty (primarily of civilians) in Yemen. They have also filled the gap left by the government and other authorities. A consequence of this is that in many

104 Katharina Jautz, Monder Basalma, and Joshua Rogers, Berghof Foundation, “Changing Local Governance in Yemen: The Areas Under the Control of the Internationally Recognized Government of Yemen,” (2022).

105 Ibid., 8.

situations, CSOs, not state or other government actors, have become the direct counterparts of international agencies and actors.

CSOs are directly involved in mediation efforts that are also being pursued by international actors. In many situations, there are direct lines of communication and collaboration between both. Even though these had not been pre-defined or formalized a priori, the Office of the UN Special Envoy for Yemen organized occasional meetings with civil society representatives on a broad range of issues, including peace-building and mediation.<sup>106</sup> Despite these efforts, collaboration and communication between civil society, governmental actors, and Special Envoy-led mediation initiatives remain essentially ad hoc. Taking steps towards institutionalizing these relationships could not only help strengthen the field of mediation but also strengthen linkages with other fields such as peacebuilding, reconciliation, and transitional justice.<sup>107</sup>

It is nevertheless worth pointing out some initiatives from Yemeni civil society promoting collaboration and synergy. One example is the Community Mediation Committees established in six districts of Aden as part of UNDP's project, "Promoting Inclusive Access to Justice in Yemen."<sup>108</sup> Focused on the various causes and consequences of overcrowding in prisons and detention centers, the project provides training to community mediators to support detainees being held "for reasons related to societal and family disputes" and other minor issues such as financial disputes.<sup>109</sup>

The Abductees' Mothers Association constitutes another good example of a mediation initiative that has successfully grown into one of Yemen's most important CSOs. The association's founding members were wives, mothers, and sisters of "kidnapped people," mostly civilians who were arbitrarily detained and whose whereabouts remained unknown to family members and other loved ones. Over the years, the organization opened branches in other governorates, which greatly facilitated release efforts. According to a representative of the organization, between 2016 and 2024, approximately 1,000 male and female prisoners had been released because of their successful mediation efforts.

## Tribal Mechanisms

Tribal prevalence differs across regions in Yemen. Al Jawf and Ma'rib, for example, are two highly tribal governorates, while in other places such as Taiz, Hudaydah, and Hadramout, the tribal element is much less pronounced. Due to the conflict, many tribes have often fallen prey to pressures from warring parties and in some instances been co-opted by them. This has created many divisions in tribal loyalties, with different tribes aligning with various warring parties. In other instances, the role of tribes was weakened by warring party control of an area. For instance, one respondent explained that "after the war started, the role of tribes has diminished due to Houthi control."<sup>110</sup> During Ali Abdullah Saleh's regime, tribes were big players.

106 One recent event was a meeting in Aden in February between the OSESGY and 30 civil society activists from across Yemen. The discussions during the meeting focused on the UN-led peace process and linkages to Yemeni peacebuilding efforts on the ground. OSESGY, "Engaging Peacebuilding Civil Society Coalitions in Yemen," February 23, 2024.

107 A good example of this is the Civil Society Support Room created by the Office of the UN Special Envoy for Syria in 2016 as a platform for consultation and engagement with civil society. Office of the UN Special Envoy for Syria, "Civil Society Support Room," <https://specialeenvoysyria.unmissions.org/civil-society-support-room>.

108 UNDP, "Restorative Justice in Action: Community Mediation Committees in Yemen," January 21, 2024.

109 Ibid. According to information made available by UNDP's "Promoting Inclusive Access to Justice in Yemen" project, in the first quarter of 2023, a total of 1,296 pre-trial detainees in Aden had received legal counselling from six women lawyers, with support from 60 community mediators. Furthermore, a total of 138 persons involved in minor civil offenses were released through the community mediations.

110 See European Institute of Peace, "Pathways for Reconciliation in Yemen." One example mentioned is that of the tribes in Hajjah: "though some tribes in Hajjah oppose the Houthis, the latter were able to consolidate control over large

They were pivotal for the consolidation of power by Yemen's former president, but tribes also had a bigger role in state building and helped "spread safety, stability, and protection, as well as recovery." Some respondents referred to the "victimization of tribes," which were often caught "in the crossfire" and suffered because of the conflict, for example if "the tribe sided with one of the parties to the conflict." Moreover, even if "some tribes have chosen to remain out of politics, this has not always spared them from harm."

**The role of tribes in mediation efforts:** Tribes play an important role in conflict-resolution and are responsible for solving approximately 70% of disputes in Yemen. One concrete example is prisoner exchanges. With some variations across governorates, tribes have contributed to a significant number of prisoner swaps or releases, and in some instances directly mediated the release. Another example is the collection of dead bodies and human remains. Even if they were not directly engaging in a mediation effort, tribes remained key players because they facilitated mediators' access to the dead bodies. Two other instances of tribal participation are the delivery of humanitarian aid and the opening of roads. According to some respondents, without the "success" of tribal mediations on issues such as prisoner exchanges, it would have been difficult for the Special Envoy's Office to succeed in the releases it organized with the ICRC.

**Tribes and reconciliation:** While in many instances, the term reconciliation is used among tribes to mean the same as mediation, in others, it refers to a form of settlement that helps disputing parties settle wrongs and be at peace again.<sup>111</sup> Reconciliation is different from the mediation efforts to exchange and release prisoners. These were exchanges or swaps that were carried out regardless of any acknowledgment of the wrong done or of resulting grievances. Reconciliation, in contrast, requires a different approach because the harm is inherently both individual and collective. As researcher Paul Dresch explains, a tribesman who commits a disgrace or shames himself also insults and disgraces the tribe under whose protection he lives.<sup>112</sup> One respondent explained that Yemeni tribes were "repositories of practices of reconciliation and forgiveness in Yemen."

**Tribes and transitional justice:** Yemen has a "unique history of reconciliation" which some refer to as "reconciliation justice." Tribes constitute a central element of this type of justice. They have "tools" and "approaches" that could be very helpful for transitional justice efforts and, more specifically, for reparations. One respondent noted that "reparations work should be filtered through tribes or done in close partnership with tribes." Another recommended a supervisory role for tribes "in processes of reparation and redress of grievances." One reason for this is that reparations do not exist in a void; there are social customs and norms that tribes are very knowledgeable about that are important for ensuring reparations are attuned to the specificities of the local context.

Tribes could also be integral in disseminating knowledge in local communities about transitional justice concepts and mechanisms. As one respondent explained, "transitional justice should be in harmony with the traditional dynamics of Yemen. We need to make sure that the words we choose are attuned to our context." Finally, tribes have an important role to play in helping their communities "overcome the damage of war." They could be "a bridge between perpetrators and victims, helping them to coexist." Without contextualizing transitional justice

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swaths of the governorate and crush pockets of resistance through military power and financial incentives provided to some tribal leaders."

<sup>111</sup> According to author Paul Dresch, reconciliation is a settlement that allows two parties (or more) to achieve satisfaction. There cannot be satisfaction without addressing the wrongs. This implies the payment of compensation for material damages and wrongs done. Paul Dresch, *The Rules of Barat: Texts and Translations of Tribal Documents from Yemen* (Sana'a: Centre Français de Recherche de la Péninsule Arabique, Deutsches Archäologisches Institut, 2006).

<sup>112</sup> Ibid.

and acquainting communities with key concepts, terms such as “compensation for victims” could easily be misleading and trigger victimized persons to take justice into their own hands, seek revenge, or pursue personal vendettas.

There are also some limitations to bear in mind (and Libya is a good example to learn from, as seen in Box 6 below). As noted previously, tribal presence varies across Yemen. In many regions, including those considered “tribal,” many people have turned to the formal court system to redress personal grievances and settle disputes. In fact, as one respondent remarked, the active role of tribes in these issues should not exclude the role of the state. “We need to protect the government and the right of the government to be the sole ruler.” This also applies to reparations and other processes seeking to facilitate redress for harm and grievances. According to another respondent, “tribes can contribute and participate in these processes like other groups, but they should not have a primary role. In the end, redressing the damage requires the effort of a state, not the effort of a group, but this group can certainly have a supporting role.” Even if tribes already play an important role in resolving disputes, a role which may have grown in response to the deficiencies and problems affecting the judicial sector, human rights adjudications and other related processes should be led by the relevant state institutions.

### Box 6: Localized Reconciliation in Libya

Libya's local reconciliation efforts, including tribal and community-led initiatives such as the Tawergha-Misrata process and the Murzuq reconciliation agreement, have been shaped by traditional justice mechanisms and the influence of dominant political and military actors. While these efforts have fostered temporary peace in some areas, they have often sidelined victim participation, accountability, and inclusivity, undermining their long-term efficacy.

