

ELECTORAL FRAMEWORK

In the lead-up to the April elections, Yemen initiated an effort of electoral professionalization, which included adopting a new election law, appointing a new national elections commission, and replacing the old voter rolls.

The General Elections and Referendum Law

The April 27 elections were conducted under a new electoral code adopted by Parliament in November 2000 and ratified in a national referendum in February 2001. The adoption of the General Elections and Referendum Law represented a step forward in enhancing the institutional framework for elections in Yemen. Despite improvements, there are still articles in the law and electoral procedures that should be reconsidered. Of continuing concern are the following:

Provisions which allow voters to choose among multiple voting locations, thus making for greater possibility of vote fraud.⁷

An appointment process of commissioners which leads to an overly politicized election environment. (The SCER handed over to the parties its authority to establish the formula for party representation on elections commissions. This led to almost three months of bitter fighting between the parties.)

The requirement that all three election commissioners be present for the counting to begin or continue. (This requirement made it possible for a party representative on the commission if his candidate was losing to stop the count by simply leaving the vicinity.)

- The limited time allocated for parties and individuals to review registration and election data, file complaints, and meet the various requirements for candidate nominations.

Lack of clarity regarding which government or civil service employees must resign their positions before filing for candidacy.

- Lack of clarity regarding procedures for verifying citizens' eligibility to register to vote. This opened the door to numerous instances of underage registration.

Legal procedures pertaining to election complaints, including the lack of an appeals process, which contribute to widespread perception of unfairness and mistrust of the system.

The Supreme Commission for Elections and Referenda (SCER)

As part of the government's effort to improve elections in Yemen, a new elections commission of seven members was established. This commission received high marks for its technical and administrative steps in administering the 2003 parliamentary elections.

The seven commissioners were selected by the president from a list of 15 candidates nominated by Parliament, with the parliamentary list to be drawn from lists provided by the parties. (Prior to changes to the law in 1996 there had been 11 members, including one woman member.) The members serve a four year term. The chairman and heads of the External Relations and NGO Affairs Departments, the Legal Department and the Technical Department were GPC members; the head of Research was from the YSP; the head of the Media Department was from the Democratic Nasserite Party (allied with the GPC); and the Vice-Chairman was from *Islah*.

⁷ Citizens could register at their residence, their place of employment or the residence of their families.

The law stipulates that the SCER is to be politically independent and is to remain impartial in its activities. It was NDI's assessment that the SCER was mostly independent. The areas in which the SCER appeared to be less than fully independent were in its oversight of the media and the assignment of commission chairs (both discussed below).

The SCER made considerable strides in developing a more professional electoral administration. A weak administrative capacity and lack of an institutionalized managerial culture compromised, in part, the commission's effectiveness. The SCER was plagued by over-centralization at the national level and over-politicization in the sub-level commissions. Problematically, the SCER espoused a very restrictive view of its own authority to limit election violations, seeing itself as an institution that implemented rather than enforced election laws. No election commissioners were removed or sanctioned despite numerous complaints about their behavior. Nevertheless, the improvements in the administration of elections were significant and were strongly commended by virtually all international staff working with the commission in Yemen.



Despite the substantial improvements in electoral administration since 1997, relations between the SCER and opposition parties were strained during the pre-election period. Mistrust, based on a history of close ties between elections commissions and the ruling party, and the limited transparency with which the SCER worked during the voter registration campaign, hindered the commission's ability to work with opposition parties.

In many instances the SCER's efficacy as a more professional commission was also compromised by the weak administrative capacity of Yemen institutional structures. In most public bureaucracies in Yemen procedures and formal hierarchies are compromised. Work is organized around reporting relations that are vertically structured rather than around work flows. The failure to delegate limits the completion of tasks. Information technology is also underutilized. The SCER commissioners have all expressed a strong desire for international administrative and management support and training.

Electoral Infrastructure

The SCER infrastructure is comprised of 20 three-member supervisory (governorate level) commissions, 301 three-member main (parliamentary level) commissions, and 5,624 voting centers which housed anywhere from two to seven or eight men's and women's sub-commissions. The main commissions have oversight of the nomination and campaign periods as well as oversight of the voting commissions. The main commissions are also responsible for compiling the results of the voting from the voting centers and announcing the results in their constituencies.

