INTRODUCTION

The following paper presents the current context in the Republic of Yemen in the presence of active conflict since 2015. The previous attempt to support and create the Equity and National Reconciliation Law during Yemen’s first transitional period has passed. Yemen underwent a political transition from 2012 to 2014 in which the transitional justice process began. Later it was interrupted and collapsed when Ansar Allah (AA; Houthis), took over power on September 21, 2014, leading to civil war and conflict between the Republic of Yemen Government (ROYG) and AA forces.

All parties to the conflict in Yemen continued to commit violations of international humanitarian and human rights law with impunity. Saudi Arabia and the United Arab Emirates led a coalition supporting the ROYG and Southern Transitional Council (STC), and AA forces continued to carry out attacks that unlawfully killed and injured civilians and destroyed civilian objects.

Yemeni political parties, activists, and civil society organizations (CSOs) wish to implement future transitional justice processes and document the experiences of Yemenis living under the various political and security regimes present across the country, including the de facto power AA (Houthis), who controls the majority of North Yemen, and the ROYG and STC, which control South Yemen. The security situation in Yemen is continuously fragile. Regional and
international actors manipulate dynamics of the conflict in addition to the local key parties and proliferation of local militias with connections to the main warring parties and regional forces.

Therefore, this report aims to provide a comprehensive analysis of future transitional justice goals, challenges, and the most prevalent human rights violations against international and human rights laws in Yemen, such as airstrikes, indiscriminate attacks, enforced disappearances, arbitrary detention, and torture. The victims’ stories and voices collected and the interviews with CSOs’ representatives are essential to the report. Eyewitness accounts also have been included to provide a small sample of Yemeni citizens and the marginalized groups affected by the conflict and human rights violations.

BACKGROUND

During the Yemeni youth revolution in 2011 against autocracy and dictatorship, the regime of ex-president Ali Abdullah Saleh committed human rights violations against the youth and protestors.\(^4\) At the same time, the United Nations supported the negotiations between the government and the opposition, which resulted in the signing of the Gulf Cooperation Council Initiative (GCC/Gulf Initiative) and its Implementation Mechanism in Saudi Arabia on November 23, 2011.\(^5\) The GCCI emphasized taking steps during the national dialogue to achieve transitional justice. The transitional justice concept was raised by CSOs, activists, and opposition political parties during and after the Yemeni youth revolution to address the grave human rights violations perpetrated by the former regime before and during the Yemeni youth revolution. The Ministry of Legal Affairs introduced the first draft of the Transitional Justice and National Reconciliation Law, including the immunity law, before the National Dialogue Conference (NDC) in February 2012, to guarantee protection for Saleh and his officials from legal and judicial prosecution and to create trust-building measures and a positive environment for the transitional period.\(^6\) In 2013 and 2014, the United Nations brokered the NDC in Yemen to implement the GCCI agreement to resolve the political conflict in Yemen.

The NDC discussed several pending political issues, including the transitional justice process. Yemen witnessed many conflicts and grave human rights violations following the reunification.
of South and North Yemen in 1990 and before unification in the north following the revolution against Imamate in 1962 and in the south during the socialist party rule in 1967, following independence from British colonialism.

Every era witnessed grave human rights violations, including enforced disappearances, detention, torture, kidnapping, extrajudicial killings, and assassinations. However, the first draft of the Transitional Justice and National Reconciliation Law faced challenges between the Yemeni parties loyal to the former regime and the opposition, particularly regarding the time frame it should cover. The second draft, introduced in January 2013, also faced challenges between conflicting parties. The dispute between the parties continued until the launch of the NDC on March 18, 2013, during which the National Dialogue issues were divided into nine teams, including the Transitional Justice and National Reconciliation team, whose members agreed to include all previous political conflicts to cover the period until 1962 in the north and 1967 in the south. After the conclusion of the NDC on January 25, 2014, the Ministry of Legal Affairs was assigned to draft the new law, while the Constitution Drafting Committee was assigned to draft a new constitution.7

The texts of the two drafts of the Yemeni transitional justice bill included the transitional justice definition and the time frame it should cover, including four transitional justice mechanisms (truth telling, compensation and reparation, memorialization efforts, and institutional reform). The drafted law dropped criminal lawsuits and accountability and focused on reparation and reform.

