



Monitoring Report Yemen 2006 Voter Registration Update

Acknowledgements

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Executive Summary

The national voter registration update experienced serious challenges from the start. The decision by the opposition parties to not participate in staffing of the registration committees and the resulting decision by the Supreme Commission for Elections and Referenda (SCER) to replace party nominees on election supervisory, main and sub-committees with individuals from the lists of unemployed civil servants was a contributing factor.¹ While the SCER took steps to establish criteria for selecting committee members from these lists, many of these nominees refused to go to the rural areas to which they were assigned. Many of those who did go to their assigned committees were inexperienced. The challenges of staffing the election commissions were compounded by weaknesses in the training provided committee nominees and by a lack of active over-sight of the process by the SCER.

On June 18, an agreement which addresses many of the problems was signed by the ruling party and the opposition coalition, the Joint Meeting Parties (JMP)², and endorsed by the government (see addendum A). The agreement ensures that the political parties will provide nominees for the

¹ Committee members were to be selected from unemployed citizens who had applied for civil service positions before 2005. However, this list did not provide sufficient numbers to fill the seats and the SCER selected committee men and women from the 2005 and 2006 lists.

² The JMP is formed of the Yemen Congregation for Reform (Islah), Yemen Socialist Party (YSP), Nasserite Unionists Political Party (NUPP), Federation of Popular Yemeni Forces (PF), Al Haq (AH), and September Party, a small party which ceased to attend JMP meetings prior to the elections. The Baath Socialist Party (BSP) resigned from the JMP in 2006.

elections commissions and, if implemented, the agreement should significantly improve election administration.

Introduction

NDI worked with three non-governmental organizations (NGOs) – the Democracy School, the National Youth Center, and Women Journalists without Constraints – in monitoring the voter registration update. The objectives of this monitoring program were to:

- Provide an accurate and objective assessment of Yemen's 2006 registration update process;
- Identify problems in registration procedures and provide the SCER with legal and procedural recommendations to deter registration and electoral irregularities; and
- Support Yemeni public participation and confidence in the upcoming presidential and local council elections.

As a result of the efforts of NGO monitors, NDI developed a list of recommendations for improving electoral procedures and building confidence in the SCER's ability to function in a professional and non-partisan manner. The June 18 Agreement addresses many of the problems witnessed by NDI and the three NGOs; if fully implemented, the Agreement should improve relations between the opposition parties and the SCER and improve the administration of the election. NDI views the decision to increase the number of opposition members on the SCER as a positive development; the decision to provide the political parties with electronic copies of the voter registration records suggests a desire on the part of the SCER to foster improved relations with the opposition.

Methodology

NDI organized monitoring of a random sample of registration centers, stratified at the governorate level and taking into account Yemen's urban-rural ratio. In addition to 345 NGO monitors, NDI also fielded eleven, two-person teams of NDI-staff to monitor the registration and to assess the work of the NGO monitors. These NDI-staff teams monitored in very remote areas of the country that in the past have not been monitored by international organizations. In total, 305 (5%) out of the 5,620 registration centers in 20 of the 21 governorates were monitored. Most centers were monitored at least 3 times: in the beginning of the registration update process, in the middle and in the closing days.

As a result of the delays in finalizing the date of the registration and in announcing the availability of monitoring applications, the three monitoring NGOs faced problems in securing badges for monitors in a timely manner; in some cases monitoring applicants never received their badges. During monitoring activities, NGO monitors also faced problems gaining access to some of the selected centers. Despite these problems, the number of centers to be monitored and the urban-rural split was maintained.

Political Environment of Registration Period

The registration update was conducted amidst a tense political environment. Dialogue between the ruling General People's Congress (GPC) party and the JMP broke down and relations between the SCER and the opposition parties deteriorated to the point that the JMP instituted a boycott on relations with the SCER. Public criticism of the opposition by SCER commissioners

and statements favoring the ruling party contributed to the opposition parties' impression that the SCER would not act in an impartial manner.

Historically, the three levels of elections committees have been formed from nominees of the political parties with additional members appointed directly by the SCER.³ However, due to the tense relations between the SCER and the opposition parties, the opposition parties declined to participate in staffing the supervisory, main or sub-committees during the registration.

