



ARI Projects

Arab Securitocracies and Security Sector Reform

May
2012

Reform of the security sector in Yemen

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Security sector reform in Yemen requires bringing an end to the plurality of competing apparatuses and creating effective legislative, judicial and civil society oversight over the sector. Interference of the security apparatus in political life has to be prevented. Accountability and transparency over its performance has to be introduced.

The Republic of Yemen was founded on May 22nd 1990 with the unification of two separate states. Each state – the Yemen Arab Republic (in the north), and the Democratic People’s Republic of Yemen (in the south) – had its own military and security institutions with contradictory political and intellectual approaches, both ideologically and in terms of their respective levels of professionalism. The merge had a unique form when the state apparatus and institutions in the south, including the security apparatus, were merged with those in Sana’a. Since it was not possible to merge the security apparatuses immediately, given the disparities between their security doctrines and working methods, the security sector became inflated and a division of loyalties emerged between the North and the South, which added to personal and tribal loyalties. A dispute that arose from 1991 between the southern-based Yemeni Socialist Party and the northern-based General People’s Congress, escalated when leaders and members of the Socialist Party

and opposition parties became targets of assassinations, abductions and detentions. Incidents of abduction and robbery aimed at foreigners and tourists in the streets also took place.

Security in general was disrupted by polarisation, attempts to secure loyalties, political corruption, and the systematic corruption of individuals and groups within security and military institutions. These disruptions generated major tensions and a series of political crises that resulted in war in the summer of 1994. The war was accompanied by the migration of thousands of employees of the security and military institutions from the southern governorates, and followed by reprisals against security employees loyal to the Socialist Party. The reprisals targeted southerners in particular through demobilisation, dismissals and forced early retirements. Accordingly, the current security doctrine is characterised by personal loyalty to the governor, and tribal, regional and family loyalties that eat away at the body

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of the security apparatus and undermine its status and role in maintaining the security of the country and citizenry. Such loyalties further disrupt the legal and constitutional functions which govern and determine the security apparatus' role in establishing security and protecting Yemeni society.

The war of 1994 also resulted in mixing the security apparatus with Jihadist organisations; one result of the involvement of these organisations in the war was that their leaders and members entered the state apparatus, including the security apparatus. After the war, the authorities resorted to filling the void left by the exclusion of the South, its political parties and its civil society organisations by expanding the existing security apparatus and creating additional security services subordinated to the President and his family. As a consequence, the relationship of these services to the political parties and the citizenry became one of antagonism and intimidation, and confusion arose between the security services, the armed forces and the army. Oversight of the performance of the security services and their budgets was lost entirely, particularly when the ruling party won a vast majority of seats in the Assembly of Representatives. On February 12th, 2011, with the outbreak of the popular revolution in Yemen, the President and his family sought protection behind these services and used them to kill revolutionaries staging peaceful demonstrations and sit-ins. Actually, the President and his family became entirely dependent on these services in their attempt to abort the revolution. The activities of these services thus began to clash with their responsibility to safeguard the rights and freedoms of citizens, making the removal of their leaders from their positions and their integration into the armed and security forces, a necessity of change. This made reform of the security sector an imperative of political reform, specifically of the political system. Such reform would enable democratic transition to take place and guarantee protection of the rights and public freedoms of Yemeni citizens on the basis of inclusive democratic practice, in order to ensure that

the security services do not continue to deviate from their objectives. Furthermore, security reform constitutes part of the comprehensive political, economic, social and cultural reform that is essential if Yemeni society is to extricate itself from the crisis that has tightened its grip over the entire country. It This is also necessary to avert Yemen's slide towards a complete breakdown in security, caused by the current national crisis. The nation experiences abuses of power, prevailing lax sense of responsibility, and the demise of a security doctrine based on the protection of citizens and their rights. The security services need to performance their functions as set forth in the Constitution and the laws in force and to end the current state of subordination, which hinders the administrative, legislative and judicial oversight. Moreover, they need to reduce the swelling number of its staff, and to limit their intervention with the civilian institutions, the judiciary and Yemeni citizens.

Among the core tasks of security sector reform is to bring an end to the plurality of security apparatuses, their subordinate status and conflicting competencies, and to create effective legislative and judicial oversight over them. It should also determine the role of civil society organisations in monitoring the security apparatus, in order to bring about oversight over security spending and the privileges accorded to the security apparatus in the state budget. Such oversight will also create neutrality within the security services in political life, deter affiliation to political parties, and subject them to accountability and transparency in the performance of their respective mandates. It will further prevent impunity by holding to account anyone who violates the laws and regulations according to which these apparatus were established.