Issued in 2012, the drafted transitional justice bill stipulated that making compensation and reparation decisions for victims of violations is one of the Equity and Transitional Justice Commission’s tasks and responsibilities. The commission was also tasked with ensuring the rehabilitation, integration, and recovery of victims of violations and treatment of injured victims. Moreover, it includes the development of deprived areas.8

The drafted transitional justice law inadequately addressed gender issues and gender-specific violations of victims during the conflict. It indicated that at least 30% of the Equity and Reconciliation Commission would comprise women, while three persons would represent victims. It also provided impunity to former president Saleh, who took advantage of the opportunity and directed his efforts to obstruct the transitional justice process. Despite the efforts made, President Abdrabbuh Mansur Hadi was also reluctant to approve the law. Some members of the General People’s Congress, the party loyal to former president Saleh, opposed the transitional justice and the National Reconciliation Law.

It is also worth mentioning that, following the international movement to advocate for transitional justice and human rights documentation, President Hadi issued Republican Decree No. 13 of 2015, amending Republican Decree 140, and established the National Commission to Investigate Allegations of Human Rights violations from 2011. The commission consisted of nine members, provided that the commission had temporary headquarters in the capital, Aden.9

The commission continued documenting and investigating allegations of human rights violations committed on the territory of the Republic of Yemen by all parties and regularly produced human rights violations reports. However, there are concerns of impartiality of the committee because it is supported by the Yemeni government.
LOCAL CIVIL SOCIETY ORGANIZATION EFFORTS

During the transitional period between 2011 and 2014, Yemeni organizations working in peacebuilding and human rights were active. They carried out workshops, established institutions, bodies, and alliances concerned with transitional justice, along with other institutions that worked to care for families of victims and the disabled. At the same time, some organizations implemented awareness-raising campaigns about transitional justice and hosted Yemeni representatives of political parties, CSOs, activists, and media professionals, and involved victims of human rights violations during the training workshops. But, the involvement of victims of human rights violations remained very limited during the transitional period.

The Partners Yemen (PY) organization also implemented several training workshops to build the capacity of local CSOs (LCSOs) in transitional justice, established locally led reconciliation committees, and involved some of the victims in hearing sessions during the workshop, including youth. Psychosocial support was also provided to a limited number of victims. Other institutions were involved in issuing transparent reports on Yemen’s human rights violations and oil resources and exports transparency reports.

In 2015 the transitional period collapsed, the conflict escalated, and later AA took over power, resulting in a new round of conflict and waves of human rights violations. The collapse of the political process in Yemen and a new round of war between AA and ROYG forces backed by the Saudi and United Arab Emirates coalition complicated the situation and resulted in massive human rights and international humanitarian law violations, war crimes, enforced disappearances, displacement, indiscriminate attacks, torture, and detentions. The international and local CSOs shifted their focus to humanitarian relief, support for community resilience and dialogues, promotion of peace opportunities at the local level, and a cease-fire. At the same time, a few other organizations continued to document human rights violations.

GROUP OF EMINENT INTERNATIONAL AND REGIONAL EXPERTS ON YEMEN

Later in 2017, as a positive step taken by the international community, the Human Rights Council requested that the United Nations High Commissioner for Human Rights establish a group of eminent international and regional experts on Yemen to monitor and report on human rights in the country. The Group of Eminent Experts (Group) was mandated to comprehensively examine all alleged violations and abuses of international humanitarian and international human rights laws committed by all parties to the conflict since September 2014, including the possible gender dimensions. The Human Rights Council renewed the mandate...
of the Group in 2018, 2019, and 2020. However, in 2021, the Human Rights Council rejected to renew the mandate of the Group, which was considered a significant setback for all victims who had suffered serious violations during the armed conflict in Yemen since 2015. LCSOs and human rights defenders and victims have repeatedly stated that the Group was, for them, a reason for hope and a means to reveal their suffering to the international community so it would take action to end impunity.  

Despite the abovementioned experiences, all efforts remained inadequate and limited in involving victims and listening to their voices and opinions about transitional justice implementation in Yemen. In addition, the psychosocial support provided during the transitional period and conflict or in areas that emerged from the conflict remained very limited.

VICTIMS’ TESTIMONIALS

Future transitional justice mechanisms and initiatives in Yemen should focus on a victim-centered approach that responds to the needs and perceptions of victims, families, and communities. A victim-centered approach is a bottom-up approach that places victims at the center of the process. Marginalized groups (Akhdam) and communities, women, and youth must play an active role in designing and implementing transitional justice. As described below, among the most pressing needs for victims are reparations and compensation.

