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## The Yemeni Elections: Outcome and Prospects

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Amid a dangerous political and societal movement that has swept through southern Yemen in past weeks, embodied in bloody protest clashes, it is all the more important to attend to the country's electoral process, postponed due to pressures from the Yemeni opposition, in which various political forces – Islamist, leftist and Arab nationalist – are represented. This study discusses the Yemeni electoral process as an expression of one aspect of the political conflict that has been ongoing in the country since the end of the 1994 civil war. It addresses the debates and discussions that preceded the opposition's victory in securing a postponement, which emanated from a nationalist vision of the future of the Yemeni political process, which envisages the continuing unity of the republic on a democratic basis, while eschewing political, regional and tribal exclusion. Yemen faces numerous threats that relate to its regional position, to its economic crisis, the Sa'ada War, the presence of al-Qaeda elements in certain areas, tribalism, and its daily contact with the issue of piracy in the Gulf of Aden, in addition to the arrival of hundreds of migrants from the Horn of Africa to its shores. It therefore urgently needs to put its house in order and strengthen national unity, on the basis of participation and negotiation, and an electoral process that takes account of the positions of the various political forces that make up the national scene.

The postponement of the elections until 2011 came weeks before the outbreak of clashes in the southern provinces, and was therefore not directly related to it. In fact, the adjournment significantly mitigated these events, which otherwise could be expected to have taken place at a deeper and more serious level. The outbreak of these clashes thus compels the country's political actors to

**reconsider their position, setting as their goal a single, unified future for Yemen, and to steer clear of provocation and exclusion.**

#### **An Alarming Political Context since 1994**

Since the founding of the Republic of Yemen on April 22<sup>nd</sup>, 1990, and the connection that was forged between unity and democracy, there have been three rounds of parliamentary elections. The first round, held in 1993, was the most free and fair, because of the political and military balance that prevailed at the time between the General People's Conference and the Yemeni Socialist Party, as well as between the north and south of the country, the two sides of national unity. The disturbance of this equilibrium by the civil war of 1994 meant that each subsequent round of elections constituted a step backwards, aimed no longer at the peaceful transfer of power, but at holding onto it for an indefinite, unspecified period of time, dashing hopes of achieving democratic change through the ballot boxes. During preparations for the parliamentary elections that were scheduled to be held on April 27<sup>th</sup>, 2009, disillusionment on the part of the ordinary citizen spread to the party leaderships. The ruling party – the General People's Conference – began to make arrangements for the elections single-handedly amid the opposition parties' refusal to participate in the electoral administration and boycott of the enrollment and registration procedures. It also commenced its preparations in the shadow of sharp political and regional divisions, political and military confrontations, the mounting influence of the armed Islamist groups, and the repression of peaceful rallies in the north and south, including protest rallies against the commencement of the electoral process (the formation of the Supreme Elections Commission and revision of the electoral

roll). Those in power failed to grasp the risks entailed in ending the dialogue with the Joint Meeting Parties and in the ruling party's unilateral preparations for the elections in such circumstances, until after the date for calling voters to elect the new Assembly of Representatives had arrived. The ruling party gave ground and agreed to postpone the elections, albeit belatedly and having lost all other options. However, it did avoid exposing the country to the risk of holding elections that would have represented a coup against democracy, and could have resulted in the country's descent into full-blown violence. An agreement was struck on February 23<sup>rd</sup>, 2009 between the ruling party and the Joint Meeting Parties to defer elections until April 27<sup>th</sup>, 2011. The agreement was to allow for political/constitutional/legal reforms to the political and electoral systems, and the creation of an appropriate political climate which, according to the Joint Meeting Parties, consisted of eliminating the effects of the 1994 war, and resolving the issue of South Yemen and the Sa'ada War. This was a general agreement and its details have yet to be ironed out. However, it did provide a temporary way out of the impasse. Extricating Yemen from its current crisis and averting the dangers of full-scale violence requires a comprehensive reform strategy. This strategy should include reform of the political and electoral system and find solutions that tackle the root of the crisis, namely the lack of power and wealth sharing and need to reverse the effects of political conflict.