- **Traditional leadership and tribal leadership:** The Tawergha-Misrata process, led by tribal leaders, showcased the role of traditional justice in resolving conflicts. However, these processes generally lacked inclusivity and long-term frameworks, leaving grievances unaddressed.<sup>i</sup>
- **External and elite dominance:** Agreements like the Murzuq reconciliation were overseen by prominent politicians, underscoring the influence of political and military elites. Such top-down approaches often impose decisions on communities, limiting public participation and fostering mistrust.
- **Impunity and lack of accountability:** Many reconciliation initiatives offer amnesty to perpetrators of human rights violations, prioritizing short-term stability over justice. The lack of accountability is stark in cases like the 2011 Misrata siege, where fighters from both sides committed abuses, yet few perpetrators have faced prosecution.
- **Limited community engagement:** Reconciliation initiatives established by military leadership have largely excluded civil society, women, and marginalized groups, raising concerns about their legitimacy and effectiveness.
- **Challenges of external support:** While certain international actors helped facilitate local agreements, their interventions sometimes created perceptions of imposition, thus weakening local ownership of the processes.
- **Undermined rights:** The Tawergha-Misrata process made the return of displaced Libyans from Tawergha conditional on the payment of reparations claimed by the leaders of Misratans on behalf of their community. Two distinct and separate human rights—the right to return and the right to reparation—were involved. The displaced people from Tawergha have the right to return and that right should not have been conditioned on the claimants from Misrata receiving reparations. This approach not only undermines the fulfillment of distinct rights but makes it even more difficult to pursue reconciliation.

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NOTE: i. Human Rights Watch, "Libya: Displaced Population Can't Go Home," (January 2019).



## Chapter 4: Positions of Some of Yemen's Political Forces vis-à-vis Transitional Justice

For this chapter, a total of 10 respondents from different political backgrounds were interviewed: two members from the General People's Congress, one representative from the National Resistance, one representative from the STC, one member of the Islah Party, two members from the Socialist Party, and one former member of the Houthi movement. Other respondents interviewed for this chapter include a former prime minister of Yemen and a Sana'a-based member of parliament.<sup>113</sup> Each of these individuals wears more than one hat, so to speak, and therefore, they were considered in their dual capacities: as a member of a political party and in their professional capacity.

Houthi representatives were the most challenging to reach, especially considering recent arrests of Yemeni staff working for international governmental and non-governmental organizations (including the UN) and other factors. Several representatives were contacted in Sana'a and elsewhere, to no response. A breakthrough occurred during the interviews when another respondent facilitated contact with a former member of the Houthi movement who was very involved in the NDC. However, it must be noted that other than regarding the NDC, the person's views are not necessarily representative of the Houthi movement given the person's decision to withdraw some years ago.

While the respondents provided important insights on transitional justice, they do not represent official party lines. As the NDC experience showed, transitional justice became a common fracture line that created serious intra-party disagreements and divisions within the 2011 government of national unity. A good illustration is the draft transitional justice law and the failed attempts to adopt it due to divisions both inside the Transitional Justice and National Reconciliation Working Group (between Ali Abdullah Saleh's loyalists and other party members), as well as those between the ministry in charge of drafting the law and the presidential cabinet.

The scarcity of inputs from members of the Houthi movement is an obstacle to making generalized findings on behalf of the group and limits the extrapolation potential of the existing sample. For these reasons, the inputs have been organized to show areas or issues of general coalescence as well as issues that constitute fracture lines (or have the potential to).

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<sup>113</sup> This chapter does not include the views of all the members from the Transitional Justice and Reconciliation Working Group who were interviewed. These are analyzed separately in Chapter 3.

The inputs gathered for this chapter are structured around three main lines of inquiry: political process and national reconciliation; grievances and national reconciliation; and conflict-related violations and interim transitional justice measures. The information is complemented by the two sections included in Chapter 1 (Victim Experiences and Expectations of Justice), as well as information included in Chapter 2 (The Political Context), in the first section on the NDC.

**General views on transitional justice in Yemen:** Every respondent, regardless of their political affiliations, agreed on transitional justice as an important goal to pursue in Yemen. They also shared a similar understanding of transitional justice as a field that employs different tools—such as prosecutions, reparations, and truth telling—to provide justice and redress to victims.

The respondents also agreed that in the current circumstances, it would be very challenging to initiate a comprehensive transitional justice process in Yemen. There are several conditions that need to be met before starting such a process. These include coming to a political agreement about how to sequence transitional justice, in particular vis-à-vis the peace process and a future political process, and the identification of transitional justice steps or measures to be taken in the interim.

With regards to the first point, a peace agreement or other settlement to put an end to the conflict was noted as a key condition to start preparing a transitional justice process. In the words of the former prime minister, “There must be a commitment to peace for transitional justice to work.” However, at present, a peace agreement or settlement seems elusive, notwithstanding the efforts made by the Office of the Special Envoy for Yemen and others towards reaching a deal. As one of the interviewees explained, “currently, there is no clear nothing.”

**An inclusive political process and national reconciliation:** For the political representatives interviewed, peace is not only a pre-condition for transitional justice; it is necessary for national reconciliation. According to them, reconciliation cannot start without the warring parties agreeing to cease hostilities and to the other points identified in the UN roadmap. At the same time, a peace agreement is not enough to build sustainable peace in Yemen. For this to become a reality, it must be underpinned by a robust political process.

Dealing with past grievances should constitute a significant part of a political process in Yemen. National reconciliation should be one goal among others. However, respondents had no automatic formulas to offer. The representative of the National Resistance did highlight the importance of timing in dealing with the past to ensure it really supports national reconciliation. This requires a “realistic approach, grounded in the country’s actual needs and constraints, rather than an idealistic one.”

**Grievances and national reconciliation:** When asked about victims’ expectations vis-à-vis transitional justice and what would bring them justice, respondents shared examples of the most serious and recurring violations that have occurred since 2014. They also spoke about grievances. One respondent explained that the history of Yemen was made of different “grievance seasons.” This member of the Islah party explained, “One long season was the attrition between the north and south. There were many sub-seasons under this broader category.” With the end of each “season,” a new political cycle began. However, “this happened without any transitional justice measures, without reparations for victims.”

Even though respondents did not provide definitions for what constitutes a “grievance,” the perspectives shared suggest that many have arisen from deep-seated feelings of inequality, exclu-

sion, lack of basic conditions, poor governance, or feelings of injustice, among others.<sup>114</sup> Furthermore, in the context of Yemen, many grievances constitute “group grievances” in the sense that they affect a specific group in the country or a sector within the state. One illustration of this is the collection of grievances held by southerners toward the central state in Yemen, particularly towards Ali Abdullah Saleh for his role in the dismissal of thousands of public servants from the region after the 1994 civil war. Additionally, HLP violations began to multiply as the central government sought to consolidate its hold on the south.<sup>115</sup> In addition, recent developments in the region have also contributed to growing feelings of resentment, anger, and disappointment. According to an STC representative, these include: “Revenue-sharing policies by the government that favor resource-rich regions like Ma’rib to the detriment of the south;” “several breakdowns of the electricity network in the south, including in the city of Aden;” and “that southerners have the bare minimum of electricity supply, with many feeling penalized as though this were a collective punishment.”

Another grievance raised by respondents was political violence. According to one of the respondents (of the Islah Party), “In terms of historical grievances, Yemen has a problem with political opposition. It doesn’t deal well with this, and in the past, different regimes have totally smashed those who oppose them.” From this perspective, political violence can be said to refer to different forms of psychological and physical violence directed against political opponents, their supporters, and others.

Some of the events and episodes shared during the interviews dated back to the establishment of the Yemen Arab Republic in 1962. In addition, references were also made to the 1972 Bayhan Massacre,<sup>116</sup> the coup of the Nasserite Party in 1978, the South Yemen civil war in 1986 (which opposed two factions of the Yemeni Socialist Party), and the civil war in 1994. More recent events shared by respondents included the siege of Taiz from 2014 until now and political violence that has taken place before but especially since the start of the conflict in 2014. References to political violence included many acts of physical violence leading to death (e.g., targeted assassinations). In addition, other main forms of violence raised by respondents were enforced disappearances, usurpation (of land and property), and property destruction, including via landmines and house-bombings.