During an interview with a victim, who was detained for approximately two years, he mentioned, “I have mental disorders, I cannot think much, and I cannot stand for long. The traces of the handcuffs on my hands still exist. My hands remained swollen inside the prison for seven months, my fingers stopped moving, and one of my ribs was broken due to torture.” When asked whether he has any knowledge about transitional justice, he answered, “I know transitional justice, which means preserving the dignity of individuals, standing against violations, resorting to the judiciary, taking rights and redress, reparation for individuals and those were affected by violations.” When asked about criminal justice, he added, “I don’t think there will be punishment for the offenders in Yemen, and I hope there will be reparation for me and my family. I hope that reconciliation and tolerance will prevail in Yemen and that there will be a partnership between the Yemeni parties.”

Another victim of an indiscriminate attack said, “What will satisfy me is to hold perpetrators accountable for what they did. They should be presented to the court or international courts to be punished.” He added, “It is good to acknowledge and hear our suffering, but there should be compensation or reparation, which should be commensurate with the size of the crime and violation.”
Another victim mentioned a lack of knowledge of the term *transitional justice* but described the impact of violations on his life: “The sea is our source of income; they destroyed our boats and prevented us from fishing. Without the sea, we cannot live, and I want to return to fishing to feed my family.” He added, “I also knew many fishermen who have been killed in the fish market by airstrikes. They were simple fishermen who didn’t have any affiliation with any of the warring parties. Many other fishermen have been displaced from their area due to the war and have not been able to return to their homes.”

**VICTIMS’ PHYSICAL IMPACTS AND PSYCHOLOGICAL TRAUMA**

Eight years of continuous conflict in Yemen has had a significant impact on state institutions and public services, particularly health institutions. Parties to the conflict have engaged in indiscriminate shelling, obstruction of humanitarian relief, laying of landmines, recruitment of child soldiers, torture, arbitrary detention, and attacks on civilian objectives, including health care facilities. In 2016, the World Health Organization (WHO) estimated that 19.5% of the population suffered from mental disorders, most prevalently anxiety, depression, trauma, and schizophrenia. The WHO also indicated that there were fewer than 46 psychotherapists in Yemen.

According to a study by the Family Counseling and Development Foundation, estimates between 2014 and 2017 indicate widespread psychological disorders among populations affected by the Yemen war, with one in five Yemenis suffering from a mental disorder. Undoubtedly, the most long-lasting effects of torture, forced disappearances, and indiscriminate airstrikes will be on the victims and their families. According to the Transgression Report produced by PY on 2022, victims recounted terrifying stories of hearing jetfighters circling their neighborhoods; finding bodies of friends, relatives, and neighbors; and dealing with long-term injuries.

In an interview, one of the victims said, “The coalition launched an airstrike on a neighboring house, causing major structural damage to the building. Half of the building was leveled to the ground. At the time of the attack, I was at home along with my children, but I fainted. Since then, I have been mentally and physically ill. We faced poor living conditions. We need to return home. Since our displacement, we have been living in Damt city, but nobody pays attention to our suffering.”

During an interview conducted with the father of child victims, he said, “My two sons and daughter along with 23 children were playing at the neighborhood arena, then suddenly we heard shelling and after that we heard shouting coming from the neighborhood, because the area was crowded by children. The scene was terrifying, blood everywhere and filled the place; children were screaming, crying from terror and fear, and some fainted. I was very terrified looking for my children. The first son sustained an injury in his right and left leg, and his arteries were torn. Another shrapnel hit his eyes and neck too. The effects of the crime still present, and he needs plastic surgery to treat the deformity, while the second injured...his back and the
respiratory system, and my daughter was injured in her head and left leg. The crime affected my children mentally and physically. They are suffering from distress, depression, and bedwetting at night. They got panic and get up crying at the middle of the night."

The Yemeni government should strengthen the right to mental health and promote access to appropriate psychosocial support for Yemenis. Yemeni government and nongovernmental organizations should support more training for counselors, psychologists, teachers, students, children, and community leaders to reduce the impact of the conflict. LCSOs should also focus in their programming on victims’ psychological and social impact and place psychosocial support in their strategies and future projects.

**TRANSITIONAL JUSTICE MODEL IN YEMEN**

From PY’s experience as transitional justice practitioners, restorative justice, depending on the local context, should be incorporated within the wider transitional justice framework.