This paper reviews the problems facing the security apparatus in Yemen and sets forth a vision of security sector reform.

The current reality of the security apparatus

The Ministry of Interior in Yemen is one of the country's security institutions, and the largest in terms of the number of apparatuses that are under its authority. According to the text of Presidential Decree no. 169 of 1995, it administers security affairs in various fields, including all security and policing functions. This, however, contradicts with the competencies of some of the other security apparatuses that have been established, for purposes of intelligence or espionage, to protect state security. The security forces and officers affiliated to the Interior Ministry are estimated at over 100,000 individuals and officers, distributed among all the various security organs and institutions under the ministry's authority. Enrolment in these apparatus is controlled through the training provided for security staff in the Police Academy, the Higher Institute of Police Officers and the Training School for Police. Individuals with power and influence over the affairs of the country intervene in the issue of affiliation and enrolment in these schools and colleges on a regional, clan or tribal basis, as is also the norm within the security institutions.

In South Yemen women had risen to senior positions within the police force and the Interior Ministry. However, following the civil war of 1994, they were excluded > The sole option that remained for women who wished to join the police and other Interior Ministry apparatus was to enrol in the Training School for Police. Three sets of roughly 1,500 female police officers have graduated and taken up security positions. Granting women access to the security institutions is new to society in the north, where women are restricted to working in special prisons for women, performing administrative tasks in offices and within the Interior Ministry and its various subsidiary organs, and carrying out work that calls for a cadre of women that cannot be substituted by men. There are approximately 5,000 women in the police force. However, the employment

of women in the police and security apparatus is still frowned upon by society in most regions where traditional culture and tribal customs still dominate. Thus women are officially permitted to enter the police force and security apparatus in fields where men cannot take their place; in other areas of policing and security work their roles are marginal or almost non-existent, as it is believed that the requisite skills and qualifications are the prerogative of men.

The issue of enrolment and training is controlled first and foremost by the will of those in power, and not by general terms and provisions set forth in rules and regulations according to standards of personal aptitude and ability. The imbalances in recruitment to the Ministry of the Interior's police or security apparatus are created by the interference of power-holders, favouritism, bribery and personal connections. Regionalism and tribalism influence the composition of these apparatuses, lending them a regional, tribal character. In addition, the membership of officers in the ruling party violates the Constitution and the law, which prohibit security apparatus staff from maintaining party affiliations.

The following security apparatuses are subordinated to the Interior Ministry: the Civilian Police Force; the Criminal Investigation Department (CID); the Prisons Authority; the Traffic Police; the Immigration, Passports and Nationality Authority; the Civil Status Authority; the Coast Guard; the Civil Defence Department; the International Police (Interpol); and the Central Security Units. Under legal regulations, the Central Security Units, which are paramilitary bodies, fall under the authority of the Central Security Organisation, but are not subordinated to it in practice. There are also a number of other security services, namely:

The Political Security Organisation (PSO), which was established by Presidential Decree no. 121 of 1992 following the merger of the two state security apparatuses in the (former) Democratic Republic of Yemen and the

(former) Yemen Arabic Republic into a single apparatus, named the Central Agency for Political Security. It enjoys broad and varied powers in terms of its jurisdiction and functions “to guarantee safety and ensure the security of the state and the regime therein, and to expose all acts that may harm its internal and external security, or damage its military, political, economic and social base, or any other national interest...” Employees of the organisation are granted the powers of judicial police officers, and the Presidential Decree afforded the “Central Agency for Political Security the right to establish branches for itself in all governorates of the Republic.” The National Security Bureau was founded by Presidential Decree no. 261 of 2002, which determined that the functions and competencies of this agency are “to monitor, gather, provide and analyse intelligence on all hostile positions and activities directed from abroad that present a threat to the country’s national security, sovereignty, political regime and economic and military base.” The decree also gave the agency and its staff the powers conferred on judicial police officers by the Criminal Procedure Code. The agency has the additional right to establish branches in all governorates, and was accorded a kind of distinction from the other security apparatuses in terms of its powers, making it the security “agency of agencies”. It is affiliated to the PSO and directly subordinate to the President of the Republic. In addition to the aforementioned security agencies are the Military Intelligence, which is subordinate to the Ministry of Defence, the Counter-Terrorism Unit within the Republican Guard, and the Special Forces.

