



Yemen: Legislative Power

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SUMMARY Under its 1991 Constitution, as amended in 1994 and 2001, Yemen had a bicameral structure of parliament that consisted of two legislative chambers: the House of Representatives and the Consultative Council. Former President Ali Abdulla Saleh was ousted in 2011 and replaced by Abd Rabbu Mansour Hadi in a power transfer approved by the Yemeni Parliament. In February 2015, an opposition body called the Revolutionary Committee replaced President Hadi. The Revolutionary Committee has issued what is known as the 2105 Constitutional Declaration. The Declaration reorganized the three branches of government by creating a new legislative body, replacing the bicameral system. Due to the current ongoing internal infighting in Yemen between President Hadi's troops, who are supported by the Saudi Arabian military coalition, and the Houthi movement, two different legislative bodies have been established. The Houthi movement has formed a legislative body in Sana'a in northern Yemen, while President Hadi's government created a second legislative body in Aden, in southern Yemen.

I. Background

The country of Yemen is bordered by Saudi Arabia to the north, Oman to the east, Somalia to the south, and Eritrea and Djibouti to the west. The Red Sea separates it from Africa in the west, while the Gulf of Aden and the Arabian Sea are to the south.¹ After the fall of the Ottoman Empire in 1920, a Shia imam ruled the Northern Kingdom of Yemen while a group of tribes, called the Federation of South Arabia, ruled southern Yemen.²

The Republic of North Yemen was founded in 1962; however, the People's Republic of South Yemen was formed in 1967. In 1969, the National Liberation Front took power in the People's Republic of South Yemen, and formed a socialist republic, supported by the former Soviet Union.³

In 1972 and 1979, two wars broke out between the North Yemen Republic and the People's Republic of South Yemen. The main purpose of the two wars was to achieve unity between the north and south.⁴ In 1989, the governments in both the North Yemen Republic and the People's Republic of South Yemen began the negotiation process to achieve unity.⁵ Both countries were

¹ *Constitutional History of Yemen*, CONSTITUTION NET, <http://www.constitutionnet.org/country/constitutional-history-yemen> (last visited Oct. 4, 2018), archived at <https://perma.cc/NZ56-V3W3>.

² *Yemen: The North-South Divide*, AL JAZEERA (Dec. 8, 2017), <https://www.aljazeera.com/programmes/aljazeera-world/2017/11/yemen-north-south-divide-171129152948234.html>, archived at <https://perma.cc/QFZ3-Y5HY>.

³ *Id.* paras. 4-5.

⁴ *Id.* para. 7.

⁵ *Id.* para. 9.

officially united on May 22, 1990. In May 1991, a Constitution was ratified after a popular referendum.⁶

The first official president of the united Yemen was Ali Abdullah Saleh. Sanaa became the capital of the new state.⁷ However, in 1994, a new civil war took place between the north and the south. On May 21, 1994, the south seceded and formed the Democratic Republic of Yemen, but northern forces captured Aden on July 7 of the same year. The country was reunited under the control of what was known as the Northern Forces loyal to President Ali Abdullah Saleh. In May 1994, the Constitution was amended again to reflect the new political situation.⁸

Under the 1991 Constitution and its amendment of 1994, Yemen had just one legislative body, the House of Representatives. Each member of the House was elected for a term of four years. This provision was amended in 2000 to extend members' terms to six years. In February 2001, the Constitution was amended to add a second legislative body, the Shura Council or Consultative Council.⁹

In 2011, political unrest again broke out in Yemen. President Abdullah Saleh transferred power to Vice President Abd Rabbu Mansour Hadi on November 22, 2011. After the departure of former President Ali Abdulla Saleh from the political scene, a new political group, called the Houthi movement emerged. In September 2014, the militia of the Houthi movement occupied the Yemeni capital of Sana'a in northern Yemen and held Hadi and his cabinet under house arrest. Peace negotiations between both parties (the Houthi movement and new President Abd Rabbu Mansour Hadi) that were intended to resolve the conflict have failed. Consequently, in January 2015, the Houthis stormed the presidential palace and President Hadi escaped to Saudi Arabia. A referendum on a new 2015 Constitution has been postponed indefinitely.¹⁰

In response to the Houthis' occupation of the presidential palaces, in March 2015 Saudi Arabia created a coalition of nine Arab countries, including Bahrain, Kuwait, Qatar, the UAE, Egypt, Jordan, Sudan, Morocco, and Senegal, in a military campaign against Houthi forces in Yemen¹¹. Ever since, there is a continuous fighting between President Hadi troops, backed by the Saudi

⁶ *Constitutional History of Yemen*, *supra* note 1, para. 4.