Although there was a conviction shared among respondents that resolving these long-held and deep-seated grievances is fundamental for achieving sustainable peace in Yemen, it was not clear how transitional justice could support such an endeavor. One difficulty had to do with agreeing on a starting point. As one respondent from the Socialist Party explained, “One big challenge will be deciding what the starting point of a transitional justice process in Yemen is. This is not evident, and it shouldn’t be assumed that the starting point should be 2014.” The only transitional justice mechanism suggested for addressing past grievances was a truth commission combining an historical inquiry into certain incidents or episodes of violence with an inquiry into patterns of violence and violations committed during each. The suggestion was made by a member of the Reconciliation and Transitional Justice Committee, who also noted that such a commission would have to carefully combine truth telling with national reconciliation. “We need to understand how much we can reveal of the truth of what happened without putting our national reconciliation at risk.”

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114 Sara Abbas, Matteo Dressler, and Nicole Rieber, “Addressing Social Grievances,” in *Berghof Glossary on Conflict Transformation and Peacebuilding*, ed. Berghof Foundation (Berlin: Berghof Foundation Operations, 2019).

115 Alrashidy, “Land for the Powerful.”

116 Marieke Brandt, “A Tribe and Its States: Yemen’s 1972 Bayhan Massacre Revisited,” *Middle Eastern Studies* 55:3 (2019): 319–338.

**Violence against women as a form of political violence:** Violence against women was one of the most recurrent violations mentioned by respondents during the field research, and some of the political representatives interviewed also raised the issue and shared their own perspectives. Violence against women was raised in the context of the noticeable increase of women arrested and detained in Houthi-controlled areas. It was noted by some respondents that in many instances, the arrests and detention had been accompanied by an increase of sexual violence against female detainees. One respondent from the Socialist Party mentioned that there were many allegations of cases of sexual violence taking place in prisons in Houthi-controlled areas.

One possibility suggested by the National Resistance representative was to include the topic of violence against women as part of the ongoing IRG-Houthi negotiation track on detainees. It appears that among those prisoners “exchanged” to date, only a reduced number of women have been included and their numbers remain comparatively very low in relation to the ratio of male prisoners who are “exchanged.”<sup>117</sup> Another reason for including violence against female detainees in the negotiations track was that in some instances, women had been allegedly detained on political grounds. Insights offered by other interviewees across political leanings corroborate this and suggest that many female detainees in Houthi-controlled areas have been arrested on political grounds and more specifically, due to their perceived involvement in political movements/parties deemed to be “from the opposition.”<sup>118</sup>

**Conflict-related violations and transitional justice:** When asked about what violations stood out since the start of the 2014 conflict, respondents mentioned the destruction or damage done to private property, including by house bombings and landmines; enforced disappearances; asset seizure; land seizures; no salary payments; and violence against women (analyzed in the previous paragraph).

Among them, HLP violations ranked first. However, the issues raised refer to two distinct periods of Yemeni history: (1) the post-unification period (including the 1994 civil war) when confiscations and land seizures—primarily attributed to the former regime of Ali Abdullah Saleh—became rampant in distinct areas of the south and (2) the land seizures and confiscations carried out by the Houthis especially after the killing of Ali Abdullah Saleh in 2017. House-bombings and landmines have emerged as trends in the context of the ongoing conflict, are mostly attributed to Houthis, and were not mentioned in relation to previous conflicts.

Similarly, the non-payment of salaries was raised both in relation to the thousands of civil, military, and security employees from the south who were dismissed from their jobs in the aftermath of the 1994 civil war, as well as in relation to the thousands of civil servants working for the state across Yemen who have not received their salaries in areas controlled by the IRG or in Houthi-controlled territories.

Asset seizure was invoked in relation to the freezing of both financial (e.g., cash, stocks, bonds, bank deposits) and non-financial (e.g., land, buildings, and property in general) assets carried out by the Houthis vis-à-vis political opponents. Although this issue was only raised in relation

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117 This was found to be true both for exchanges mediated via the IRG-Houthi track and those facilitated by the OSESGY and ICRC. One positive example is the case of Samira Maresh, who was released in April 2023 in a “prisoner swap” between the Houthis and Saudi Arabia. “Abducted Yemeni Prisoner Samira Maresh Has Been Liberated,” *Al Mayadeen English*, April 16, 2023.

118 This is also corroborated by the Panel of Experts of the UN Sanctions Committee/Security Council. According to its 2023 report, “women are held by the Houthis for various conflict-related reasons, including for their perceived affiliation with opposing parties to the conflict, their political affiliation, their involvement in civil society organizations or human rights activism.” *Final Report of the Panel of Experts on Yemen (S/2023/833, November 2, 2023)*, 31.

to the current conflict, it is believed to have also occurred during the confiscations and land seizures in different parts of the south following the 1994 civil war.

Enforced disappearances ranked second, although the representatives interviewed referred to it in different ways. The representative from the National Resistance, for instance, did not mention disappearances, which may be due to the fact that the detainees identified for official prisoner exchanges are not considered to be “missing” or “disappeared” because they are known to the detaining authorities. Nevertheless, one important question to clarify in future research is how the main actors involved with prisoner exchanges (namely, the IRG, the Houthis, OSESGY, and the ICRC) are addressing the linkages between detainees and enforced disappearances. This would be very helpful in assessing how mediation efforts can be utilized in the future to address the fate of missing persons.

With regards to transitional justice mechanisms to deal with these and other violations that occurred during the conflict, most respondents preferred an approach focused on bringing compensation and reparations to victims. First, this would carry important symbolic meaning since there have been no reparations for victims of past conflicts. Second, for some respondents, reparations and compensation should necessarily include both a financial dimension and a recognition of the psychological harm caused to victims and the burden they have had to carry as a result of their suffering.

This aspect had strong support from respondents across political backgrounds. For instance, the National Resistance respondent said the recognition of the condition of victims in Yemen is “fundamental and it should come before any apology, any admission of whatsoever. Victims are harmed people.” A representative from the Socialist Party spoke about the need for reparations to address the psychological and emotional dimension of harm. For him, the conflict has caused “emotional grievances and emotional trauma, particularly among the most vulnerable in society such as women and children.” The representative from the STC welcomed a recent presidential decree giving the Commission for the Forcibly Retired the green light to proceed with the payment of some compensation claims but noted that it had nonetheless failed to provide psychological care and other forms of mental health support for those who lost their jobs in the 1990s.

Some respondents also raised the possibility of making the link between reparations and reconstruction. For them, reconstruction refers specifically to the Saudi Development and Reconstruction Program for Yemen (SDRPY).<sup>119</sup> So far, SDRPY support to the IRG has focused on the rehabilitation of governmental buildings such as police stations, in addition to some capacity-building initiatives for specific public sectors. For the time being, the program does not include any projects with the aim of providing compensation payments to victims for conflict-related harms and violations. A downside is that respondents thought that this could be a sensitive point for the Saudi authorities and other GCC countries, given the role that some of them have played in Yemen’s conflict. For them, it would be difficult to channel Saudi and GCC funding for compensatory schemes for Yemeni victims without “compromising them politically. It is important to distinguish between Saudi funding and their responsibility and that of other GCC countries for the grievances caused in Yemen” (representative from the Socialist Party). A member of the Reconciliation and Transitional Justice Committee raised the possibility that international funds allocated for victim compensation could be “managed by a central (Yemeni) authority that represents all Yemenis.” Not doing so would increase the risk of “fund misappro-

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119 The SDRPY was established in May 2018 with the aim of providing institutional, technical, and logistical support to Yemen and building the capacity of Yemeni institutions. The Program has different project areas, including support to government capacities. See more at [sdrpy.gov.sa/en](http://sdrpy.gov.sa/en)

priation given that each party will try to serve their own supporters or persons from their own political party who have suffered harms.”

Respondents provided very few inputs on accountability. One reason for this could be that this would entail trials and/or prosecutions of persons belonging to specific conflict parties. In other words, there may be a fear that trials and prosecutions could be used to fulfill a desire for revenge directed against a specific party, to politically damage the “accused,” or as a form of collective punishment directed at members of a certain group. This is partly explained by the 2012 precedent and the negative perception that some had of the draft transitional justice law as biased against Yemen’s former president Ali Abdullah Saleh.<sup>120</sup> The law’s vulnerability to political exploitation and its failure to equally address the actions of all parties involved in the conflict contributed to its controversial nature and undermined its legitimacy. It was seen to be more about political gain than about achieving balanced justice.