In an interview with the PY executive director, an expert on alternative and tribal mediation in Yemen, he said, “We cannot talk about the transitional justice in Yemen without referring to the local Yemeni context, particularly the tribal customs or tradition. The tribal judiciary [tribal customs and traditions for resolving disputes] possesses peculiarities like transitional justice in resolving tribal disputes, whereby tribal reconciliation initially requires acknowledgment of the crime on identifying the issues and then redressing the damage to reach satisfactory solutions or reconciliation.”

The local features must be considered during the implementation of transitional justice. For example, in some local societies, there are local mechanisms and traditions related to compensation or reparation, such as *al Ersh* (local monetary compensation for injuries) and *al Daiyah* (blood money or reparation after killing), and retribution and reconciliation according to local mechanisms that cannot be bypassed.

According to the participants of a workshop organized by PY in February 2022, to work toward transitional justice, economic justice that would ensure fair wealth distribution needs to be achieved. Secondly, addressing social challenges at the grassroots level is necessary. Thirdly, it is crucial to achieve political justice and equal citizenship to mitigate the factors of discrimination, exclusion, and marginalization. The workshop’s participants emphasized that LCSOs in Yemen should continue working to establish a documentation archive of human rights violations that will enable future access to transitional justice.

Future transitional justice should be done in a gender-responsive manner, specifically taking into account the needs of women and girls – not only as victims, but also as active stakeholders in transitional justice mechanisms.
TRANSITIONAL JUSTICE AND RECONCILIATION

While transitional justice is based on justice, truth, reparations, and guarantees of nonrecurrence, lessons learned showed that these four pillars alone do not adequately address the diverse experiences of conflict and its consequences in Yemen. Yemen requires a transitional justice process that prioritizes and draws inspiration from locally led conceptions of justice and reconciliation.

PY organized a workshop in February 2022 for several CSO representatives. Participants stressed that any transition process in Yemen would occur in a setting different from the NDC and that discussing a peaceful transition with warring parties could exacerbate the dispute. Others believe that the transitional justice and national reconciliation should be implemented in Yemen to resolve the root causes of the socioeconomic conflict. One of the participants stated, “The focus has to be on what the truth is, how to unearth it, what are core causes of the conflicts, how to repair the harm they created, and how to ensure these conflicts do not reoccur.”

Others mentioned the importance of developing the missing “infrastructure” – skills, knowledge, and experiences – among CSOs at the local level for any future procedures. While Yemeni experts believe that the international community should support transitional justice efforts to cover the gap that the Yemeni government cannot fill, local initiatives are developing processes and bodies to help bring human rights offenders to justice in the future. Workshop participants agreed that new ways and opportunities are needed to increase human rights advocacy and accountability and establish the infrastructure for transitional justice. Participants also mentioned the importance of ensuring youth and gender aspects within the future transitional justice process.

Attention to transitional justice can be further improved by designing a process based on the priorities and needs of the victims and involving them in consultations and negotiations. It should also consider the violations experienced by women, children, and marginalized communities during the conflict, gender-based violence, child recruitment and reintegration, and violations against internally displaced people.

Yemen experienced several forms of transitional processes and political settlements, such as reconciliation between the Republican and Imamate in 1970, reunification of Yemen in 1990, the Covenant and Agreement Document in 1994, and reaching the Gulf initiative in 2012. Most of these agreements ignored the previous legacy of violence or were dictated by those in power at the time, leaving room for a return to conflict. Developing infrastructure, mechanisms, tools, and procedures and supporting stability are starting points for transitional justice and ways to promote national reconciliation.
TRANSITIONAL JUSTICE AND REINTEGRATION

The Yemeni government may face challenges demobilizing and reintegrating combatants of armed groups into their communities because of economic conditions such as a high unemployment rate and scarce resources. For example, the Saudi Arabia and United Arab Emirates coalition is paying armed fighters in the coastal area salaries of nearly 1,000 Saudi riyal per month, which exceeds what the police and regular soldiers receive from the state. Importantly, many combatants lack the education, experience, and qualifications for civilian jobs, especially those who joined or were compelled to join the armed groups at a young age. Therefore, it is unlikely that they had received any education, training, and experience other than those related to military skills.

The Yemeni government, the private sector, and CSOs should also consider reintegrating former combatants and creating alternative opportunities for former combatants and youth recruited or prone to recruitment, such as vocational and apprenticeship training. It is crucial to help young ex-combatants understand labor markets, manage the change from military to civilian life, identify employment and learning opportunities, build critical skills, and plan their career and lives. An appropriate technical analysis should inform training and program design of local living systems, market opportunities, and household economy.