⁷ *Id.* para. 13.

⁸ *Id.* para. 4.

⁹ *Id.* para. 9.

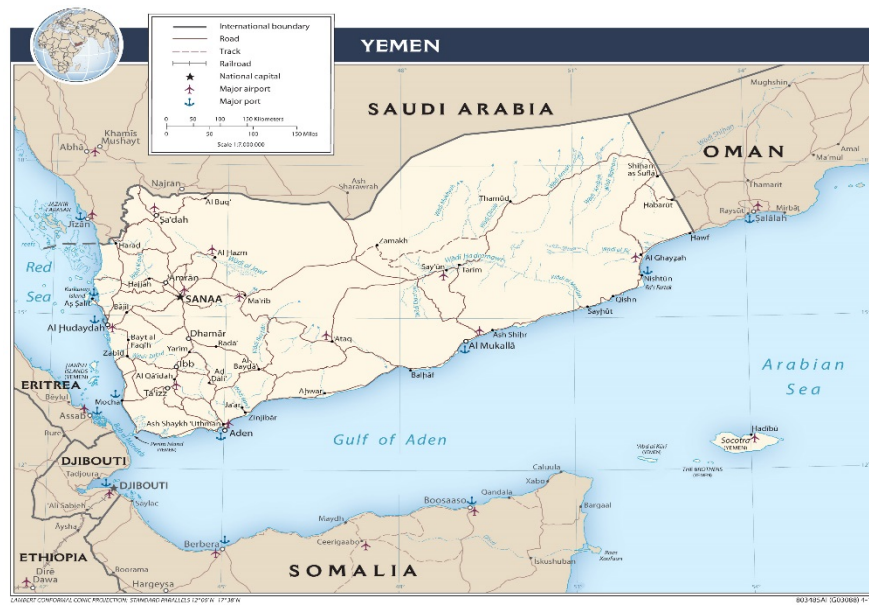
¹⁰ BERTELSMANN STIFTUNG, BTI 2018 COUNTRY REPORT: YEMEN (2018), https://www.bti-project.org/fileadmin/files/BTI/Downloads/Reports/2018/pdf/BTI_2018_Yemen.pdf, archived at <https://perma.cc/87QS-NSYD>.

¹¹ HUMAN RIGHTS WATCH, BOMBING BUSINESSES: SAUDI COALITION AIRSTRIKES ON YEMEN'S CIVILIAN ECONOMIC STRUCTURES (July 11, 2016), <https://www.hrw.org/report/2016/07/11/bombing-businesses/saudi-coalition-airstrikes-yemens-civilian-economic-structures>, archived at <https://perma.cc/K5YB-B97M>.

military coalition and the militia of the Houthi movement, support by Iran.¹² The United Nations estimates that 10,000 people have died from fighting.¹³

Because of the ongoing civil war between the Houthis and the Hadi troops, Yemen does not have any functioning central government. Based on the 2015 Constitutional Declaration, The Houthi movement and their political allies have dissolved the parliament after taking control of the capital.¹⁴ The movement has established its own parliament in the capital Sana'a, in northern Yemen.¹⁵ On the other hand, President Hadi and his cabinet have created a different legislative body in Aden, in southern Yemen.¹⁶

This report addresses the powers of the legislative branch under the 1991 Constitution, as amended in 1994 and 2001. It highlights the function of the legislative branch created by the Houthi movement under the 2015 constitutional declaration. Finally, it discusses the division in the legislative power due to the ongoing infighting.



Source: US Central Intelligence Agency.