**Interim measures in support of transitional justice:** Despite the uncertain prospects for a comprehensive transitional justice process in the current circumstances, respondents did not think there was nothing to be done. Many were forthcoming about interim measures that could pave the way for future processes. There were four types of interim measures proposed. First, ongoing mediation efforts (including but not limited to prisoner exchanges) and other dialogue activities should be built upon further as confidence building measures between parties and to promote a peaceful resolution of disputes. In the future, mediation efforts could be placed within a broader transitional justice framework to foster more linkages to some of the violations or grievances identified by political representatives. One example already mentioned would be to bring the topic of violence against women, and more specifically women detainees, into the “prisoner exchange file.” Another opportunity would be to involve prisoner exchange mediators in cases of enforced disappearances. Mediators could be allowed to monitor and confirm the legal basis for detention or the status of disappearance. On the basis of mediators’ monitoring reports, detaining parties could agree to release arbitrarily held detainees or otherwise present valid grounds for their detention, and to inform detainees’ families of their whereabouts.

Second, respondents spoke to the importance of preserving information about human rights and other types of international law violations. As one Islah member respondent said, “The most important thing to do in the current time is to preserve the information about the violations and the war,” while another interviewee (Socialist Party) proposed “building a platform” to preserve such evidence and information. These recommendations were shared by other respondents, who also highlighted the critical importance of preserving information for future transitional justice efforts. There are some preservation efforts ongoing.<sup>121</sup> Still, many organizations, including governmental entities, struggle with a lack of human, financial, and technical resources to ensure the identification and preservation of authentic, reliable, and usable records to support future transitional justice mechanisms and endeavors.<sup>122</sup>

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120 A law on transitional justice and national reconciliation was prepared by the government of national unity established by the GCC Initiative. However, the law was never enacted, allegedly due to disagreements between different political forces. See for instance: Abdulrahman Barman, “Without Transitional Justice, There Will Be No Lasting Peace in Yemen,” *Dawn*, April 21, 2023. According to another report from IDEA, “The main disagreement concerned Article 4, which stated that the provisions of the law would apply to events from 26 September 1962 onwards in the former YAR and from 30 November 1967 in the former PDRY, up until the date the law was enacted. Had this been passed by parliament, it would have annulled the validity of Saleh’s immunity law.” Lackner, “Yemen’s Peaceful Transition from Autocracy,” 54.

121 One example is the Yemeni Archive, funded by Mnemonic, which is dedicated to preserving, enhancing, and memorializing human rights violations and other crimes committed by all parties to the conflict in Yemen for use in advocacy, justice and accountability.

122 Some organizations involved in the documentation of human rights and international humanitarian law violations in Yemen have dedicated staff and other resources for preservation and archiving, but most Yemeni organizations have

Many respondents also included “economic violations” under the purview of efforts aimed at preserving information for future transitional justice uses. There have been some efforts to document these. However, the majority have been ad hoc and not always in line with relevant international standards and frameworks. One major reason why it was considered important to document and preserve information about economic violations is to inform existing and future reconstruction efforts, including the SDRPY. A repository of information or centralized archive concerning economic violations, including those pertaining to the destruction of infrastructure, would be considered very helpful to provide information about damages and their humanitarian consequences. Documentation and preservation were also considered important measures to ensure that reconstruction funds are dispersed based on the needs of those affected and that they are impartial in character.

Third, respondents emphasized reforms that would help the judiciary respond to the challenges it faces due to the conflict, as well as to address more chronic issues such as lack of independence and corruption, among others. Another aim would be to bring justice closer to the needs of Yemenis. This is a very important point because regardless of the possible establishment of transitional justice-mandated judicial bodies, such as a specialized human rights jurisdiction, victims may choose to pursue claims for reparations through the ordinary court system in Yemen. Similar to the recommendations by the respondents from the judicial sector, political representatives also agreed with the importance of supporting and developing the capacity of local judicial institutions in the governorates in order to facilitate citizens’ access to justice. A different point raised concerned the need for legal reform. In Yemen, legislation is the primary source of law. Since the start of the conflict in 2014, the adoption of new laws has slowed down drastically and many international treaties—which also constitute a source of law—have yet to be ratified. For this reason, it is very important to consider both judicial and legal reforms. In the words of the STC representative, “Many laws are in dire need of amendments and new laws need to be adopted.”

Supporting the judiciary in Yemen would no doubt necessitate various institutional arrangements that could take years to materialize. However, these would also help the judiciary become a cohesive sector again. Currently, it is split into two separate judicial systems, with each working independently.<sup>123</sup> Respondents found that many of the internal divisions and discord had worsened since 2014. The conflict created new sources of instability while also adding to existing difficulties. For these interviewees, measures supporting the judiciary to fulfill its roles and responsibilities could help. As one Socialist Party respondent said, “Support is essential to strengthen and prevent the further deterioration of the justice sector.”

The final point raised by respondents concerned victims. As noted previously, respondents generally acknowledged the importance of victims and their involvement in the peace process, as well as in reconciliation initiatives and transitional justice mechanisms. However, respondents feel that the participation of victims in these processes could be a very “complex undertaking,” especially because there are very few precedents to allow for their participation and “for society in general to learn from what happened.”<sup>124</sup> Respondents made three recommendations in this regard. Firstly, and most symbolically, they believe the Yemeni Parliament should adopt a law on victims of conflict-related violations. This would constitute a recognition of the harm caused

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few human and technical resources for archival and information-management purposes. See International Council on Archives, “Principles for Archives and Record Legislation,” (2004).

123 Shuwaiter, “The Role of the Judiciary in Achieving Transitional Justice and Reconciliation in Yemen,” 15.

124 Cristián Correa, Julie Guillerot, and Lisa Magarrell, “Chapter 9: Reparations and Victim Participation: Experiences with the Design and Implementation of Domestic Reparations Programmes,” in *Reparations for Victims of Genocide, War Crimes and Crimes Against Humanity: Systems in Place and Systems in the Making, Second Revised Edition*, eds. Carla Ferstman and Mariana Goetz (Berlin: Brill, 2020).

to victims (regardless of the party responsible) and of their role in addressing it. One difficulty foreseen with a law on victims is that it would need to align with a transitional justice law, since one of the aims of the latter would be to clarify temporal scope, conflicts, violations, and other parameters to be addressed.

The second and third recommendations on the subject of victims concerned providing greater support to victims' associations and welcoming the mobilization of victims' networks as an expression of human rights activism and advocacy "from below."<sup>125</sup> One representative from the Socialist Party noted that "it is equally important to support victims' associations, family associations, and other types of associations that represent victims/grievances...one recommendation I have is to establish a unified network for victims' associations."

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125 Gráinne de Búrca, "Legal Mobilization for Human Rights: An Introduction," in *Legal Mobilization for Human Rights*, ed. Gráinne de Búrca (Oxford: Oxford University Press, 2022).

## Chapter 5: Directions for Transitional Justice in Yemen

Given the political and technical limitations that transitional justice is likely to continue facing in Yemen in the near term, this chapter does not include recommendations but instead suggests directions for the consolidation of transitional justice in the country. These intend to inform tangible steps that can be taken by stakeholders, including Yemeni policymakers and practitioners, donors, and other international community representatives, and to encourage ongoing reflection about these efforts.

The proposed directions build on the observations shared during field research and reflect areas of natural overlap across respondents. The first part looks at several key features that should inform the consolidation of transitional justice in Yemen. These include conceptual foundations and possibilities for combined action by different Yemeni actors and for greater institutional articulation of the transitional justice-reconciliation nexus. The second part is an exploration of the role of reconciliation—as supported by transitional justice—in a peace agreement and future political process. More than 10 years have passed since political actors in Yemen have deliberated together about root causes of conflict and core grievances. This part therefore proposes a set of benchmarks and practical suggestions to create avenues for inter-party collective engagement. Finally, the last part includes an assessment of entry points for international community support to transitional justice, based on the overall directions proposed.

### Features of a Future Transitional Justice Process

#### Promoting a Yemeni Approach to Transitional Justice

##### 1. Placing Victims at the Center

There is strong support for a victim-centered approach to transitional justice, which requires an awareness of victims' opinions, needs, and requests. In this regard, the documentation and monitoring work done by CSOs and other entities constitute important sources of information about the consequences of violations for victims, as well as about their primary immediate needs.

In addition to these efforts, there is still a need for a more accurate understanding of victims in Yemen, especially one that is not limited to the current conflict. Without more layered information about victims and survivors based on their distinct backgrounds, needs, and levels of vulnerability, it will be very difficult to recommend concrete action on justice and redress.

Promoting a victim-centered approach to transitional justice in Yemen also requires prioritizing victim participation at all stages of design and implementation. One important initiative that can be taken in this regard is to establish a forum for dialogue or a framework for engagement between the IRG (not limited to the Ministry of Legal Affairs and Human Rights) and Yemeni CSOs on victims' issues. While there are some informal instances of technical cooperation like this, there is not yet any structured dialogue between them on transitional justice issues.<sup>126</sup> CSOs are vital sources of knowledge about victims and will play a crucial role in the future connecting with them for purposes of victims' assessments, mappings, and, at a later stage, reparations. A dialogue like this would also constitute an important first step in identifying ways and means of developing mappings of victims in select regions, ahead of more comprehensive victim assessments.