The SCER required approximately 33,000 nominees for the registration update and approximately 77,000 nominees will be needed for the September elections. The inclusion of party nominees on elections committees helps the SCER to meet this requirement and meets a number of electoral needs specific to Yemen. First, it gives the parties some oversight of the process, making it more difficult – although certainly not impossible – for committee members to be influenced or coerced. Secondly, it provides a source of individuals who live in the area of the registration center. Third, it provides a significant number of individuals with previous elections administration experience.

The refusal of the opposition parties to provide nominees for the electoral committees, forced the SCER to look elsewhere for committee members. After considering various options, a decision was taken to appoint committee members from lists of unemployed civil servant applicants. Working with international technical advisors, the SCER developed criteria for their selection to ensure that those who were selected were impartial. Even with criteria in place, the selection and assignment process was difficult; most civil servant applicants lived in urban areas and many, especially among the women applicants, were not willing to work in the remote registration centers to which they were assigned. The result was that high numbers of sub-committee members were inexperienced, untrained replacements for those members who were originally selected and trained; reports indicate that many of these replacements were chosen by local GPC officials with no oversight by the SCER.

During their monitoring, NDI monitors collected the names of sub-committee members in the registration centers and compared them with the published names of those selected and trained to serve on committees. The results indicated a large number of changes in commissioners, particularly in tribal areas.

- Of 258 women's sub-committees monitored:
 - 147 (56.9%) had one or more commissioners changed;
 - 29.8% had one woman commissioner changed;
 - 15.5% had 2 women changed;
 - 11.6% had all 3 women commissioners changed. (In Shabwa, 60% of the women's committees sampled had all 3 committee members replaced.)

Of 273 men's sub-committees monitored:

- 105 (38.4%) had one or more commissioners changed;
- 26.3% had one male commissioner changed;
- 9.5% had two males changed; and
- 2.5% had all 3 male commissioners changed.

³ The formula for the 2002 registration and the 2003 elections assigned 44 percent of total commission seats to the GPC, 6 percent to the National Opposition Council (a loose coalition of parties allied with the GPC), 40 percent to the JMP, and the remainder to other actors, including independents and the SCER.

While the refusal of the opposition parties to participate in the registration committees created problems of staffing, it did provide the SCER with the opportunity to appoint women to the supervisory and main committees, an opportunity which the SCER seemed to embrace. Six women were appointed to the supervisory committees and 61 to the main committees. The appointment of women to the election committees is an improvement from the 2002 registration; no women were included among the 60 supervisory committee members or among the 903 main committee members.⁴ NDI encourages the political parties to at least maintain this accomplishment when they nominate candidates for the supervisory and main committees.

Monitoring Reports

Procedural Problems Noted by Monitors

Any assessment of the registration must take into account Yemen's socio-economic situation. Yemen is a very poor, under-developed country. It has been a unified country only since 1990, and experienced a civil war in 1994. Civil society is very young – at most 16 years old. It is still a tribal society, in which a large proportion of the population accepts with few questions the election related directions of tribal sheikhs.

While recognizing these impediments to the effective implementation of elections procedures, it is important to note also the areas in which public confidence in electoral processes is undermined by procedural errors. Serious registration violations occurred in a significant number of voting centers. The following section details these violation and notes those articles of the June 18 Agreement which address them:

- As in 2002, monitors noted very high numbers of underage children being registered. Children reportedly told monitors that they were directed by influential local figures to register. Monitors witnessed amin/akels (those persons responsible for attesting as to the eligibility of citizens who lacked identify documents) testifying to the eligibility of clearly underage children. *The June 18 Agreement commits the SCER to forming a legal and professional team from the GPC and JMP which will examine the registration records and seek to have the courts remove from the records those persons illegally registered.*
- Monitors noted very high numbers of security personnel in registration areas and the presence of Public Security Office personnel in the registration areas. Monitors witnessed security and others interfering in the registration process. Such interference included amin/akels, local council members and sheikhs forcing committee members to register underage children. *The June 18 Agreement enhances the SCER's authority over security forces in the elections process. Security personnel are to report to and receive their directives and instructions from the SCER. A member of the SCER is to head the security sector and security commissions.*
- Monitors noted a lack of order and proper procedures in sub-committees, including failure to check faces against IDs and a lack of film and voter identity cards. They said their requests to the main committees for more materials had been denied. *The June 18 Agreement ensures political party participation on all committees and observation by political parties in all voting centers. If properly implemented this should improve sub-commission and main commission compliance with election regulations and procedures.*
- Monitors reported seeing military troops being trucked into some registration centers and in a number of cases commissioners told monitors that they ran out of materials because