¹² Daniel Nikbakht & Sheena McKenzie, *The Yemen War Is the World's Worst Humanitarian Crisis*, UN Says, CNN (Apr. 3, 2018), <https://www.cnn.com/2018/04/03/middleeast/yemen-worlds-worst-humanitarian-crisis-un-intl/index.html>, archived at <https://perma.cc/5TE4-GGBQ>.

¹³ All Party Parliamentary Group for Yemen, *Yemen: The Continuing Tragedy* (May 22, 2018), available at <http://www.hscentre.org/wp-content/uploads/2018/05/Yemen-All-Party-Parliamentary-Group-Report-.pdf>, archived at <https://perma.cc/H4SA-RQ92>.

¹⁴ FREEDOM HOUSE, FREEDOM IN THE WORLD 2018: YEMEN, <https://freedomhouse.org/report/freedom-world/2018/yemen>, archived at <https://perma.cc/QZW9-A4K9>.

¹⁵ *Defiant Yemeni Rebels Convene 'Illegal' Parliament*, AL-JAZEERA (Aug. 13, 2016), <https://www.aljazeera.com/news/2016/08/defiant-yemeni-rebels-convene-illegal-parliament-160813131730105.html>, archived at <https://perma.cc/QUV3-8GW8>.

¹⁶ *Relocation of Yemeni Parliament to Aden*, EMBASSY OF THE REPUBLIC OF YEMEN, <https://www.yemenembassy.org/congressional-affairs-office/relocation-yemeni-parliament-aden/> (last visited Oct. 4, 2018), archived at <https://perma.cc/UY6J-WEUJ>.

II. Legislative Power under the 1991 Constitution and Its Amendments

Under the 1991 Constitution as amended in 1994 and 2001, Yemen has a bicameral parliament that consists of two legislative chambers—the House of Representatives and the Consultative Council (Shura Council). The Constitution governs the conditions of membership in the legislative branch, as well as its powers and formation. It also describes the legislative process, how to achieve a quorum, and voting procedures .

A. Election versus Appointment

Citizens of the Republic of Yemen may become members of the legislative branch through public direct elections or appointment by the President. Article 63 of the 1991 Constitution states that the House of Representatives (the lower chamber) consists of 301 members. Those members may be elected through secret, direct votes. Each member represents a geographic area.¹⁷ Under article 65 of the Constitution, the term of members of the House of Representative is six calendar years.¹⁸

As opposed to members of the House who are elected by the public, according to article 126 of the Constitution the president directly appoints all members of the Shura Council (Consultative Council), which has 111 members. The appointed members are selected from among those individuals who have the professional expertise to widen the base of political participation and enhance the decision-making process. The 1991 Constitution did not determine a specific parliamentary term for members of the Shura Council.¹⁹

B. Conditions of Membership

The conditions of membership in the legislative branch are established in the Constitution. Candidates who exhibit an interest in joining the legislative branch must meet the following requirements:

- They must be Yemeni citizens.
- They must be fluent in reading and writing the Arabic language.
- They should not have been convicted by a final judgment in a crime involving immorality or dishonesty.
- They must be at least twenty-five years of age to join the House of Representatives²⁰ or forty years of age to join the Shura Council.²¹

¹⁷ 1991 CONSTITUTION OF YEMEN, as amended in 1994 and 2001, art. 6, unofficial English translation *available at* https://www.constituteproject.org/constitution/Yemen_2015.pdf?lang=en, archived at <https://perma.cc/JC12-N5GZ>.

¹⁸ *Id.* art. 65.

¹⁹ *Id.* art. 126.

²⁰ *Id.* art. 64.

²¹ *Id.* art. 126, para. 2.

Powers

The 1991 Constitution discusses the powers of the House of Representatives and the Consultative Council, granting more powers to the House.