## **2. Building Inclusivity into Transitional Justice Work**

An inclusive transitional justice process must contribute to removing systemic and historical barriers to the participation of women, youth, minorities, and other marginalized groups in Yemen's political and social life. Respondents spoke about the importance of factoring gender, minority, and disability considerations into future work carried out in the realm of victims and survivors. Given that women, youth, children, and minorities also constitute some of the most harmed by conflict-related violations, addressing victims' needs will require that they are included in discussions and decision-making from the start. Boxes 7 and 8 show how Tunisia took on these issues—both successfully and otherwise.

Another step in supporting victim participation and inclusivity is to strengthen victims' voices. In addition to revising existing laws and regulations governing civil society in Yemen, which will enable the registration of victims' associations and networks, it is pertinent to conduct a feasibility study on the adoption of a Yemeni law on victims to assess the legal, social, and practical considerations that will ensure the law's effectiveness in addressing victims' needs. This law should be developed through an inclusive process that engages victims, survivors, civil society, and local communities early on. By doing so, the law will not only provide legal recognition and status to conflict victims, but also ensure that their voices, as well as those of other marginalized groups, are considered in shaping policies related to justice, reparations, and protection.

## **3. Documentation**

Three main points are relevant regarding documentation. The first concerns the quality of the documentation and, more specifically, the need for documentation processes that capture the specific nature of victims' backgrounds related to their gender, social status, and disabilities, amongst other factors. Currently, the bulk of information collected by organizations does not sufficiently reflect the impact of war and violence from the perspective of women and other victim groups. One possible step to address this gap is to include the development of guidelines that integrate gender, disability, and minority elements in human rights documentation in Yemen's 1325 National Action Plan.

The second point emphasizes the importance of preserving the information already collected through human rights documentation and monitoring in accordance with international standards and practices. While documentation efforts have primarily been aimed at supporting

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<sup>126</sup> According to the national report submitted by the IRG under the fourth cycle of the Universal Periodic Review in 2024, the government has a referral system for victims of sexual violence through which victims and survivors are referred to the Yemen Women's Union. See *National Report Submitted in Accordance with Human Rights Council Resolutions 5/1 and 16/21 on Yemen* (Geneva: Official Record A/HRC/WG.6/46/YEM/1, February 2024).

### Box 7: Inclusive Processes in Tunisia

The consultative nature of Tunisia’s transitional justice process, which relied on large public consultations, initially ensured broad participation and fostered a sense of inclusivity. However, despite some successes, the process of inclusion faced significant challenges to implementation and long-term impact.

- **Public consultation:** Public consultations organized by Tunisia’s TDC provided an opportunity for historically marginalized groups, such as youth, gender-based violence victims, and regional minorities, to voice their concerns and expectations.<sup>i</sup> For instance, women from conservative areas like Kairouan, who were traditionally excluded from public processes, were engaged through women-only forums, allowing them to share their stories in a culturally sensitive environment. While this approach initially generated hope for a more inclusive process, the absence of effective follow up in addressing these concerns ultimately eroded trust in the system.
- **Public hearings:** The TDC’s public hearings, broadcast nationally, were initially hailed as a groundbreaking step in fostering trust between citizens and the government. Many individuals expressed their grievances, such as activists tortured in detention centers or families of the disappeared. While these hearings generated widespread empathy, the lack of follow-up measures and concrete action undermined the sense of inclusion that had been fostered.
- **Acknowledging historical grievances:** Tunisia’s transitional justice framework formally recognized systemic injustices, such as the exclusion of marginalized regions like Sidi Bouzid and Kasserine, the cradle of the 2011 revolution. The state promised economic and social reparations, including infrastructure projects in these areas. However, delays in implementation, such as incomplete health clinics and unfulfilled job creation programs, deepened public frustration. The delays and perceived selectivity left many victims feeling disillusioned and excluded.
- **Civil society capacity building:** Efforts to build capacity within civil society played a critical role in supporting the transitional justice process. ICTJ, for example, partnered with local organizations and victim groups and set up the “Transitional Justice is Also for Women Network” to strengthen their ability to engage in the transitional justice process, particularly in regions with limited access to justice mechanisms.<sup>ii</sup> This included training programs on documentation, advocacy, and engagement with national institutions, helping to amplify the voices of victims and ensure their inclusion in the process. However, limited funding and political interference within the TDC reduced its ability to maintain long-term partnerships, hindering the sustained capacity building efforts.
- **Youth engagement:** Youth forums were created to address issues of economic and social exclusion and provide platforms for young people to articulate their aspirations. For instance, the 2016 National Youth Forum on Transitional Justice brought together young activists from underprivileged areas like Tataouine to propose solutions for tackling corruption and unemployment. While these forums initially bridged divides between urban and rural youth, the failure of the state to act on their recommendations, such as implementing economic reforms in neglected regions, caused many young participants to feel that their voices had been ignored, leading to disillusionment and, in some cases, renewed protests.

NOTES: i. ICTJ, “Where We Work: Tunisia,” ICTJ Website, [www.ictj.org/where-we-work/tunisia](http://www.ictj.org/where-we-work/tunisia)

ii. ICTJ, “ICTJ and Tunisian Human Rights Groups Launch Network for Inclusion of Women in Transitional Justice Process,” March 9, 2015, <https://www.ictj.org/news/ictj-tunisian-human-rights-groups-launch-network-inclusion-women-transitional-justice-process-6>

### Box 8: Gender Justice in Tunisia

The creation of a Women’s Committee within Tunisia’s TDC was critical for highlighting the gendered impact of violence during the Ben Ali dictatorship and earlier regimes. The committee created a space for women to participate actively in the transitional justice process, and thus, shape recommendations for gender-sensitive reforms. However, implementation of these reforms and broader progress on gender justice suffered as a result of political, cultural, security, and resource challenges, compounded by internal conflicts within the TDC itself.

- **Recognition of gendered violations:** The committee documented over 4,000 cases of gender-based violence, including rape, enforced disappearance, and torture, exposing patterns of systemic abuse. Public hearings featured testimonies from female survivors, breaking the silence surrounding sexual violence in Tunisia. This acknowledgment shifted societal narratives and paved the way for broader conversations about accountability.
- **Active participation:** The committee created safe spaces for women, such as workshops and regional consultations, where survivors could share their experiences without fear of stigma. This process enabled women to contribute to shaping reparative measures and institutional reforms.<sup>i</sup> In 2014, ICTJ established the Transitional Justice Is Also for Women Network, a coalition of 11 groups that encouraged more women to submit their stories to the TDC.<sup>ii</sup>
- **Gender sensitive reforms:** The Women’s Committee’s recommendations highlighted the necessity for reforms that reflect women’s realities. They included advocating for gender considerations in legislation and policies, revising Tunisia’s Penal Code to criminalize sexual violence more comprehensively, and introducing gender quotas in political representation. These proposals emphasized the need for reforms addressing patriarchal structures and systemic inequalities.
- **Implementation gaps:** Despite these achievements, the TDC’s gender-sensitive recommendations faced significant resistance. Conservative political factions and bureaucratic inertia slowed the adoption of reforms. For instance, proposed legislation to protect survivors of sexual violence remained stalled for years, reflecting the lack of political will. One of the major challenges that contributed to these gaps was the severe impact of internal conflicts on the Women Committee’s work. The head of the committee was dismissed at the end of the TDC mandate, and her work, especially on sexual violence, was largely sidelined. It was replaced by an internal study focused on the impact of political violence on couples, which diverted attention from addressing gender-based violence. The change in direction underscored the fragility of institutional support for gender justice and further delayed the necessary reforms.
- **Cultural challenges:** Deep-rooted cultural attitudes about gender roles limited the broader acceptance of women’s participation in transitional justice efforts. Public campaigns aimed at shifting these perceptions were hampered by insufficient funding.
- **Security concerns:** Female activists and survivors who came forward faced threats and harassment, underscoring the need for robust protection mechanisms. In one instance, a survivor who testified publicly had to relocate due to targeted threats.
- **Resource constraints:** The Women’s Committee operated with minimal resources, restricting its ability to conduct outreach in marginalized communities. Many women, particularly in rural areas, were left unaware of opportunities to engage with the transitional justice process.