The structure and features of the security sector

The security apparatuses that assume direct security duties fall into two groups:

The first group is the General Security Agency and the Central Security Organisation. In the formal, legal sense these bodies are subordinate to the Ministry of the Interior. The General Security Agency

consists of the Police, which under the Constitution is a regular civilian body charged with protecting the security of citizens, maintaining public order and security, and executing the orders of the judicial authority¹. It is assisted in its technical functions by the Criminal Investigation Department (CID). In the context of combating terrorism, a new agency was established under Presidential Decree no. 159 of 2004, namely the General Administration to Counter Terrorism and Organized Crime. Outside the constitutional context, the Central Security Units existed prior to the founding of the Republic of Yemen and have continued thereafter. They have a paramilitary structure and functions, and exist outside the domain of the civilian police force. Their leadership is usually entrusted to relatives or close loyalists of the President. A new unit, the Counter-Terrorism Unit, has also been created in the context of counter-terrorism.

The second group of security apparatuses consists of special, supra-ministerial agencies, including some that have been merged with the armed forces. They operate under the direct authority of the President, who runs them using members of his family and close associates. They comprise the Central Agency for Political Security, the National Security Bureau, and the Republican Guard, to which the special Counter-Terrorism Unit is affiliated, and the Special Forces. These agencies operate separately from the institutional context of governmental organs. Since the execution of their security functions depends on secrecy, they are contrary to the rule of law and all standards of democratic governance. They constitute a source of fear and intimidation for citizens, because their task is to protect those in power and members

¹ Article 39 of the Constitution provides that, “The police is a civilian and formal force which performs its duties for the service of the people and guarantees peace and security for the people. It shall preserve the law, keep public order, protect general behavior, implement the orders of the judicial authority and execute duties dictated to it by the Country’s laws, and police by-laws.”

of the regime, particularly the President and his family. The security doctrine of the various security agencies is to protect and remain loyal to the regime, and not to protect of the citizenry and their rights or to impose the rule of law.

The functions of these services overlap and conflict. Most of the powers granted to the PSO and the National Security Bureau are identical or nearly identical. Both have powers and competencies in accordance with the decisions by which they were established, including the powers of the police security apparatus and those of certain other agencies under the authority of the Interior Ministry, for example the Coast Guard, the Border Guard, and the CID in relation to smuggling and theft. The law also affords them the right to conclude security agreements with their counterpart agencies in sister and friendly countries, and to cooperate and coordinate with such agencies in the fight against activities related to the security of these states and their regimes, a matter that has also been delegated to the Interior Ministry. Counter-terrorism units have proliferated within the various security services, including the General Administration to Counter Terrorism and Organised Crime, affiliated to the General Security Agency, the counter-terrorism unit within the Central Security Organisation, and the counter-terrorism unit in the Republican Guard.

Besides the fact that the PSO and the National Security Bureau have both been granted the power of judicial enforcement – in contradiction to the Constitution, Article 39 of which provides that judicial enforcement is the prerogative of the police as a civilian establishment – the fact that the security apparatus enjoys authority and influence and is directly subordinate to the Presidency of the Republic indicates the overlapping and contradictory functions of the various security agencies. It has become difficult to differentiate between the roles of these agencies and to identify differences between their functions and competencies precisely, or to monitor their legal and illegal activities,

since in practice there is no authority above them other than the President of the Republic. The latter has granted full powers to these agencies, which commit many violations of the rights and freedoms of citizens, journalists and politicians, and stifle the work of political parties, political organisations and civil society associations. Furthermore, all the individuals employed by these agencies enjoy special privileges granted by the leaders of all state institutions and civil administrations with a direct link to the daily affairs of citizens. Their positions and affiliations to the security apparatus ensure them total protection and provide them with all the means of power and influence they need to carry out illegal actions, such as looting public funds, the abuse of power, corruption, pilfering state resources, breaching regulations and laws in force, and all without accountability. Indeed, these regulations and laws have been effectively crippled and voided of the content for which they were enacted, and the security services have failed to properly comply with the competencies and functions with which they were entrusted by law. They have become completely intertwined and overlapped, making it difficult to identify any distinguishing features between them. They are known to be managed by people with influence who possess neither the requisite qualifications, experience, or seniority in use in military and security services; rather, the functions and competencies of the security apparatus are determined by personal loyalties and proximity to a certain family, clan, tribe or region.