1. The House of Representatives' Powers

Pursuant to article 62 of the Constitution, the House of Representatives is the legislative authority of the state. It enacts laws, sanctions general state policies, and determines a general plan for economic and social developments. It also approves the state's budget.²²

The House has the power to question the performance of the executive branch. Article 75 of the Constitution stipulates that members of the House of Representatives represent the whole nation and must act as guards of the state's public interest.²³ Article 95 grants the authority to members of the House to submit questions to the Prime Minister, and any of his deputies, ministers, or deputy ministers on any matter falling within their responsibilities. The officials of the executive branch are required to provide answers to those questions.²⁴ Article 98 gives members of the House the right to withdraw confidence from the government. The House may not withdraw confidence from the government before it sends a notification to the Prime Minister. The request to withdraw confidence must be signed by two-thirds of the members of the House.²⁵

In addition, article 85 grants members of the House the right to propose bills.²⁶ Article 87 of the Constitution asserts the right of the members of the House to approve bills concerning plans for economic development projects.²⁷

Article 92 authorizes the House to ratify international treaties and conventions of general political and economic nature. Those treaties and conventions are related to defense, building alliances, peace, border security, and financial commitments.²⁸

Finally, article 128 grants members of the House authority to impeach the President. It provides that the President of the Republic may be charged with grand treason, violation of the Constitution, or any other action that prejudices the independence and sovereignty of the country. Such a charge requires half of the House of Representatives to submit a petition to the Chairman of the House to begin the impeachment process. The indictment decision on this matter requires the support of two-thirds of the House of Representatives.²⁹

²² *Id.* art. 62.

²³ *Id.* art. 75.

²⁴ *Id.* art. 95.

²⁵ *Id.* art. 98.

²⁶ *Id.* art. 85.

²⁷ *Id.* art. 87.

²⁸ *Id.* art. 92.

²⁹ *Id.* art. 27.

2. *The Consultative Council's Powers*

Under article 125 of the 1991 Constitution, the Consultative Council has the following powers:

- Conducting studies on economic development plans.
- Providing the President with consultation as needed.
- Advising to the President pertaining to political, economic, social, military, and security matters.
- Offering opinions on the best methods to reform and modernize government institutions.
- Holding joint sessions in conjunction with the House of Representatives to approve socioeconomic development plans and ratify agreements and treaties.
- Promoting freedom of the press.
- Evaluating the government's economic, financial, fiscal, and investment policies.
- Reviewing reports issued by the Audit and Control Bureau.³⁰

C. Formation, Quorum, and Voting

Based on article 71 of the Constitution, the House of Representatives may elect from among its members a chairman and his deputies.³¹ In order to achieve a quorum, article 72 states that it is necessary for more than half of the members of the House to attend.³² Decisions issued by the House are passed by a simple majority, according to article 72, paragraph 2.³³

D. Legislative Process

Article 85 of the Constitution grants members of the House and the cabinet the right to propose bills. A special committee must study all the proposed laws to determine whether they meet the requirements to be submitted for deliberation. According to article 100, voting on bills is done by taking the votes of the House members on each article cited in the bill.³⁴ Under article 102, the President of the Republic has the right to ask the House to reconsider any bill that the House approved in a public session. The President must return the bill to the House of Representatives within thirty days of its submission.³⁵

Article 102, paragraph 2 states that if the President returns a bill that was approved by a two-thirds majority of the House for the second time, it will become law. The President must sign the law within two weeks from the date it was referred to him by the House for the second time. If

³⁰ *Id.* art. 125.

³¹ *Id.* art. 71.

³² *Id.* art. 72.

³³ *Id.* art. 72, para. 2.

³⁴ *Id.* art. 85.

³⁵ *Id.* art. 102.

the President does not sign the law within two weeks, it comes into effect under the power of the Constitution.³⁶

Pursuant to article 103, all laws must be published in the Official Gazette within two weeks of the issuance date. Any legislation may come into force within thirty days of the publication date.³⁷

Finally, upon a call from the President of the Republic, article 127 of the Constitution allowed both chambers (the House of Representatives and the Consultative Council) to hold a joint parliamentary session. Decisions issued in joint sessions were passed by absolute majority.³⁸

III. Legislative Power under the 2015 Constitutional Declaration

In February 2015, an opposition body called the Revolutionary Committee was established after President Hadi escaped Yemen. The Revolutionary Committee issued what is known as the 2105 Constitutional Declaration, which aims at reorganizing the three branches of government.³⁹