⁴ NDI has been told that there was one woman but has never been able to document this figure.

high numbers of military had registered at their centers. While the SCER has said that the trucking of military to registration centers was ordered as a way to prevent those centers which are close to military bases from being overwhelmed, the process of selecting new centers to which the military would be trucked was not conducted in a transparent manner or with input from outside of the SCER. Given the level of distrust between the SCER and the opposition parties, the failure to open this process raises concerns that partisan political concerns may have been a factor in the selection process. The movement of military may also have broken the law; Article 4:f of the Election Law says that “it is forbidden to force any citizen to choose a specific voting domicile.” *The June 18 Agreement restates the prohibition on military and security leaders forcing or compelling military personnel to vote for any political party or candidate. It also requires that a directive be given to military and security forces confirming the right of military and security forces to practice their political right in running for office and voting.*

- Many monitors reported that they were refused access to the registration area. Others reported that they were not allowed to look at the registration books, and that they were allowed to be in the registration area only 10 minutes. The interference with monitoring was most frequent in women’s committees; in many of these areas women commissioners said they had received notice from the main committee that they were to prevent monitoring.

Limitations and Interference with Monitoring

NDI appreciates the SCER’s assistance in facilitating NDI monitoring of the registration process. However, NDI staff and NGO monitors noted problems with the current system of regulating monitors which merit attention by the SCER.

First, requirements to the monitoring application process that go beyond the requirements outlined in the law have been adopted. These requirements include:

- A requirement that the NGO submit proof that the monitoring applicant has not been convicted by a competent court of any election offense or any other crime in breach of ethics and professional integrity unless duly rehabilitated; and
- A requirement that monitors participate in an orientation session on electoral monitoring or demonstrate previous experience.

While all electoral codes have conditions for monitors, the conditions should promote the integrity of the process, not hurt it. Within the Yemeni context, the above cited requirements put an undue burden upon the applicant to legitimate the request for monitoring credentials. With regard to proof that the monitor has not committed an offense, the SCER provides no guidance as to what such proof should entail. More importantly, courts in Yemen are not accessible in rural areas while court records are poorly maintained and not easily accessed.

With regard to the requirement that monitors participate in an orientation session, such sessions are neither offered by the SCER nor are there procedures in place to assess orientation programs if offered independently by NGOs. Although neither requirement was imposed, their adoption by the SCER leads to confusion about application procedures and opens the possibility of selective enforcement. If implemented, these requirements could encumber the process of observer accreditation.

Second, the period in which applications to monitor are received by the SCER is too short to allow for meaningful review and timely approval. The electoral law does not specify how many days in advance of the election or registration start date stakeholders should be advised that applications for monitoring are available. In the 2002 registration, the 2003 election and the 2006 registration update, notification was neither timely nor sufficiently publicized. Given difficulties of communication in rural Yemen, NGOs and political parties need approximately 45 days to recruit and train volunteers and collect applications and photos, as well as to distribute badges once approval has been received.

Third, and of particular concern, was a statement issued by a member of the SCER, accusing one of the monitoring NGOs of being biased towards an opposition party. The commissioner is quoted in the on-line outlet of the official newspaper Al-Thawra⁵ as saying the NGO (which he publicly identified in his statement) “is not motivated by concerns for a fair and free review of voters’ lists but by its aims to legitimate the antagonistic position of those political parties toward the SCER.” Public statements such as this one create an environment of suspicion toward monitoring NGOs that impedes their ability to monitor. NDI received reports that, in response to this accusation of bias, directives were issued by a number of main committees ordering the sub-committees not to provide access to any NGO monitors. Concerns about the affiliation or action of monitors should be addressed during the accreditation process. If such concerns arise subsequent to the accreditation process, they should be addressed through established electoral reporting channels, not in the press. The NGO of concern should then be able to respond through established response and/or appeals processes.

Finally, the decision of the SCER to allow political parties only two monitors per parliamentary constituency limited their oversight of the registration process. The average number of registration centers in a parliamentary constituency is 18; many parliamentary constituencies have a great deal more. The limitation on number of party monitors encouraged parties to work through NGOs or to attempt to influence monitors. NGO leaders were told by monitors that they were coming under pressure from local political leaders to alter their findings. Such manipulation of NGOs by parties is not in the interest of Yemen’s democratic development.