Overall, the most important characteristics of the security sector are: swelling in terms of the number of apparatuses and individuals; an overlap in their functions and powers; high levels of politicisation among members of the PSO and the National Security Bureau; the special privileges they receive that are not granted to members of the police force or the General Security Agency; reliance by all the security services on personal or regional loyalties in appointments, promotions and tenure; and a lack of professionalism and

training. As a result, the security services have been unable to maintain security and stability, or to fight crime due to the inadequacies in the security zones and police stations, particularly with regard to policing. Such inadequacies stem from mismanagement, poor organisation and lack of preparedness, the impotence of their anti-crime programmes and plans, low levels of security awareness in the archiving and opening of criminal records and low standards of data-entry for persons detained at police stations, and the extension of their detention without their cases being referred to the competent prosecutor. These shortcomings even apply to security stations and zones in the capital. The capital contains a total of ten security zones and forty police departments and stations, but abductions are nevertheless carried out by some of the tribal militia, which transfer the abductees to the various regions. They have also committed acts of terrorism against a number of foreign embassies, abducted foreigners and diplomats from the capital and transported them to the kidnappers' tribal areas.

Similarly, combating or reducing smuggling is now beyond the reach of the security services, even though the gateways through which weapons and drugs are smuggled are well known. As a result, Yemen has become a market for weapons and drugs, which are smuggled out to Saudi Arabia and neighbouring countries in the Gulf. It is now clear that such acts, including the smuggling of petroleum products and derivatives, are being carried out by powerful individuals.

Yemen has long land and sea borders. It consists of twenty-one governorates (muhafazat) and 333 districts (muderiat). The security services are present within these areas in Police, Border Guard and Coast Guard stations. They know all the existing smuggling routes via the Arabian Sea and the Red Sea from the source countries of Pakistan, Afghanistan and Iran (the "Golden Triangle" countries). Small fishing vessels receive the smuggled goods close to Yemeni regional waters. These goods are then stored

at several locations in the governorates of Mahra and Hadhramaut al-Dakhil. Next they are transported to the governorates of Hajjah and Sa'ada, and from there on to the Kingdom of Saudi Arabia, where a carrier fisherman is given a consignment of 50,000 Saudi Riyals to load onto his small boat. It is transported into Saudi Arabia or on to the United Arab Emirates in brand new SUVs, used for the first time. Upon delivery of the consignment in the neighbouring country, the car becomes the property of the carrier, who is handed the keys after unloading its cargo. Thus there are very attractive, lucrative incentives for smugglers. Forged documents and false identities are used during the course of such operations. Weapons are brought in semi-officially. It has come to light that the arms shipment that was confiscated by the state in early October 2009 was brought to Yemen using official documents from the Ministry of Defence, and that the signatures of officials were forged in order to confirm the transaction, according to an official source².

Security studies and reports have pointed to the ineffectiveness of the security services, indeed their powerlessness to reduce or combat this phenomenon, due to the lack of facilities and training available to anti-smuggling officers, especially regarding the detection and tracking of smuggled narcotic substances within Yemen. Such activities include surveillance of the known gateways designated for smuggling in the ports, along the coastline, in the desert and within the expanse of rugged mountains, as well as monitoring of the drug-trafficking industry's international mail, and using remote sensors or x-ray devices to detect drugs smuggled in mailed letters³. A central agency, the Public Administration for Drugs Control, was established for this purpose.

² The *Al Thawra* Newspaper, Yemen, p. 1, October 5, 2009.

³ Dean Ahmed Mohammed al-Hamadi, Working Paper, "Drugs are the problem: The causes and some suggestions," 17th Conference of the Heads of the Interior Ministry in Yemen, 22-24 January 2007, p. 9.

The lack of monopoly over the legitimate use of force

The Yemeni state permits trade in weaponry and the bearing of arms, and has made serious efforts to legalise and regulate the bearing of arms. However, centres of power within the regime, as well as Yemen's tribal structures, remain staunchly opposed to such precautions, and influence political decision-making. There are also various misconceptions that maintain that the bearing of weapons is no more than a form of adornment that identifies the Yemeni citizen, flanked by a dagger (*janbiya*) and rifle, a part of popular folklore and an authentic Yemeni custom and tradition.