## **Negotiating the terms of democratic elections**

May 22<sup>nd</sup>, 2009 marks the eighteenth anniversary of the declaration of democracy in Yemen. Over the ensuing years three rounds of parliamentary elections have been held, in 1993, 1998 and 2003. Two referenda have also been conducted on the constitution, the first in 1992 to declare popular acceptance for unity and the constitution, albeit ex post facto, and the second in 2001, which resulted in a constitutional amendment. The constitution was also modified following the 1994 war without a referendum. The last referendum was accompanied by local council elections. Two rounds of direct elections to select the President of the Republic were held in 1999 and 2006, and the current President has been in power since 1978. During the latest presidential elections local council members were elected, following which governors and mayors were elected from among non-council members.

Each election cycle has been less sound and fair than its predecessor, as the ruling party has acquired the ability to predetermine the outcome of the parliamentary elections. It has also been able to determine the scale of the victory it wishes to achieve, which involved winning “a comfortable majority” in 1997 and a “landslide majority” in 2003. The ruling party's desire to exclude the opposition parties from the results of the postponed 2009 round of elections was due perhaps to several main factors, including:

1. The 1994 war had brought the pre-democratic mode of rule back to the fore, together with the associated forces and figures, and its ongoing effects forced a return to one-party politics. Within the electoral process this situation has been reflected in the merger of the ruling party with the state apparatus and state resources, including through the use of

public funds and public office – civil and military – and the public media to the benefit of the ruling party. This has taken place amid the ongoing effects of the war, in terms of disturbance of the equilibrium, the ejection of the Yemeni Socialist Party from the ruling party during the war, and its continuing harassment using extraordinary measures taken during the war.

2. Electoral registration fraud and the failure of attempts to rectify it. These attempts included an agreement reached between the ruling party and the opposition parties – the Joint Meeting Parties of 2001 – to cancel the existing electoral roll and create a serious roll. The cancellation was carried out via an amendment to the election law, but the new electoral roll was also soon rigged. Shortly before the local and presidential elections of 2006, the ruling party and the Joint Meeting Parties agreed to form a team of representatives from the two sides, with the participation of the Supreme Elections Commission, to inspect the electoral roll and refer any irregularities to the public prosecution. However, the massive scale of the fraud became clear from the beginning of the inspection. The Supreme Elections Commission therefore terminated the work of the team, with the result that the current electoral roll is unreliable and rejected by the opposition parties.
3. As the outcome of successive parliamentary elections demonstrates, the existing electoral system, which is based on a single-member constituency system and election by a simple or relative majority, has reproduced the dominance of the traditional power structures and forces. It has reproduced the one-party system, merged with the state apparatus and the tribe. The Assembly of Representatives has come to represent the forces of tradition, of the wealthy and men, threatening to bring an end to multi-party politics and thwart the

prospects of modernization and building the rule of law.

4. The course of the electoral processes that have taken place since the 1994 war reveals scant respect for the rule of law, and the unveiled interference of executive branch officials in the elections process, in particular by performing the electoral functions vested in them by the Supreme Elections Commission, while at the same time carrying out election campaigning on behalf of the ruling party.

As a result of these combined factors, repeated irregularities have been recorded in all the elections, including: gerrymandering, voter coercion, vote buying, electoral roll fraud, obstruction of the registration of opposition party candidates and removal of their names, the use of public funds, public office and the public media in election campaigns for the benefit of the ruling party, departures from the legal rules governing election campaigning, the distribution of ballot papers outside polling stations, result-fixing, the dismissal of members of election administration committees and candidate representatives, preventing voters from reaching polling stations, open voting, etc.