One of the first steps taken by the new SCER was to more than double the number of voting centers. The number of centers in a constituency was based on population (no center was supposed to have more than approximately 2000 voters), distance (no voter was supposed to have to travel more than half an hour to vote) and tribal considerations. For example, constituency 279 in Marib had 69 centers, constituency 275 in AlJauf 56, whereas constituencies in urban Sanaa had at most 15 centers. Ease of access was a major factor in the increase in registered voters, particularly of women voters.

The composition of the supervisory, main, and voting center commissions presented a major problem in the elections system. The election law gives the SCER responsibility for "developing criteria to govern the formation of the various election committees in consultation with all political parties and organizations."⁸ The SCER chose not to exert its authority, however, and left the decision on a formula for party representation on the commissions to be negotiated by the parties. NDI, IFES and the technical officers of the UNDP worked with the parties to develop a formula which would promote the de-politicization of the sub-commissions while maintaining equitable representation of the parties to safeguard their interests and build confidence in the elections process. The formula proposed by the international community with the intent of establishing political balance was 33.3 percent of seats to be allotted to the ruling party coalition, 33.3 percent to the opposition coalition, and 33.3 percent to the SCER.

The ruling GPC, however, was unwilling to negotiate such a large drop in its share of seats and the final formula agreed upon assigned 44 percent of total commission seats to the GPC (52 percent including its partners in the National Opposition Council), 40 percent to the JMP, and the remainder to other actors, including GPC allies and the SCER. The JMP seats were allocated 20 percent to *Islah*, 11 percent to the YSP, four percent to the Nasserite Unionist Party and 1.5 percent to the National Baath, with 3.5 percent to others. The SCER was allocated eight percent of seats under the final agreement.

The process of developing a formula for party representation on the commissions was problematic on several grounds. One, it absorbed the attention of the parties and the SCER when other equally important issues required attention. Two, it emphasized the partisan nature of the commissioners rather than their neutrality. Three, the designation of chairs of commissions, especially the important counting commissions, was not made by the SCER in an open and transparent manner and led to suspicion that the assignments went disproportionately to members of the GPC.

⁸ Article 23, paragraph d.

The Voter List

The October 2002 voter registration campaign was the first test of electoral reforms. The registration was considered a successful endeavor on the part of the Yemeni government and elections officials: over 8 million Yemenis were registered to vote during the campaign -- an increase of 66 percent. Women's registration rose significantly to 41 percent of registered voters, compared to 32 percent on the previous voter rolls. Domestic election monitors were given full access to the registration process and fielded over 3000 monitors around the country. Nevertheless, the registration process was marred by allegations of mismanagement, poor training of the higher supervising commissions and a high incidence of violence. Over 400 incidents of violence and seven deaths were reported. Of particular concern was the extremely high rate of underage registration. Estimates range from 100,000 to 400,000 (figures are based on estimates by the SCER and independently-designed statistical models). Some underage registration was the result of overly zealous registration commissioners' efforts to make their centers look effective. Some was the result of armed pressure by local figures. Some appeared to have been orchestrated by the parties themselves. NDI received numerous reports that a minister was actively encouraging the registration of underage high school students.

The SCER initially suggested removing individuals from the voter lists if they appeared in their photos to be underage. NDI and other international organizations advised against such action due to the possibility of inadvertently disenfranchising a significant number of eligible voters. The SCER was unable to find a legal solution within the given timeframe. It should be noted, however, that the SCER was anxious to correct this problem when it was brought to its attention.

Ballots and Training of Commissioners

The SCER took significant steps in the lead up to the elections. In addition to a relatively successful voter registration effort, ballots were printed with a minimum number of errors and the parties were invited to review them before election day. High quality ink was purchased and was tested by the international technical advisors, and new transparent plastic ballot boxes with security ties were purchased. Equally important, with the assistance of UNDP technical officers, IFES and NDI, the training of the commissioners was greatly improved.



Nevertheless, the main commissions and the sub-commissions did not achieve anywhere near the same level of proficiency and accuracy in managing the election operation as the national commission. An additional and serious gap in the elections preparations for the 2003 elections was the failure to train the military for their security role.

Role of Security Forces

National security forces have historically been closely involved in the electoral process in Yemen. The government has in the past explained, with possible justification, that the military is the only institution with the capacity to handle communications on election day, particularly in rural areas. Because the military has been seen to be close to the President and the ruling party, involvement in past elections has raised questions about the appropriate role of the military and what affect this role has had on the reality and the perception of impartiality in the administration and outcome of the elections.