Weapons markets are spread among several regions and governorates in Yemen. Experts estimate that there are more than eight million single pieces of weaponry of various kinds and sizes excluding aeroplanes and tanks, which are the preserve of the Yemeni armed forces. This staggering number of weapons in the hands of citizens was confirmed by the President of the Republic in an exclusive interview he conducted with the Al-Jazeera channel several years ago. Consequently, power within society is not confined only to the state and the ruling regime in Yemen, or to the armed forces and security apparatus. Rather, power is distributed between the state and its military and security agencies, and among the armed tribal militia and the Jihadist militias affiliated to al-Qaeda, which has taken advantage of the prevailing instability and structural security imbalances in conducting its activities. The distribution of power is reflected in the state's inability to extend its control over all regions of the Republic and in the reprisals and tribal wars that are raging in a number of regions, despite the state's official strategy of extending its influence and security control to remote regions, through what is referred to as the "deployment" of security. The state has announced five such deployments, each of which is estimated to involve 5,000 police and security officers. However, they are mostly confined to the capital and some of the

major cities that are to a certain extent secure, such as Hodeidah, Ta'izz and Ibb. The government has been unable to settle security disruptions through the length and breadth of the country, particularly where tribal militias are involved.

The kidnapping of foreigners and tourists, as well as some businessmen or their relatives, and reprisal killings in the cities and the capital, Sana'a, are ongoing phenomena. The state even maintains a continuous dialogue with the tribesmen who carry out the kidnappings of foreigners and pays their ransom, or meets their demands for development of their areas, or the resolution of problems between the state and the kidnapping tribes. The reason is that the tribal militia that engage in warfare, carry out reprisals and perform security functions in their regions have acquired the means of power. In the far northern regions they erect military checkpoints through which government security apparatus may pass only with their permission. Such checkpoints have also recently begun to appear in southern regions, a development some researchers and political analysts attribute to the character of the regime and its tribal, clan-based structure, which is based on a web of alliances and corruption that permeates all areas of governmental life in Yemen. A large body of research and analysis indicates that the civil institutions of the state are run by the powerful and influential, and that the government consists merely of a staff that implements the will of the decision-makers, first and foremost the President himself and his family, who hold on to every rein of power, influence and wealth, however minor, and who have full control on the security apparatus.

The chronic political conflict in Yemen is considered one of the most significant causes of insecurity, and a powerful incentive for the web of alliances woven by the tribe, the clan, regionalism, and the jihadist Islamic movements, and especially the Salafi jihadist movement and the al-Qaeda organisation from Afghanistan. The latter, together with

the regime, has established alliances and relations of patronage since the 1980s through the security apparatus (the former regime in northern Yemen). The authorities and the regime crushed any movements opposed to the arbitrary measures and oppressive practices they pursued following unification, and during and after the war of 1994. The then-Yemeni Minister of the Interior, Hassan Mohammed Arab, stated that his ministry had expelled all the foreigners present on Yemeni soil, who numbered over 23,000 individuals, most of whom were Afghan Arabs who had taken part in the war that broke out in 1994 between the forces of the Socialist Party from the southern governorates, and the forces of the North. Their expulsion coincided with the rise of the Taliban to power after 1996, and the acrimonious dispute that broke out with the Yemeni Grouping for Reform party, which was ejected from government following the 1997 elections. However, it later became apparent that not all foreigners from the jihadist organisations had in fact been expelled.

The war of 1994 was devastating economically, socially and politically. The security situation was thrown into turmoil, as a result of which the security apparatus lost its prestige. In addition, the regime's triumph after the war, in which the jihadist organisations and tribal militias played a key role, turned the southern governorates into a war booty for the victors. Theft and land appropriation ensued, in addition to the privatisation of the economic and manufacturing institutions. Thousands of employees were laid off from these institutions, as were tens of thousands of members of the armed forces and the security forces, as well as thousands who were forced to retire. Moreover, those of those who remained were unable to return to the positions they had occupied before the war. The people of the southern governorates saw these moves as the annexation of themselves and their state to what was formerly known as the Arab Yemen Republic. Demands were increasingly made for the reform of the situation or of the path to unification. Such

demands went unheeded and demonstrations and protests subsequently broke out. These were put down ruthlessly and with excessive force on the pretext that they constituted an attack on the regime and the law. These movements were, however, initially protests to demand rights, including the demand for employees who had been laid off and retired to return to their former positions, and for reform of the path to unification through effective partnership, as stipulated in the unification accords. The regime paid scant attention to these demands, relying instead on violence, a move which further raised the temperature in these governorates. The result was permanent protests, and the ceiling of demands was consequently raised to disengagement and a return to the situation pre-22 May 1990. Yemeni unity came under threat, and separation became the objective following the recent backing provided by Ali Salem al-Baid, along with the political leadership based abroad and a group known as TAJ, and after the jihadist leader Tariq al-Fadhli, a former ally of the regime, later joined the southern movement.