Such irregularities have turned recurrent election cycles into a fraudulent process that has achieved only the indefinite preservation of the regime, and have led the opposition, represented by the “Joint Meeting Parties” coalition, to demand the legal and political conditions for free and fair elections since 1996. These demands have developed from demands for technical legal reforms into a demand for democratic reform:

1. The transformation of the electoral system from a single-member constituency, election-by-majority system to a system of proportional representation;

2. The formation of the electoral administration by the parties represented in the Assembly of Representatives on an equal basis, and creation of other legal conditions to guarantee their neutrality and the transparency of their work;
3. The resolution of the electoral residence issue by abolishing the place of work option;
4. The provision of technical safeguards to ensure the integrity of the electoral roll, using finger printing, electronic authentication, and relying on the civil registry;
5. The provision of legislative and institutional guarantees of the neutrality of the apparatus, institutions and property of the state.

The opposition had additional, political demands, which, as mentioned above, consisted of the resolution of the issue of South Yemen, ending the Sa’ada War and allaying its effects.

For over a decade, the ruling party has confined the dialogue that has taken place between it and the opposition, both directly and through international mediators, to the adoption of technical legal amendments, which were then abandoned at the end of each round of dialogue. However, external causes and factors impelled the parties to the political process to sign the following two agreements, reached between the General People’s Conference and the Joint Meeting Parties: a principle agreement to ensure free and fair elections on June 18<sup>th</sup>, 2006, and an agreement to implement recommendations issued by a European Union mission on December 11<sup>th</sup>, 2006. However, as the preparations for the 2009 parliamentary elections have demonstrated, the ruling party and the government accepted these two agreements, which were signed in the run-up to the London donor conference in December 2006, in order to placate international donors.

Moreover, the European Union played a special role in securing the signing of the second document: the head of the European Union Election Observation Mission assumed the task of reconciling the views of the ruling party and the opposition parties, and witnessed the signing of the agreement.

The first agreement focused on creating the technical conditions necessary to ensure the integrity of the elections, and on stipulating that the Yemeni Socialist Party provide political guarantees. The second agreement, which dealt specifically with implementing the recommendations of the European Union mission and converting them into constitutional and legal texts, embraced almost all the main demands of the Joint Meeting Parties, in particular: the adoption of a fair electoral system, i.e. one based on proportional representation; the formation of the electoral administration by the political parties on an equal basis; and the establishment of investigatory mechanisms to create separation between the parties, the state apparatus and the state's resources.

In terms of political guarantees, alongside the recommendations the agreement also provided for political reforms to strengthen the electoral process in particular and democracy in general.

Despite the limited nature of the agreement that was reached, the ruling party reneged on it following a parliamentary discussion and an article-by-article vote on the legal amendments. The cancellation of these procedures coincided with the election of members of the Supreme Elections Commission exclusively by the ruling party bloc, with no opposition participation, through procedures that violated of the bylaws of the Assembly of Representatives

and the election law. As a result, those who were appointed as representatives of the opposition parties refused to assume their duties.

The ruling party gambled that making preparations for the elections alone would force the Joint Meeting Parties to join it, or at least enable it to fragment the Joint Meeting via the entry of one or more of its member parties into the process. Based on these miscalculations, representatives of the ruling party in the Supreme Elections Commission began to revise and amend the electoral roll, in disregard of the boycott of this process declared by the Joint Meeting Parties and protests against it. In so doing, as would subsequently become apparent, it brought not the electoral process, but the whole political situation in the country to a stalemate.

### **The reasons for postponing the elections**

During the eighteen years that have elapsed since Yemen was declared a democracy, no level democratization has been achieved at the macro level, as there has been no peaceful transfer of power, or at the micro level, since there has been no sharing of power or wealth, no national reconciliation and no political integration. This lack of progress has transformed the minority that supported shunning the elections within some opposition parties into a powerful pressure group, and led the leaders of these parties to advocate abandoning the elections, in particular the southern leadership of the Yemeni Socialist Party and the Yemeni Congregation for Reform. The opposition parties, along with the ruling party, therefore risked regional division should the elections take place without their legal and political conditions

being met. Indeed, this acute national-regional divide presented new dangers to Yemen itself.