NOTES: i. Salwa El Gantri, ICTJ, “Our Voices Will Not be Silenced: Charting Women’s Struggle for Justice in Tunisia,” June 21, 2016.

ii. ICTJ, “ICTJ and Tunisian Human Rights Groups Launch Network for Inclusion of Women in Transitional Justice Process,” September 3, 2015.

accountability measures, they can also serve other transitional justice purposes, such as truth telling and preserving historical memory (see Box 9 for Syria as an example of this). For this reason, it is important to support information management systems that preserve information for different transitional justice purposes.

Finally, the third point has to do with re-purposing documentation efforts in Yemen to better capture the consequences of violations and their impact on victims. Documentation efforts have focused primarily on perpetrators and violations with less attention given to the immediate and long-term needs of victims, such as shelter, health, financial support, acknowledgment, and redress. Expanding the focus of documentation to include these aspects can contribute to a victim-centered approach.

### Box 9: Documentation by Syrian CSOs

Syrian CSOs have played a leading role in documenting human rights abuses throughout the violent conflict that began in 2011, despite the dangers they face. Their work has been critical for informing ongoing and future transitional justice efforts.

- **Innovative use of documentation:** Syrian CSOs have adapted their documentation efforts in response to shifting political realities and slow international action. Although some documentation may never be used for criminal prosecutions, due to its lower quality or level of evidence, it has still been used to address injustices in different ways. These include memorialization efforts, supporting victims' right to truth, and acknowledgment of victims and violations.<sup>i</sup> For example, the Save Syrian Schools project, facilitated by ICTJ, highlighted attacks on schools, emphasizing both the legal implications and the immediate and long-term impacts on Syrian communities.<sup>ii</sup> This effort leveraged existing data, networks, and knowledge to present a compelling case for international attention and accountability.
- **Evidence collection and technological innovation:** In the absence of state-led justice mechanisms, Syrian CSOs have gathered and preserved essential evidence for ongoing and future accountability efforts. They have employed various tools in their documentation efforts, including open source resources, satellite imagery, and eyewitness testimonies. This evidence has been crucial in constructing a factual record of human rights abuses committed by the Assad regime and other armed groups.
- **Supporting international justice efforts:** Syrian CSOs have worked closely with international bodies such as the International Criminal Court and the UN Commission of Inquiry (COI) on Syria. The COI has produced detailed reports based on data and testimonies collected by CSOs, contributing to a comprehensive understanding of the conflict and its atrocities. CSOs also collaborated with the International, Impartial and Independent Mechanism (IIIM), which has memoranda of understanding with Syrian CSOs to exchange data and documentation. This data has supported accountability efforts, including universal jurisdiction cases in Europe, based on documentation collected by CSOs and facilitated by the IIIM.<sup>iii</sup> Furthermore, the Independent Institution for Missing Persons, a new body with a humanitarian mandate to uncover the fate of missing persons, also relies on documentation efforts led by CSOs. Through coordination with international organizations, CSOs have ensured that the voices of Syrian victims are heard at the global level, pressuring international actors to act despite a lack of local justice mechanisms.
- **Victim-centered approaches:** The work of Syrian CSOs has demonstrated the importance of centering victims in documentation and justice efforts. These organizations have prioritized the needs and voices of survivors, ensuring their inclusion in the documentation process. For example, CSOs have provided platforms for victims to share their stories, helping them to reclaim agency and contribute to the wider discourse on justice and accountability. This focus has been essential in framing justice processes around the real needs of survivors.

*(continued)*

### Box 9 (continued)

- Overcoming security challenges: Syrian CSOs have shown resilience in continuing their work despite facing significant threats. Many operate from exile or within hostile environments using secure communication tools to safeguard sensitive information. For example, the Syrian Archive focuses on verifying and storing digital evidence, including videos documenting atrocities, and helping ensure continuity in documentation efforts despite escalating security risks.
- The need for technical support: Syrian CSOs have sought external technical support to enhance their capacity to analyze, archive, and preserve data in formats that can be used for legal proceedings, advocacy, and historical records. Partnerships with international organizations have helped Syrian CSOs build databases and refine their technical skills verifying and cross-referencing evidence. This technical support has also ensured that the data they collect can be shared seamlessly with international justice mechanisms, increasing the impact of their work. However, these efforts have often been hampered by limited funding and insufficient staffing, which have posed significant challenges to sustaining long-term documentation and justice initiatives.

NOTES: i. ICTJ, “Justice for Syrian Victims Beyond Trials: The Need for New, Innovative Uses for Documentation of Human Rights Violations in Syria,” (February 2018).

ii. ICTJ, “‘We Didn’t Think It Would Hit Us:’ Understanding the Impact of Attacks on Schools in Syria,” (September 2018).

iii. ICTJ, “Advancing Global Accountability: The Role of Universal Jurisdiction in Prosecuting International Crimes,” (December 2020).

## 4. Public Awareness

In the lead up to the NDC, there was insufficient time for participants to familiarize themselves with transitional justice and related areas. Since 2014, knowledge on the topic has improved, mainly thanks to Yemeni CSOs, international non-governmental organizations, and the National Commission of Inquiry. However, despite these efforts, public awareness about transitional justice continues to remain relatively low. Knowledge about the topic is also circumscribed to specific actors with the result that steps proposed in the realm of transitional justice are likely to reflect their preferences and positions and not necessarily those supported by the wider Yemeni public.

Public dissemination is key to creating a culture conducive to transitional justice efforts, with specific activities targeting various sectors and agencies of the government, political parties and leaders, political entities, CSOs, and the general public. Future steps could include the organization of transitional justice awareness workshops in select areas of Yemen. These could be a precursor to future initiatives such as in-depth consultations with the Yemeni public and public campaigns to increase awareness about the needs for transitional justice and reconciliation. The Ministry of Legal Affairs and Human Rights could have direct engagement in the awareness workshops and be the ministerial focal point for awareness and dissemination of transitional justice to other ministries and government institutions.

### Strengthening Frameworks for Inter-Institutional Cooperation and Civil Society Participation in Transitional Justice

#### 1. Institutional Framework for Transitional Justice

As this report has tried to show, far from the generalized notion that “nothing is happening regarding transitional justice in Yemen,” the transition in 2011 and the NDC in 2013-2014

jumpstarted a series of steps which, despite the start of conflict in 2014, have continued to inspire additional developments on the transitional justice track. These include the work led by the National Commission of Inquiry, by Yemeni CSOs, by the Ministry of Legal Affairs and Human Rights, and by the Commission for the Forcibly Dismissed from the Southern Governorates, amongst other stakeholders.

State support for transitional justice slowed significantly after 2014, especially compared to the prior momentum created by the GCC Initiative and the NDC. The establishment in April 2022 of the CRC signals an important shift in this regard, as it is a PLC-mandated body (thus, a state-mandated body) working on transitional justice and reconciliation.

In the current configuration of the country's main political relationships and institutional developments, transitional justice as an issue is essentially shared across the PLC, the Ministry of Legal Affairs and Human Rights, and the National Commission of Inquiry. Yemeni CSOs also continue making significant contributions, but each actor tends to work separately, largely disconnected from work done by others.

One step that could help build bridges between the different entities and strengthen cooperation is the adoption of an institutional framework that promotes transitional justice as a shared responsibility, defines the role of each actor, and sets out working methods for policy collaboration. The proposed framework should also define concrete opportunities and avenues for Yemeni civil society participation in political and governmental decision-making processes about transitional justice issues and related fields.

## **2. Revised Legal and Regulatory Framework for Civil Society**

Arrests of staff working for international governmental and non-governmental organizations—such as those that took place in June 2024—are part of an increasing number of restrictions that de facto authorities and other warring parties in Yemen impose on CSOs and their activities across the country. At the same time, existing laws and regulations for civil society activity in Yemen are old and out of touch with the operational realities and demands that have emerged post-2014.<sup>127</sup> They are also inconsistently administered by the different parties to the conflict, who have often created new sets of rules and regulations for the registration and supervision of CSOs in their areas of control.

Creating an enabling environment for CSOs is one of the most important conditions for transitional justice work in Yemen. CSOs play a fundamental role in reaching out to victims, survivors, and their communities, and in helping advance the goals of justice and reconciliation (see an example of this from Lebanon in Box 10). In consideration of this, the IRG, with the support of the international community, should revise the current legal framework, in particular on civil society activity, and adopt new legislation that conforms with international standards and practice. It should remove any arbitrary, unnecessary, or unlawful restrictions to civic space in Yemen.