The Almaraqeshah Mountains in the governorate of Abyan have been a stronghold for al-Qaeda in Yemen. The organisation has set up military camps in the area to conduct training, with material and logistical support from the regime and its full protection. Such support is what has allowed al-Qaeda to carry out acts of terrorism that have damaged the already fragile security and stability of Yemen, including attacks on an American warship and French oil tanker.

The events of September 11th, 2001 in New York and the international pressure brought to bear on Yemen compelled it to join the "War on Terror", together with the strike on Taliban forces in Afghanistan and the intensification of the campaign against al-Qaeda in Pakistan, Afghanistan and Saudi Arabia, Yemen's northern neighbour and one of the world's largest supporters of al-Qaeda and the Islamic jihadist movements. Yemen became the primary base of al-Qaeda, which, with tribal protection, used the triangle governorates of

al-Jawf, Marib and Shabwa to build its star base, which the organisation announced as its Yemen and Arabian Peninsula branch.

Yemen is currently experiencing extremely difficult security conditions that could lead to dangerous pitfalls. Imbalances have shaken the country at all levels, economic, political and security: a peaceful movement in the South that has been brutally repressed; a political crisis with actors from opposition parties; a stalled democratic process and postponed elections; and the war in the North, which has led to the destruction of villages and displacement of roughly 200,000 persons, mainly women and children, who have scarce resources and live in appalling conditions and under threat from al-Qaeda. These events, which have disrupted the security and stability of Yemen, all call for urgent solutions and structural reforms based on comprehensive change and effective democratic foundations. Such reform would enable Yemen to escape from this dark period and to enjoy security and stability, and would allow the state apparatus and institutions to play an active role in restoring security and stability and protecting the country and its citizens.

Oversight of the security apparatus and accountability

There is a lack of transparency in the security apparatuses. Some of these bodies rely on secrecy as the basis of their work, particularly the PSO, the National Security Bureau and the counter-terrorism bureaus and units. These agencies regularly arrest and abduct individuals, deny them visits, or ban them from travelling. The protests and peaceful assemblies that have been staged in the South for over two years have led to arbitrary arrests that have thus far affected thousands of participants, who are later released without trial. Since the civil war, several attempts have been made to lodge criminal complaints against the persons in charge of these agencies for the illegal abduction, detention and of political activists and journalists. However, the judiciary's lack of status and

the executive authority's domination of it have left it unable to advance or examine these criminal complaints. Thus impunity has become a further incentive for the employees of these agencies to hold the law in contempt and violate rights and freedoms. The fact that the government party enjoys an overwhelming majority in the Assembly of Representatives further encourages these agencies to operate outside the law, and has left the assembly unable to practise accountability.

The constitutional amendments of 2001 further obstructed the supervisory role of parliament and constitutionally divested it of its power of effective oversight. It does not have the right to amend the overall state budget or the authority to make decisions that are binding on the executive authority. It does not consider discussing expenditure within the military and security establishment, which remains inviolable. The Assembly of Representatives approves "unclassified expenditure" on behalf of defence and security apparatuses, which is disbursed with the knowledge of the President of the Republic, without providing any details. During the years of rising oil prices between 2005 and 2008, the government would submit requests in the final two months of each year to the Assembly of Representatives for supplementary budget allocations, which the assembly approved each year, in spite of their illegality. A significant proportion is allocated for defence and security, which is in effect a method of appropriating surplus oil revenues, since funds allocated for defence and security appear as unclassified sums and are easy to requisition. The reports produced by the Central Organization for Control and Auditing do not specify the appropriations and allocations made to the security apparatus, be they under the authority of the Ministry of the Interior or Ministry of

Defence, or directly responsible to the President of the Republic⁴.