And thus the unilateral preparations made by the ruling party appear to have been an uncalculated risk given the regional, ideological and doctrinal divisions afflicting the country, and the widespread rejection in the southern provinces of the legitimacy of the regime that had come to power on the back of the results of the 1994 war. The southern provinces expressed their rejection through peaceful rallies that extended up to the northern provinces. The rallies grew in number to 755, of which 100 were subject to repression. The victims included seven fatalities, 124 injuries, 994 arrests of political and field leaders, and the trial of 95 people before the courts. The Joint Meeting Parties used protest in the form of marches, demonstrations and sit-ins, and refused to participate in the vote on the amendment of the election law without the release of the leaders of the peaceful movement in the southern provinces, along with some of the detainees from the northern provinces.

At the same time, the Houthi movement, which has a presence in a number of the northernmost provinces, announced its rejection of the legitimacy of the regime on ideological, doctrinal and ethnic grounds. It thereby triggered a military confrontation that has been ongoing since 2004 between Houthi and governmental forces, and has caused the displacement of thousands of citizens. Hundreds remain incarcerated in prisons, in addition to the deaths and injuries sustained by both sides, widespread incitement to ethnic hatred, and reprisals meted out to civilian members of the al-Sada and Hashemite tribes. The only option open to all sides for breaking out of this impasse was for the ruling party to come to an agreement with the Joint Meeting

Parties to postpone the elections, in order to provide an opportunity to carry out reforms; if this opportunity goes to waste, Yemen will be placed in great peril.

Yemen faces a grave problem in form of the clash of democracy and the peaceful, constitutional transfer of power, with a stance that is opposed to that end. Those in power are unable to go beyond the façade of democracy and accept its consequences. The most striking manifestations of this inability have been the 1994 war and its ongoing impact, the lack of political tolerance, and the fact that, rather than a culture of pluralism flourishing in the public media, there are continuing calls to hatred against the other. In addition, a vacuum has been created into which the regime has stepped by: forming political parties to oppose the opposition, the publication of partisan or community newspapers with government support to counter the opposition press, increasing the number of political security apparatuses, support for the dominance of tribal pluralism and culture, the invocation of tribal and religious inheritance and use of militant political Islam against the opposition, the rejection of the opposition's demands for the creation of the legal and political conditions for free and fair multi-party elections, etc. All the above was reflected in the latest document to be published by the Joint Meeting Parties, under the title of, "The political framework for the Joint Meeting's vision of the requirements for holding free and fair elections."

It is apparent from the above that those in power had grown aware of the erosion of their moral and political legitimacy, in addition to their lack of any economic legitimacy. They have accordingly adopted an elections strategy based on avoiding

risking a confrontation with the Joint Meeting Parties as a bloc. From the methods they have employed it is clear that they want the opposition parties to participate; however, these methods have left these parties with no justification for entering the elections. The ruling party evidently developed two scenarios for the elections. The first was that some members of the Joint Meetings Parties, like the Yemeni Congregation for Reform, would enter the elections alone, while some of the others staged a boycott, such as the Yemeni Socialist Party. However, when the time came to call voters to the polls, the Joint Meetings Parties remained united. Thus this scenario did not occur. The second scenario was the replacement of the political parties with government-controlled unions or unions with a government presence, by nominating members of the General People's Congress and the heads and leaders of these organizations in their name, i.e. replacing the political parties that seek power through elections with non-political organizations whose goals are not based on seeking power. In this way, participation would be accomplished through the participation of those in power themselves. As a result, those who have been given assurances that they would take the place of the political parties are stridently opposed to further efforts by their party – the People's Congress – to reach an agreement with the Joint Meeting Parties, or return to dialogue over the creation of the political and legal conditions for free and fair elections. Thus its members are clearly not united by the concept of the party, and are not guided by a national strategy; rather, the ruling party's strategy consists entirely of personal interests, a

fact that can be attributed to the regime's adoption of clientism. The ruling party's subsequent abandonment of this strategy stemmed from its awareness that if it were to run the elections alone, this would be considered the overthrow of democracy, or the remaining manifestations thereof.