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127 According to the International Center for Non-Profit Law, “the law on associations (Law No. 1 of 2001) and the Executive Statutes No. 129 for the year 2004 are the basic law that governs civil society organization in Yemen. The Ministerial Resolution No. 211 for the year 2011 regulates the affairs between the government, the CSO community, and international agencies in Yemen.” “Civil Freedom Monitor: Yemen,” International Center for Non-Profit Law Website, [www.icnl.org/resources/civic-freedom-monitor/yemen](http://www.icnl.org/resources/civic-freedom-monitor/yemen)

### Box 10: Civil Society and Civic Space in Lebanon

In Lebanon, CSOs have persistently worked to confront the legacy of the civil war, advocating for accountability and victims' rights despite an often hostile regulatory and political environment.

**Restricted civic space:** The legal and regulatory framework for civil society in Lebanon has often been used to stifle dissent and limit advocacy efforts. Activists face bureaucratic hurdles, such as the requirement to obtain permits for public demonstrations, and have been subjected to surveillance and harassment. These restrictions reflect the government's reluctance to address historical injustices, particularly those implicating powerful political figures and former warlords who now occupy key positions in the state.

**Civil society collaboration:** Despite these obstacles, Lebanese CSOs forged alliances to amplify their demands. Collaborations with international organizations and partnerships among local groups enhanced their capacity to advocate effectively. A notable example was the consortium of civil society that developed the Agenda for Change, a comprehensive document published in 2014 that outlined practical recommendations for dealing with Lebanon's violent past.<sup>i</sup> The issues identified in the document reflect the overarching goals of acknowledging those who have been most affected by conflict in Lebanon, addressing the structural roots of the conflicts, and strengthening state institutions to enhance the rule of law in the country. The document became a pivotal tool for advocacy, helping CSOs present a united front in their demands for justice and accountability.

**Persistent advocacy:** With the support of local and international organizations, CSOs, particularly the Committee of the Families of the Kidnapped and Disappeared in Lebanon, have engaged in relentless advocacy, organizing public campaigns to keep the issue of the missing and forcibly disappeared during the civil war in the public discourse. The Committee has faced numerous challenges, including political indifference or resistance; yet, its long struggle and sustained lobbying efforts led to the inclusion of civil society representatives in discussions about Law 105 for the Missing and Forcibly Disappeared in Lebanon, which was passed in 2018.<sup>ii</sup> This law gave conflict-related victims legal recognition for the first time, supporting the institutionalization of victims' rights. It also provided a framework for addressing the rights and needs of the missing and their families and in 2020, established the National Commission for the Missing and Forcibly Disappeared. Local and international organizations continue to offer technical assistance, resources, and advocacy to ensure the Commission can fulfill its mandate, despite political challenges and limited resources.

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NOTES: i. ICTJ, "Confronting the Legacy of Political Violence in Lebanon, An Agenda for Change," (October 2014).

ii. Law 105 of Lebanon for the Missing and Forcibly Disappeared in Lebanon, 2018.

### 3. Supporting Victims' Associations and Networks

Despite recurring cycles of violence since 1962 and the high numbers of civilians killed and wounded, in particular since 2014, there are few known victims' organizations in Yemen. Official figures on victims' associations and national networks for victim support and assistance are non-existent. It is not clear how CSOs in Yemen can register as victims' associations. Furthermore, the increasingly complex administrative and regulatory environment for CSO registration means that victims' organizations that may exist are most likely unregistered and therefore in a precarious position with regards to eligibility to receive CSO assistance, grants, and other types of support.

Throughout the years, more and more Yemeni CSOs have highlighted the importance of continuing to provide protection and assistance to victims after violations have occurred. Victims'

needs are not confined to the harm they suffered. They also include the need for justice, redress, and healing. In line with the previous recommendation, one step forward would be to include victims' associations in whatever formats they may exist in the process of revising existing laws and regulations on civil society. Another important way to support victims and survivors in Yemen is to assess the current governmental and civil society capabilities to engage in activities such as victim assessments, mapping of victims' organizations, and others in order to guide future policy-making and institutional responses. For more examples, see Morocco's approach to the inclusion of civil society in Box 11.

### Box 11: Civil Society and Civic Space in Morocco

In 2004, Morocco's IER became the first truth commission in the Arab world. Civil society played a key role in keeping the issue of violations on the political agenda and advocating for an independent national truth commission. Civil society was actively involved with the Commission, and its advocacy played a crucial role in shaping Morocco's transitional justice efforts overall.<sup>i</sup>

- **Victim-centered documentation:** The IER's collaboration with victims' associations to document forced disappearances and other abuses highlights the importance of a victim-centered approach, ensuring that victims' voices help guide the process and shape future justice measures.
- **Comprehensive mapping of abuse:** By mapping cases of abuse, the IER enabled targeted reparations programs for both individuals and communities. Such mappings can provide a foundation for reparations that address collective harm and meet community needs.
- **Strengthening civil society partnerships:** The IER's partnership with civil society helped build trust and community buy-in. Working closely with local actors can increase the effectiveness and acceptance of justice measures, especially given a fragmented political landscape.
- **Restrictive legal frameworks:** While CSOs played a crucial role in the transitional justice process, they often operate within a restrictive legal framework that can limit their capacity to mobilize support and secure funding. CSOs in Morocco, especially those advocating for democratization and human rights, have faced administrative barriers and harassment by authorities, preventing them from fulfilling their functions.

NOTES: i. Hadji, "Moving from Mirage to Reality," ICTJ, "Morocco Still a Model for Justice in MENA, but Questions Remain;" and Caroline Lavoie, McGill Centre for Human Rights and Legal Pluralism, "Morocco's Equity and Reconciliation Commission and the Restoration of Dignity," (2018).

### Contributing to Reconciliation

Many stakeholders see reconciliation as one of the main goals of transitional justice in Yemen, insisting on the importance for transitional justice to contribute to a better future for all Yemenis and to wider political change and societal transformation. Despite such broad support, views on the issue remain general and require further articulation about how transitional justice can concretely contribute to reconciliation. Furthermore, in the context of a future intra-Yemeni political process, which is likely to entail a government of national unity formed and shared by different political parties, any agreement is expected to favor a "light approach" to accountability to avoid any risk of political tension and instability.

While a government of national unity or similar setup may be well-suited as an interim arrangement in a broader scheme for political transition in Yemen, genuine national reconciliation requires deeper engagement and a different approach to sharing and distributing power among political forces. It is important to recall that the 2012 government of national unity was largely based on a power-sharing agreement and that this formula was largely inadequate for achieving broader societal and political reconciliation in the country or guaranteeing peace.

It is clear from the research undertaken for this report that to achieve broader national reconciliation, the country needs to address past grievances. These include not only the harms that have resulted since 2014, but also a broader set of grievances that are expressed in different historical conditions such as political violence, violence against women, exploitation of natural and public resources, social discrimination, and racism, amongst others.

The concretization of a reconciliation approach in Yemen requires significant engagement, debate, and exchange by all Yemenis, but in particular by the political class in order to lay down a path forward and build a shared vision. Past discussions have triggered political divergences around the issue of who is responsible for the harm inflicted and the related issue of who was harmed.<sup>128</sup> Discussing the legacy of the past has also often led to the question of how different political actors should respond to grievances based on the responsibility they bear. While identifying perpetrators of harm could be valuable from a historical clarification perspective—and many respondents advocated for truth telling about Yemen's past—which could in turn contribute to reconciliation, this is different from the issue of criminal responsibility before a court. The latter remains a highly sensitive topic that is not ripe for discussion in the country's current political reality.

### **The Role of Transitional Justice in a Peace Agreement and in a Future Intra-Yemeni Political Process**

The peace agreement and the Yemeni-led political process constitute two components of a broader process led by the Office of the Special Envoy for Yemen towards “a peaceful and inclusive resolution to the conflict in Yemen.”<sup>129</sup> The Envoy-led efforts seek, on the one hand, to reach an agreement between the main parties to bring conflict and violence to an end. At the same time, the agreement also seeks to ensure the stability of peace in Yemen, in particular by getting the main parties to agree to a political process that addresses several substantive issues. Recent Envoy-led discussions have focused on a roadmap for reaching a political settlement to end the conflict and for resuming a Yemeni-led political process.<sup>130</sup> Based on meetings held with different Yemeni stakeholders, the political process should address the root causes of conflict through a phased approach to the transition.<sup>131</sup>

Whether transitional justice will have a place in a future intra-Yemeni political process will depend largely on the peace agreement and more specifically on the terms agreed to by the parties to put an end to the conflict and on new governance provisions and arrangements.<sup>132</sup> However,

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128 Toon Van Meijl and Michael Goldsmith, “Introduction: Colonial Grievances, Justice and Reconciliation,” *The Journal of the Polynesian Society* 121.2 (2012): 111–27.