In light of the absence of the rule of law any oversight loses its effectiveness. Even the judiciary does not supervise these agencies. The judiciary in Yemen lacks independence, and, like the aforementioned security agencies, is under the authority of the President of the Republic. Furthermore, the security apparatus is not subordinated to the executive authority, with the exception of a number of agencies affiliated to the Interior Ministry, which are not subject to effective oversight in the conduct of their functions either. Corruption, favouritism, and holders of power and influence impede even the most basic forms of oversight. Meanwhile civil society organisations are unable to exercise the functions of popular oversight given the lack of cooperation, the intrusion of the security apparatus, and the lack of respect for the rule of law. Their role is limited to referring to some of the violations in their periodic reports, an act that is in itself considered to be a kind of risk, but which has little impact. The security apparatuses are regarded as above accountability and their budgets are not subject to review although they receive a large percentage – over 33% – of the overall state budget, which is provided on an annual basis as the defence and security budget. The majority of security agencies lack transparency in their operations and obtaining information from them is close to impossible. They conduct their work on the basis of the legitimacy that precedes that of democracy: the legitimacy of secrecy.

Since the outbreak of the revolution in Yemen, on February 12, 2011, the President and his family have relied mainly on the presidential guard, the personal guard, the Special Forces, and the central, national and political security forces to suppress the revolution, and have used them to launch

organised systematic campaigns against the revolutionaries calling for the regime's downfall. The fact that they used live ammunition and poison gas to kill the demonstrators made the removal of these services' leaders part and parcel of the president's smooth and peaceful transfer of power, and their integration into armed and security forces a necessity. However, the opposition's request was ignored, seeing the United States' support for the President's family who wished to keep these services and their leaders, many of whom were members of the President's family, in place, under the pretext that the anti-terrorism units, which the United States supported, were an integral part of these services. This turned the peaceful transfer of power into a convoluted exercise, and encouraged the President and his family to hold on to power, after agreeing earlier to a smooth and peaceful transfer power in March 2011. This had the potential to make the option of change through popular revolution a possible avenue of change in Yemen.

Reform of the security sector

The struggle to establish a state of law following the founding of the Republic of Yemen has included security sector reform. Yemen's political parties signed the "Document of Covenant and Agreement" on February 20, 1994 in Amman, the purpose of which was to lay the foundations of security sector reform within the framework of building a state of law.

The principles adopted in the document included bringing an end to the legitimacy of the secrecy as practised by the PSO on the one hand, and subordinating the security apparatus solely to the Ministry of the Interior and unifying the General Security Agency on the other.

In order to respect institutional legitimacy and legality and safeguard human rights by bringing an end to the secrecy that surrounds the practice of the security apparatus and its domination over agencies and individuals – in the absence of oversight and accountability –

⁴ See the Yemeni Observatory for Human Rights, *Annual Report on Human Rights and Democracy in Yemen, 2006*, Sana'a, pp. 153-153.

the document sets forth the following aspects of reform:

1.The formation, by law, of an intelligence agency to replace the Political Security Organisation, the functions of which are to be defined by law as the protection of national sovereignty.

2.The unification of the General Security Agency – the police force and its ancillary bodies, the special security service (the Central Security Organization), and the Military Intelligence – within a single framework, the General Security Agency, in order to end the state of multiplicity and conflict of functions, and the resulting disorder and infringement of citizens' rights. To subordinate the General Security Agency to the Interior Ministry alone and confine its functions to the ministry by “integrating the various security units within it, including the Central Security Organization, under the control of the Ministry of the Interior, and to prohibit the use of any security expenditure outside the ministry.”

3.Under an article entitled “Codifying the relationship and determining authorities”, the document views the Presidency as the principal source of lack of respect for the law and violations of human rights. In order to correct this situation, the document linked the definition of the functions and authorities of the Presidential Council⁵, and the reform of the security through: the respect for institutional legitimacy, and modernisation of law enforcement agencies and by purging them of elements of corruption and legal illiteracy, in particular within the General Security Agency and the CID.

The document was signed by parties within the regime and the opposition and was supposed to be translated into constitutional provisions. However, its actual implementation was obstructed by the security apparatuses: the growing numbers

thereof, the dominance of the person of the President and his family over them, and their wholesale return to secrecy and operation outside the law. In addition, an increase was made in the allocations provided to them as unclassified expenses in the general budget, and the National Security Bureau, the Special Forces, and the Counter-Terrorism Units were created.