It is premature to contend that those in power actually recognized, though that is the hope, that laying siege to the political parties, preventing the opposition from making democratic gains, and creating despair among the opposition – and with it the citizenry – over the possibility of effecting peaceful change would leave them with but one choice: to revert to the search for non-democratic means of expressing their opposition and bringing about a change of leadership. Nonetheless, the agreement to postpone the elections undoubtedly provided an escape from full-scale violence. It also created a new prospect for dialogue and finding solutions for Yemen's acute divisions, political gridlock, the shocking deterioration in development, and rising poverty and unemployment rates. However, this escape will be short-lived in the absence of a consensus over a general strategic vision, in which elections are part of the solution.

However, would it not have been possible to solve these problems through dialogue ahead of the scheduled date of the elections? Is the adjournment period too long? And is an agreement now still possible?

The country is currently experiencing widespread turmoil, including military confrontations, which have multiple causes. Article 65 of the constitution

stipulates the extraordinary circumstances that may affect the holding of free and fair multi-party elections. These are lower than the forces majeure of war, internal discord or natural disasters can lead to the declaration of a state of emergency, under Article 121 of the constitution. Thus elections conducted by the ruling party and an elections committee that lacks any political or legal legitimacy, coupled with the opposition's rejection of the elections and their outcome, would represent something greater or more dangerous than the extraordinary circumstances required for postponing elections. In any event, the postponement of the elections is certainly less damaging than a coup against democracy.

Regarding the adjournment period, returning to the tasks that must be accomplished during the adjournment period, and they are major tasks, can shed light on the picture. These include:

1. Eliminating the effects of the 1994 war. In this regard, the authorities have initiated procedures to allow the Yemeni Socialist Party to recover its headquarters, funds and records from the state apparatus and state officials, and from companies and individuals. However, this will not be achieved with the same ease with which the authorities' directives to seize the funds were received. The company officials and individuals will be indisposed to return these funds in the absence of deterrent measures to compel them to do so. Thus each of these procedures, however simple, requires a great deal of time and effort, and that is assuming the authorities are serious about the task.

2. The development of the political regime and an electoral system through constitutional amendments, which means agreement over reform of the political regime. The most important reform issues are, firstly, restructuring the system of government. For the opposition, the alternative is the introduction of a parliamentary system, and for the authorities a full presidential system. Secondly, reform of the legislature by strengthening the powers of the parliament, including through the creation of a second chamber – a Shura Council. The opposition wants the Shura Council to be directly elected, from each administrative unit on an equal basis, while the authorities want it to be appointed in part through indirect elections via the local councils, and in part by the President of the Republic. Thirdly, reform of the judiciary, and here the reform visions of the two sides also differ. Fourthly, the distribution of power and wealth by developing a system of decentralized government. Fifthly, the creation of a new electoral system based on proportional representation. Gaining agreement over the substance of these issues will demand great efforts and adequate time, and the amendment of constitutional provisions relating to some of the reforms will require a public referendum.

3. The restructuring of the Supreme Elections Commission, which implies acknowledging the illegitimacy of the current committee, and consequently its actions.

The important question here is whether the period allocated for dialogue on bringing about these reforms is a realistic one. The answer to this question is extremely difficult given the experience of past dialogues. And although optimism is dangerous and pessimism more so, the

only way to extricate Yemen from its current crisis and save it from descending into full-scale violent confrontations is for the authorities and the opposition to make mutual concessions and develop a comprehensive vision or strategy for reform, to be put into immediate effect. The parliamentary and local elections scheduled for April 27<sup>th</sup>, 2011 will therefore constitute a practical step towards democratic transition.