129 OSESGY, “OSESGY Continues Political Dialogues in Amman to Advance Yemen's Peace Process,” October 23, 2024.

130 Ibid.

131 Ibid. Participants also emphasized the urgency of addressing issues of critical importance, such as payment of salaries and re-opening of roads, before reaching a political settlement which will take time to materialize.

132 According to the definition given by researcher Derick Brinkerhoff, governance “concerns the rules, institutions, and processes that form the nexus of state-society relations where government and citizens interact. This domain combines public administration and state structures, politics and the exercise of power and authority, and policy-making and implementation.” As quoted in Marco Mezzera, Michael Pavicic, and Leontine Specker, Netherlands Institute of

currently there is limited visibility about how these will be articulated and what provisions will be included in order to have an effect on the end of conflict and durability of peace.

Even though, as noted above, Yemeni actors favor a phased approach to a transition, it is not clear how a post-conflict national government would look or how political power will be distributed between the main parties, including the Houthis.<sup>133</sup> This is true both for purposes of a peace agreement and for a future political process.

Rendering transitional justice and reconciliation as part of a political process in Yemen will require making it part of the overall transition. As this report has sought to demonstrate, genuine, meaningful, and lasting peace and reconciliation in Yemen call for addressing inter-party grievances as well as grievances associated with Yemen's legacy of the past. Transitional justice has an instrumental role to play in this regard.

One step to solidifying transitional justice-supported reconciliation as one of the goals of a transition process is to start with a scoping exercise that assesses the attitudes of the main parties. That study should also assess what formats are available and would be acceptable for main parties to convene and have a dialogue about the root causes of conflict and core grievances. Without this understanding, it will be very difficult for the Office of the Special Envoy to be able to propose, and subsequently operationalize, reconciliation and transitional justice as part of an "inclusive political process under UN auspices."<sup>134</sup> The study could also be helpful in reaching a common understanding amongst the parties about root causes and drivers of conflict, a theory of change, and future avenues for common engagement on these issues.

Another suggestion is to conduct an in-depth analysis that articulates the relationship between power-sharing and reconciliation/transitional justice and identifies challenges as well as opportunities in the Yemeni context. Since parties in Yemen are likely to agree to some form of power distribution as a condition for engaging in a political process, it will be important to understand how power-sharing influences the prospects for reconciliation, especially considering the 2011-2013 experience.

### **Short-Term Programmatic Activities for International Support**

To complement the approach proposed for the Office of the Special Envoy, the international community's support should focus on mobilizing stakeholders for prospective transitional justice initiatives. This entails three approaches: technical capacity-building; connecting with local actors in reconciliation processes; and leveraging support for the integration of reconciliation and transitional justice in the peace process as well as in a future intra-Yemeni political process.

With regards to the first approach, building capacity in the judiciary is key, as is increasing the capacity of key governmental entities to provide greater support for conflict-related victims. Both constitute two key interim measures supportive of a future and more comprehensive approach to transitional justice in Yemen. Capacity building was deemed a key means of enhancing the knowledge, competencies, and skills of the judiciary. It could also be beneficial for other actors from the justice system, such as the Attorney General's Office, and other governmental entities, such as the National Commission of Inquiry and the Ministry of Human Rights.

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International Relations, "Governance Components in Peace Agreements: Fundamental Elements of State and Peace Building," (May 20, 2009).

133 The Houthis did not participate in the government of national unity that was established after the presidential elections were held in February 2012.

134 OSESGY, "Transcript of Media Stakeout by UN Special Envoy for Yemen," March 14, 2024.

Ideally, this would simultaneously serve to improve inter-institutional cooperation on existing activities.<sup>135</sup>

One possible step in this direction could be the development of a coordination strategy to promote regular dialogue between institutions and suggest practical ways of working together on transitional justice. Another possibility could be to conduct a gap analysis of the Supreme Court of Yemen or another justice institution as a pilot. This could entail identifying knowledge needs that must be met as a first step to effective coordination with other governmental institutions working on transitional justice. Capacity-building on transitional justice is also very important for the CRC to strengthen this component of its mandate, as well as to bring greater awareness to its members, in particular the Reconciliation and Transitional Justice Subcommittee, with regards to (local) reconciliation initiatives and practices taking place across Yemen.

The key areas where the international community's support could benefit victims now are related to aiding conflict-affected individuals. Despite certain ad hoc measures that the IRG has taken to provide specific categories of victims with aid and support, the majority of conflict victims are not receiving any assistance for violations of international human rights and humanitarian law. This is serious, since the majority of cases referred by the National Commission of Inquiry to the Attorney General's Office have not been prosecuted and victims have not been provided with any reparations nor with reparative measures. Many respondents proposed compensation. However, as this report has tried to show, there is no political willingness nor capacity in Yemen today to implement compensation schemes for victims that are in accordance with international standards and guidelines. It should be emphasized here that judicial reparations are a particularly incomplete form of reparation in the context of widespread violations, given that they focus on individual cases and depend on a beneficiary's access to the court system. Administrative reparations program, in contrast, which target classes of victims, have a much broader reach and are relatively more accessible and efficient.<sup>136</sup>

One possibility that could help pave the way for more comprehensive victim assistance measures is a mapping of victim organizations, family associations, and other networks that are working to provide assistance and other forms of support to conflict victims. This mapping could also constitute an opportunity to identify available services and support for victims according to the violations perpetrated. Finally, since most victims' associations are not registered, the mapping would constitute an important tool for advocating for an amendment to the law on associations and foundations, as well as to help initiate the process of preparing a law on victims.

The second point concerns the question of supporting decentralized approaches to transitional justice in Yemen. Notwithstanding the role of parties to the conflict and political actors, a decentralized approach has the potential to more comprehensively reflect the diversity of governance structures that exist and to improve these structures' ability to influence decision-making in the realm of transitional justice. However, this approach must be carefully managed to ensure alignment with transitional justice values and objectives. Different governance structures may propose distinct policies that, while addressing specific local needs, could inadvertently create disparities in the treatment of victims or exacerbate existing divisions. To mitigate these risks, it

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135 According to OHCHR, "between October 2014 and July 2021, the National Commission prepared more than 10,000 investigation files for submission to the Office of the Attorney General. Only 3,000 investigation files have thus far been submitted, however, due to storage constraints at the Office of the Attorney General. According to the National Commission, the Office of the Attorney General has reviewed approximately 400 files, but actually fewer than 20 cases have been brought before the specialized criminal courts in Aden and Ma'rib." Report of the United Nations High Commissioner for Human Rights, "Implementation of Technical Assistance Provided to the National Commission of Inquiry."

136 Lisa Magarrell, ICTJ, "Reparations in Theory and Practice," (2007), 3-4.

is crucial that any differentiated approaches are transparently communicated and justified to the broader population to prevent misunderstandings and reinforce social cohesion.

The other aspect that the report has highlighted concerns the potential to broaden the scope of current mediation efforts. Many ongoing efforts focus on individual “grievances” or violations of human rights. The potential of mediation for addressing grievances in the broader sense of the word has not yet been sufficiently realized, especially with regards to incorporating healing and reconciliatory justice dimensions. One possibility would be to strengthen the linkages between mediation and reconciliation. This report shows that, while mediation plays a crucial role, reconciliation is better placed to address long-standing grievances arising from human rights violations and other abuses. Currently, there are fewer reconciliation initiatives compared to mediation efforts. Yemeni tribes, with their deep understanding of the local dimensions of resolving conflict, could be key actors in advising on ways to engage communities in transitional justice processes that are rooted in different tribal cultures and practices.<sup>137</sup> However, it is important to recognize the potential limitations of tribal mechanisms, especially when addressing gross human rights and international humanitarian law violations, as they may not always align with the principles of democratization and accountability. While tribal approaches can offer valuable insights, a balanced approach is essential, and careful consideration is needed to ensure they are compatible with the broader goals of justice and human rights.

Finally, to leverage support for the integration of reconciliation, transitional justice, and victims in the political process, it is very important to engage Yemeni political actors and other stakeholders to identify and create opportunities for incorporating these dimensions into the peace process and a future intra-Yemeni political process.

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137 According to the Global Initiative for Truth, Justice and Reconciliation, “formal transitional justice processes often neglect nuanced traditional justice mechanisms which incorporate restoration and retributive justice dimensions, and in effect fail to benefit from the reconciliation goal embedded within these processes. Indigenous communities understand the localized dimensions of resolving conflict and addressing issues among communities and groups who must live harmoniously alongside each other after resolving conflict.” Global Initiative for Truth, Justice and Reconciliation, “Engaging Indigenous Communities in Transitional Justice Processes Project.”





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ICTJ New York  
50 Broadway, 23rd Floor  
New York, NY 10004  
[www.ictj.org](http://www.ictj.org)