Reform of the security sector came as part of the process of building a state of law within the Program of the Joint Meeting for Political and National Reform, issued in November 2005. It was then affirmed by the Vision for National Salvation project, presented by the Preparatory Committee for National Dialogue on 7 September 2009. However, these projects essentially come within the general framework of the contents of the Document of Covenant and Agreement. Institutional details of reform of the security sector were not provided, as was the case with the Document of Covenant and Agreement. This can perhaps be attributed to the fact that the latter document, in the opposition's view, continues to offer a sound basis for building a state of law, and the newer documents are intended to meet the demands of subsequent developments. According to the Joint Meeting and Vision for National Salvation projects, security sector reform constitutes the foundation of military establishment reform. Their position is possibly due to the impossibility of separating the armed forces from the security services, the dominance of the presidential family over both the army and the security services, and because of the special mixed military and security forces. The foundations of reform encompass the following principles:

1.The construction of the armed forces and security forces on national foundations based on the Constitution and the law; respect for the will and choices of the people; and prohibition of party-political bias within these forces or their employment in political disputes between political parties, so that their role remains to protect the country, its sovereignty and independence.

⁵ After the war, the Constitution was amended to abolish the collective presidency of the state, and convert it to a single presidency.

2.The consolidation of leadership within the armed forces and the security forces; the prohibition of discrimination in rights and duties and in the various material and moral incentives between individuals and units of the army and security services; and the enactment of legislation to ensure that all appointments and promotions are subject to the principles of seniority and capability.

3.Reform of the Ministry of the Interior, the police and security services to correspond to their status as civilian bodies; an end to overlap and duplication in their structures and competencies, as with those of the armed forces; and an increase in their capacity to fight crime and establish security, stability and respect for human rights.

4.The training of the armed forces and security forces; and providing a decent life for their employees and a guarantee that they will have access to all their rights.

5.The subordination of the armed forces and all the security apparatuses to the cabinet in all their affairs.

This document will be presented at a national dialogue conference to be converted into constitutional provisions; however, this conference, which was originally planned for March 2011, had to be postponed due to the outbreak of the popular revolution in Yemen. Nevertheless, holding it will remain a priority on the agenda once the revolution succeeds and its objectives are implemented.

Conclusion

To conclude, the solution to the problem of reform of the security sector is tied to the solution to the crisis in building a state of law. The chief reason for the failure of security reform is related to the lack of consensus over reform of the political system and reform of the security sector therein. This study has shown that one of the immediate obstacles to security sector reform is the widespread nature of political and financial corruption, which in turn resulted from a structural crisis that stems from the failure to establish a state of law. It is a national crisis that has been

complicated by the civil law of 1994, the consequences of which have precluded the emergence of a culture of democracy, impaired many basic human rights and freedoms, and entrenched economic and social under-development. The political disturbance to the balance of power generated by the war has enabled the authorities to rid society of its active forces and deny them participation. They have filled the resulting gap by increasing the number of security apparatuses and their employees, ingraining their military character, tightening the control of the presidential family over them and resisting their specialisation, adopting secrecy in their work, as opposed to legality.

Nonetheless, it is a weak sector that does not possess a monopoly over the use of legitimate force on behalf of the state. Rather, the field has been left open to jihadist organisations and tribal militia, making it more prone to tyranny and violations of rights and freedoms. Furthermore, the security sector has been left bloated and fragmented, and absent in vast areas of the country, unable to impose security even in the capital. At the same time, the security sector lacks order, and is subject to oversight by neither the legislative nor the executive authorities, or even by the government. It is answerable only to the President, and consequently lacks a national security doctrine, and is weak in terms of its professionalism. It relies on personal, family and regional loyalties in the discharge of its functions, in the process of appointing individuals, awarding promotions and filling positions in the various bodies within the sector.

The study has also revealed that security sector reform necessitates the creation of neutral conditions within the security establishment, and an end to the plurality of security apparatuses and their inflated size. They must be subjected to accountability and adopt a national security doctrine based on loyalty to the rule of law, the protection of human rights and fundamental freedoms, and service to the citizenry. The level of professionalism of its employees must be

raised, and an institutional work environment based on standards of efficiency and professionalism developed. Its leaders must be subject to accountability and rotate their positions, and, like the security apparatus itself, submit to the oversight of the legislature, the executive authority and the government in their performance and expenditure, in order to establish transparency in these areas. Such a situation will be attained only within the framework of comprehensive reform of the political system, to be achieved alongside the decentralisation of power, an end to power without responsibility or accountability, and the establishment of good governance in the administration of the country.

Today, in the aftermath of the popular revolution, Yemen is working hard to achieve its revolution's main objective, namely a change that involves millions of Yemeni citizens. It is a change that aims at establishing a civil state, effecting a transition to democracy, ending the one-man or one-family rule, and dispelling once and for all, the dream of hereditary power. This requires the termination of these security services and paramilitary forces, and integration of their members into the country's armed and security forces.