Under article 6 of the Declaration, the Revolutionary Committee established a new legislative body, the National Transitional Council, that replaces both the House of Representatives and the Consultative Council mentioned under the 1991 Constitution. The new legislative body consists of 551 members.⁴⁰

Pursuant to article 8 of the Declaration, a Presidency Council replaces the President of the Republic to carry out his role. The Council consists of five members elected by the National Transitional Council.⁴¹ Article 10 provides that the Council may task any members of the National Transitional Council with forming the government.⁴²

IV. Legislative Power during the Current Civil War

In March 2015 after the Houthi movement occupied the presidential palaces forcing President Hadi to flee to Saudi Arabia, Saudi Arabia created a military coalition supporting President Hadi and his troops. As a result, a civil war broke out between the Houthi movement and their allies, supported by Iran, and Hadi troops supported by the Saudi military coalition.⁴³

The ongoing internal infighting in Yemen has led to the creation of two different legislative bodies. Each of the battled factions backs one legislative body. The Houthi movement has

³⁶ *Id.* art. 102, para. 2.

³⁷ *Id.* art. 103.

³⁸ *Id.* art. 127.

³⁹ 2015 Constitutional Declaration, Preamble.

⁴⁰ *Id.* art. 6.

⁴¹ *Id.* art. 8.

⁴² *Id.* art. 10.

⁴³ HUMAN RIGHTS WATCH, *supra* note 11.

supported a legislative body in Sana'a, in northern Yemen,⁴⁴ while President Hadi has established another legislative body in Aden, in southern Yemen.

In August 2016, the legislative body loyal to the Houthi movement was convened in Sana'a for the first time. All of the members who attended were supporters of the Houthi movement and their allies. The legislative body has selected its speaker, Mr. Ali-Raiee.⁴⁵ The United Nations has described the council as a violation of the Houthi movement's commitments to the peace process. President Hadi also condemned the legislative body, calling it unconstitutional.⁴⁶ He also warned that anyone who attends the sessions of this legislative body would be prosecuted.⁴⁷

In August 2017, a spokesperson of President Hadi government announced that a legislative body endorsed by President Hadi and the Saudi military coalition would hold its first session in the City of Aden, in southern Yemen. He added that President Hadi's troops had organized all the necessary arrangements, including housing and security for members of the legislative body. Such legislative body was supposed to discuss the budget, reconstruction plans, financial loans, and oil contracts.⁴⁸ No information was found indicating whether this legislative session was actually held.

⁴⁴ Mohammed Ghobari, *Yemen's Houthis Dissolve Parliament, Assume Power: Televised Statement*, REUTERS (Feb. 6, 2015), <https://www.reuters.com/article/us-yemen-crisis/yemens-houthis-dissolve-parliament-assume-power-televised-statement-idUSKBN0LA1NT20150207>, archived at <https://perma.cc/D84B-7TLM>.

⁴⁵ *Yemen Lawmakers Meet in Sana'a*, VOA NEWS (Aug. 13, 2016) <https://www.voanews.com/a/yemen-lawmakers-meet-in-sana/3463117.html>, archived at <https://perma.cc/4NHC-XXAK>.

⁴⁶ Mohammed Al Qalisi, *President Hadi Condemns Houthis Over 'Parliament Sitting'*, THE NATIONAL (Aug. 13, 2016), <https://www.thenational.ae/world/president-hadi-condemns-houthis-over-parliament-sitting-1.146787>, archived at <https://perma.cc/D3RP-4JZM>.

⁴⁷ *Members of Yemeni Parliament Meet for the First Time During Civil War*, MIDDLE EAST EYE (Aug. 16, 2016), <https://www.middleeasteye.net/news/members-yemens-parliament-hold-meeting-first-time-civil-war-1767026202>, archived at <https://perma.cc/2KEV-DVDA>.

⁴⁸ Said Al-Abyad, *Yemeni Parliament to Hold Its First Session in August in Aden*, ASHARQ AL-AWAST (July 25, 2017), <https://eng-archive.aawsat.com/s-alabyad/news-middle-east/yemeni-parliament-hold-first-session-august-aden>, archived at <https://perma.cc/UYK8-FEZV>.