Although the election law stipulates that the security services can assist with the administration of elections -- although only under the control of the civilian election authority -- the department responsible for handling election-related complaints within the SCER was headed by a military general appointed by the President. During voter registration, military personnel also staffed the supervisory-level operations rooms that oversaw problems and communicated complaints to the operations room at SCER headquarters.

In response to concerns raised by the international community in this regard, the SCER committed to the establishment of a committee of civilian staff members from its various departments (legal, technical, media and external relations) at the national level. The SCER argued convincingly, however, that such a step could not be taken at lower administrative levels in time for the 2003 elections, but would be implemented before 2006. The committee was to be responsible for solving issues raised by the main and supervisory commissions and to route problems to the appropriate departments of the SCER for further discussion and action. The role of security forces in the operations room at the national level was to be limited to handling security problems, providing logistical support, and facilitating communications with and from the field. The SCER also announced its willingness to allow trained and accredited observers access to the operations room.

Although it seemed the oversight committee was not set up, the SCER did take positive although still incomplete steps toward removing the military from the decision-making process. Many (although not all) problems were sent up to the Chairman of the SCER for resolution. The decision as to which problems merited response, however, remained in the hands of the President-appointed General. The SCER did, it should be noted, meet its commitment to allow international and domestic observers access to the operations room.

In addition, the SCER sent a directive to all military and security officers serving in the operations rooms of the supervisory commissions. This directive reiterated that they served under the direction of the civilian members of the supervisory commissions and that they were not permitted to make decisions or take any action on their own. While some positive steps to lessen the role of the military in election administration were taken in the pre-election period, the role of the military in future elections and appropriate training of security forces will merit continued consideration.

Voter Education

With UNDP financial and technical support, the SCER initiated broad voter education campaigns for the registration and election periods. In addition, several local NGOs developed campaigns targeting women and encouraging women of voting age to register and vote. The dramatic increase in women's registration suggests that these efforts had a significant impact. Traditionally, the SCER has designated pages in all official newspapers to carry its voter education program. It should be noted that for the first time the SCER, in collaboration with the UNDP, ran its voter education materials in the political party papers as well as in the official media. The voter education efforts focused primarily on encouraging voters to take part in the elections. Yemen is still a very traditional society with high rates of illiteracy. Tribal leaders and social figures have a very strong influence on how Yemenis cast their votes. Therefore, future voter education campaigns should address not only the significance of registering and voting and the mechanics of voting procedures, but also the importance of making one's own decisions about the candidates.

THE NOMINATION AND CAMPAIGN PERIOD

Nominations

The official candidate nomination period took place from March 25 to April 3, 2003. The main commissions of the SCER approved 1,707 applications for nominations during the nomination period – 1136 nominations by political parties and 571 by Independents. Some of these independents were actually party-supported; in contrast, some party candidates were actually independents who chose to run under the umbrella of a party to avoid the nomination requirements of independents.

The nomination filing procedures were one of the more problematic areas in the recent elections. NDI received credible reports of local officials, judges and main commission members who were not fulfilling their responsibilities in an independent and professional manner with regards to nomination and candidacy withdrawal procedures. As in previous elections, there were also credible reports of GPC efforts to force candidates to drop out, including women candidates. Only 13 women were accepted as candidates and by the time of the elections two women had dropped out of the race.

The majority of Yemenis are not party affiliated and there were many independents who ran for office in previous elections. In 1997, 3,700 independents entered the race and 54 won. Women, in particular, have run as independents. In the local council elections in 2001, many of the women, after proving their campaign viability by running as independents, were asked to become a party's candidate. The new election law stipulated that independent candidates, unlike party candidates, must submit a petition signed by 300 registered voters representing the majority of electoral centers in their constituency. The law further stipulates that such voters could not have signed a petition for another candidate. In implementing by-laws the SCER required (1) that local authorities must testify that the signer lives in the district and (2) that the signer must verify their signature before a judge. These requirements served as a barrier for women since their female supporters had less ability to move outside a restricted area. It also effectively disenfranchised poor and remote voters who lacked the resources to travel to centers to verify their signatures before judges. Given these requirements many genuine independents found it very difficult to collect and verify signatures in the short period allotted.