While many countries provide guidelines on the number of poll-watchers (party and NGO) allowed at polling centers, the guidelines are generally meant either to ensure that observers are not disruptive of the electoral process or to protect observers in potentially dangerous election day situations. In most countries, political party representatives are allowed access to virtually all voting sites. Regulation of monitors of any type should be used only to address a specific problem and should be exercised in a way that does not undercut transparency and public confidence. Given that political parties in Yemen did not have representatives on the committees during this registration as they had in previous periods, the limitation of party monitors contributed to the climate of distrust.

Recommendations

NDI encourages all of the signatories to the June 18 Agreement to continue dialogue and work to fully implement its articles. The Institute further recommends the following steps be taken to improve the environment in which elections will take place:

- Parliament and the government take steps to clarify the enforcement authority of the SCER. Without enforcement of election law and regulations, the supervisory, main and

⁵ Al-Thawra Net 4/29/06

sub-committee members as well as local officials and party representatives will not be deterred from violating the law.⁶

- The SCER initiate an active public education campaign before future voter registrations to discourage underage registration;
- The SCER improve the training of registration and elections committee personnel, including the right of observers to have full access to registration/polling centers;
- The SCER institute training for *amin/akels* and security;
- The SCER detail fully for NGOs and political parties the process by which military troops were assigned to certain centers to register and publicize a list of registration centers to which troops were moved; and.
- The SCER remove those overly restrictive requirements for monitoring accreditation, which were adopted but are not in the law from the observer accreditation process.

NDI also encourages the SCER to take the following steps to improve relations with opposition parties and build confidence in its ability to act in a professional and impartial manner in the upcoming elections:

- Establish a policy by which the SCER will respond and react to public statements by SCER commissioners who write or speak in favor of any party or candidate or against any party or candidate.
- Establish programs which will provide opposition parties access to the official media to present opposition critiques of government policies and their proposals for reform during the campaign period as well as remove the very tight restrictions over parties' abilities to criticize government policies and the manner in which they put forward their programs; and
- Open the supervisory and main committees to full monitoring of all nominations, campaign and election day procedures by political parties and NGOs

Conclusion

The people of Yemen and the country's political leaders have expressed their commitment to achieving pluralistic political competition, women's full participation in the political process and democratic governance. The 2006 registration update revealed that significant challenges continue to hinder the advancement of democracy and political reform. NDI views the recent efforts embodied in the June 18 Agreement as a positive commitment to democratic reform. The Institute stands ready to assist the SCER and the political parties in implementing the June 18 Agreement and in instituting procedures that will improve the political and institutional environment in which the September presidential and local council elections will take place.

⁶ A recent court decision has undercut the SCER's authority over supervisory, main and sub-committee members. After the SCER issued a public statement that it would prosecute committee members who violated the law during a by-election in January 2006, the winning candidate filed suit against the SCER. He claimed that the SCER, by charging committee members, was challenging the legitimacy of his win and therefore damaging his reputation. The court ruled in favor of the candidate and against the SCER. The SCER says it will appeal. However, the process will be likely be slow and in the mean time, the ruling publicly undercuts the SCER's authority over supervisory, main and sub-committee members.

Agreement between the GPC and JMP
06.18.06

Agreement on principles to conduct free, fair, transparent, and safe elections in the upcoming presidential and local council elections between the GPC and JMP

As Yemen in this stage is up to the most important democratic event in the political life and democratic practice which is the presidential and local council elections... and as political parties- signing this agreement- are aware of the national responsibility they hold in practicing their constitutional right which is built upon pluralism and peaceful transfer of power, and responding to the call of serious dialogue directed by his Excellency the president of the republic Ali Abdullah Saleh, and reinforcing the democratic process, and because of political parties' concern to actively and seriously participate in the upcoming presidential and local council elections to reflect the reality of pluralism and the achievement of the principle of peaceful transfer of power in responsible democratic atmosphere with absolute awareness that competitive elections do not mean antagonism as much as they mean being ready and working hard to serve the people in the best possible manner and deepening the principles of partnership and democracy and confirming that dialogue is a tool of development and transformation in all aspects of life.

For that the political parties agreed upon the following:

First: the SCER:

It was agreed to add 2 members from JMPs to the current SCER structure. For that the political parties in parliament should provide a proposal to amend article, 19 Clause "A" of the law no 13 for the year 2001 regarding elections and referendum. The proposal should include amendment request to expand SCERs structure from 7 to 9 members from amongst the 15 member list that were already nominated by the parliament.