It is also worth mentioning that the conflicting parties established different brigades and protection units, which recruited combatants from specific areas in Yemen based on their regional and political loyalties. With the support of the international communities, the Yemeni government should develop a clear strategy or road map for army and security forces reform, rehabilitation, demobilization, and reintegration based on national standards.

ROLE OF LOCAL AND INTERNATIONAL NGOS

CSOs play a prominent role in the design and implementation of transitional justice. LCSO representatives who participated in PY’s workshop stressed that LCSOs should build their capacities and acquire knowledge, skills, and expertise from international experiences to help implement transitional justice. Participants confirmed that the LCSOs could be key partners in enhancing transitional justice. This can be achieved through facilitating and supporting community reconciliation and resolving conflicts at the governorate and district levels. LCSOs must put victims, marginalized groups, and psychosocial support at the center of their strategies and future programs or projects.
Interviews conducted with victims and victims’ communities conveyed that they were involved to a limited extent in designing transitional justice policies. In addition, there is insufficient knowledge of transitional justice concepts and their components, particularly the concepts of justice and criminal justice, memorialization, and reparations, leading to unrealistic expectations. For example, some participants assumed compensation meant monetary compensation only.

Though it is difficult for CSOs to operate independently and neutrally, particularly in the northern region, LCSOs should target government institutions and leaders of the conflicting parties. Engaging these institutions and leaders is crucial for undertaking public awareness campaigns about transitional justice. CSOs and international NGOs should exert efforts to empower women-led CSOs to monitor and address gender-based violence. Supporting women and youth to play significant roles in local reconciliation initiatives and transitional justice should be prioritized, as victim experiences and needs often vary by gender.

International actors should also promote a more inclusive approach to ensure peacebuilding, justice, accountability, and reconciliation in Yemen. Additionally, donors may better integrate civil society into their peacebuilding and transitional justice funding strategies.

**RECOMMENDATIONS**

- Transitional justice measures and mechanisms in Yemen must recognize victims and consider their needs and demands to ensure meaningful participation to promote civic trust and strengthen the democratic rule of law.

- It is important to facilitate a culture of reconciliation and encourage and facilitate local settlements or local-led reconciliation efforts.

- Yemeni government should take measures to strengthen the right to mental health and promote access to appropriate psychosocial support for Yemenis. Yemeni government and NGOs should support more training for counselors, psychologists, teachers, students, children, and community leaders to reduce the impact of conflict.

- It is essential to include women, youth, and marginalized groups in transitional justice and reconciliation efforts.

- Youth and former combatants should be equipped with vocational and apprenticeship skills and opportunities to support future reintegration.

- It is important to build capacity on transitional justice of LCSOs, victims and victim communities, local authorities, practitioners, lawyers, activists, the judicial system, security, and army members.

- Mechanisms that do not rely solely on international criminal justice procedures and tribunals, but that integrate Yemeni customs and traditions as part of the tribal system, should be established to pursue reconciliation and accountability.

- A shared national repository for human rights violations committed by the conflicting parties and regional and international forces should be established.
ENDNOTES


4. Saleh rose to power as part of a military coup, becoming president of North Yemen in 1978. After unification in 1990, he became President of all Yemen. He officially stepped down as president in 2012. Later on December 4, 2017, he was killed by Asnar Allah rebels in Sana’a.


10. Truce or no truce: Transitional justice is Yemen’s only path to healing, Atlantic Council, October 24, 2022, read more: https://www.atlanticcouncil.org/blogs/mera/merathemes/2022/10/truce-or-no-truce-transitional-justice-is-yemens-only-path-to-healing/, (last accessed: March 24, 2023).


13. Ibid.


15. Marginalized group in Yemen traditionally considered outcasts and deprived of most social, economic, and cultural rights.

16. Interviewee #1, Marib, July 31, 2022.

17. Interviewee #2, Taiz, August 10, 2022.

18. Interviewee #1, Costal area, July 28, 2022.


22. Interviewee #2, Taiz, August 10, 2022.

23. Interviewee #1, Sana’a, July 22, 2022.

24. Truce or no truce: Transitional justice is Yemen’s only path to healing, Atlantic Council, October 24, 2022, Hooria Mashhour, read more: https://www.atlanticcouncil.org/blogs/mera/merathemes/2022/10/truce-or-no-truce-transitional-justice-is-yemens-only-path-to-healing/, (last accessed: March 24, 2023).