The requirement that individuals holding certain government positions must resign at least three months before filing for candidacy affected party and independent candidates alike. There was widespread confusion as to which positions fell under the terms of the law and suspicion that main commissioners were interpreting the law differently in different constituencies and for different individuals.

Finally, it should be noted that Yemen law bars some citizens from candidacy on the basis of religion. The electoral law stipulates that a candidate for parliament must be a Yemeni citizen, at least 25 years old, literate and a practicing Muslim with good character and conduct. While the number of non-Muslims in Yemen is very small, this provision does mean that some Yemenis are less than full citizens. (Participation on election commissions in contrast is not legally limited to Muslims.)

Campaigning

The campaign period officially ran from April 8 to April 26. No parties boycotted the elections and no parties were excluded from participating. Campaign activity was spirited, with parties and their supporters actively campaigning for the candidates. Campaign restrictions, such as the prohibition against the use of loudspeakers, were widely disregarded. Election law regulations regarding the posting of campaign materials were also flouted and NDI is unaware of any party or candidate being fined or punished for such violations.

In general, campaign strategies showed a growing sophistication. *Islab* continued to lead in the use of modern campaigning tactics. Local branches used surveys and polls to identify potential candidates and campaign issues. Door-to-door canvassing was used for the first time by *Islab* candidates and reportedly was effective in garnering urban support for the party.

Resources for campaigning by parties derive from a mix of government funds, party membership fees and individual donations. Tracking of funds is virtually non-existent and the only restrictions on campaign funding sources is the prohibition against foreign funding. The Yemen government support to parties is based on membership in parliament. Five hundred million riyals are distributed quarterly.⁹ Twenty-five percent is divided equally between all parties in parliament and the remaining 75 percent is divided based upon popular vote in the most recent parliamentary elections. Opposition parties acknowledge that the formula and timing are followed. They have two complaints, however. One, 130 million from the 500 million is set aside for distribution by the office of the president; and two, the amount has not been increased since it was established 10 years ago, despite devaluation of the riyal.

There were many credible reports during the campaign period of unfair usage of government resources, including the use of public vehicles to transport ruling party supporters to rallies and the issuing of permits to GPC candidates to use public schools for rallies while denying opposition candidates equal access. The 2001 election law clearly stipulates that educational facilities may not be used for campaign purposes unless “the supervisory and main commissions ...authorize in writing equal use ... by all candidates.”¹⁰

Instances of undue influence were also reported, including allegations that principals in government schools were putting considerable pressure on their students to vote for the GPC. In one well-documented case, the principal of a school told the students that he had received instructions from the Ministry of Education to do so. The SCER chairman spoke directly with the Minister of Education in the presence of international representatives and requested a directive be sent to all high schools instructing principals and teachers to refrain from trying to influence voting. NDI also received reports that *Islab* affiliated principals and teachers were pressuring students.

⁹ Approximately 2,717,000 USD.

¹⁰ Articles 41 and 42.

Media Access

Yemen's General Elections Law gave the SCER control over all state run media (TV, Radio and Newspapers) during the entire campaign period. As a related provision, the SCER was responsible for ensuring equal access to all political parties that had at least ten candidates campaigning in the elections. This access included fifteen minutes before and fifteen minutes after the evening news broadcast on national television to present party platforms, as well as space in government-controlled newspapers.

NDI received no complaints about the provision of equal and comparable time. However, the control of content was very restrictive and effectively undercut the spirit of the law. Any criticism of government policies (which by implication meant criticism of the GPC) was cut before airing and parties were not allowed to do anything other than read their platforms during their allocated times; no graphics or pictures of demonstrations or other comparison material were allowed. For independent candidates the only access to official state media was when their names and photos were published in the newspapers and announced on television.

Complaints that election officials were failing to control the official media's reporting of activities surrounding government projects were dismissed with the comment that *Islah* illegally used the mosques to promote its party candidates. Yemen law is very clear: mosques and prayer areas "may not be used for election campaigns in whatsoever form and/or capacity."¹¹ Mosque preachers, whether authorized or encouraged by *Islah* or not, did call on those attending prayer services to not vote for the infidel, the non-believer -- easily interpreted as a rejection of the ruling party candidate. The decision to allow both sides to level the playing ground by ignoring the law, however, was regrettable.

¹¹ Article 41