Second: Formation of the elections commissions:

It was agreed to form the supervisory, main and sub elections commissions according to the law in the upcoming presidential and local council elections based upon 54 percent to GPC and 46 percent to the JMP.

Third: The Voter Lists Record:

It was agreed to form a legal professional team from the GPC and JMP to be approved by the SCER. This team will examine the voter Lists Record and take necessary legal procedures to transfer any legal violations in the Record (voters' lists) to the court aiming at clearing them from the record. The SCER should allow this team to start its mission as soon as possible.

Fourth: Neutrality of State Media:

1. Giving all political parties participating in the elections and the presidential candidates equal and enough space in the state run media to present their platforms and express their opinions. This right shall not be restricted except in matters that come to individuals' private lives or their honor. Any person working in the public media who shall violate the principle of neutrality shall be fired. SCER should itself observe the neutrality of the state-run media and receive and handle complaints from political parties and candidates and refer those who are proven guilty to administrative or judicial investigation according to a clear and transparent mechanism identified by SCER.

2. SCER should make a media plan to ensure neutrality of state-run media according to the Law.

Fifth: Neutrality of Public Office:

The public office should not be used for the interest of a particular political party. All district directors, governors and security and military leaders should be committed to neutrality towards the competition between political parties and candidates in the elections and not perform any campaign activities for or against any party or candidate during the electoral.

Any official or person holding public position is prohibited from donating or promising any project from public money during the elections campaign. The SCER itself should monitor the neutrality of public office and receive and handle complaints from political parties and candidates and refer those who are proven guilty to administrative or judicial investigation according to a clear and transparent mechanism identified by SCER.

Sixth: Public Money:

Using public money for a particular political party or candidate during elections is prohibited. The money allocated according to the law for presidential candidates should be distributed equally amongst all candidates under the observation of the parliament. Apart from that it is prohibited to spend public money or from the budgets of ministries, associations, companies and public authorities on elections campaigning. It is also prohibited to use public facilities, mosques and prayers' places for elections campaigning for or against any political party or candidate during campaigning. The SCER itself should undertake supervising and monitoring that. Those who prove to violate this during the elections campaign should be ceased from his job and referred to administrative or judicial investigation according to a clear and transparent mechanism identified by SCER. Local donations should be handled in a transparent way according to the law. Any outside donation is prohibited.

Seventh: Neutrality of military and Security Forces:

The Supreme leader of the Military Forces should issue a directive to military and security forces to confirm the right of military and security forces to practice their political right in running for office and voting. Military and security leaders are prohibited from forcing or compelling the individuals to vote for any political party or candidate. Campaigning is prohibited inside military and security units and locations. This directive should be published in state-run and military media.

Eighth: Security Commissions:

The tasks of the security commissions of the SCER and the security commissions under those commissions are limited to protect the security of voting centers. They are prohibited from interfering in the electoral in any manner. They should report to and receive their directives, orders and instructions from the SCER. They should be headed by a member of the SCER.

Ninth: Political Party Observation Commissions:

Political party observation commissions shall be formed from all political parties. Every political caucus should be represented by one observer in all voting centers. The observers shall not interfere in the electoral process. Funding for this procedure shall come from government fund for the electoral process.

Tenth: Transparency:

1. SCER shall inform the political parties and the public about all the steps it takes related to its tasks.
2. Provide electronic versions of the voter lists records archived at the SCER to political parties-upon their request.

Eleventh: The Role of Women in the Democratic Process:

The role of women in the democratic process should reflect the leading Yemeni civilization spirit and renew the human and dynamic balance in the mutual relationship between men and women. For that Yemeni women and their constitutional and legal rights should be supported without any undermining in any manner, morally or financially. That is because women are the sisters of men. All political parties should make women's political participation a national, human and civilized goal.

Twelfth: things agreed to be addressed after the upcoming presidential and LC elections:

The following amendments to the law were agreed upon:

1. Re-forming the SCER so that all its members should be judges who are known for their qualifications, and impartiality. The mechanism of nominating and choosing them shall be agreed upon... their rank should not be less than appeal court judge.
2. Restructuring the administrative and technical body of the SCER according to civil service conditions and criteria. This should include SCER branches in governorates (announcement of vacancy and competition amongst those who meet the conditions).
3. Electoral judicial guarantees.
4. Finalizing the process of making a civil record of all administrative units which should be a reference to voters' lists.

Implementation of this agreement shall start as soon it is signed.

Sanaa

Sunday 06.18.06