



USAID | **YEMEN**
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YEMEN CORRUPTION ASSESSMENT

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Finally, as this report notes, there are indigenous reformers in Yemen who are serious about confronting corruption. We wish them well, for they have Yemen's long-term interests at heart.

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COVER PHOTO: The city of Sana'a, courtesy of Jeff Gray, ARD, Inc.

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ACRONYMS AND ABBREVIATIONS

ABA	American Bar Association
AG	Attorney General
APSA	American Political Science Association
ASYCUDA	Automated System for Customs Data
CID	Criminal Investigative Department
CIT	Corporate Income Tax
COCA	Central Organization for Control and Audit
CSF	Civil Service Fund
CSIS	Center for Strategic and International Studies
CSO	Civil Society Organization
CV	Curriculum Vitae
DFiD	Department for International Development (UK)
DG	Democracy and Governance
EQUIP-1	Educational Quality Improvement Program
EU	European Union
FoIA	Freedom of Information Act
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
GFMIS	Government Financial Management Information System
GNI	Gross National Income
GPC	General People's Congress (ruling party in Yemen)
GST	General Sales Tax
GWOT	Global War on Terror
HSC	Homeland Security Council
HTB	High Tender Board
IFC	International Finance Corporation
IFES	International Foundation for Election Systems
IMF	International Monetary Fund
IT	Information Technology
JMP	Joint Meeting of Parties
LTU	Large Taxpayers Unit
MCA	Millennium Challenge Account
MCC	Millennium Challenge Corporation

MECO	Military Economic Corporation
MEPI	Middle East Partnership Initiative
MIS	Management Information System
MoE	Ministry of Environment
MoF	Ministry of Finance
MoH	Ministry of Health
MoJ	Ministry of Justice
MoLA	Ministry of Local Authorities
MP	Member of Parliament
NAFC	National Authority for Fighting Corruption
NDI	National Democratic Institute
NGO	Nongovernmental Organization
NPM	National Procurement Manual
PDRY	People's Democratic Republic of Yemen (South Yemen)
PFC	Public Funds Court
PFM	Public Finance Management
PFP	Public Funds Prosecution
PMIS	Procurement Management Information System
POGAR	Program on Governance in the Arab Region (UNDP)
PR	Public Relations
PSO	Political Security Office
PWC	PriceWaterhouseCoopers
RFP	Request for Proposals
RoYG	Republic of Yemen Government
SBD	Standard Bidding Document
SCER	Supreme Council for Elections and Referendum
SDF	Social Democratic Forum
SJC	Supreme Judicial Council
TCP	Threshold Country Program
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Program
USAID	United States Agency for International Development
USG	United States Government
WCO	World Customs Organization
WTO	World Trade Organization
YECO	Yemen Economic Corporation
YPAC	Yemeni Chapter of the Parliamentarians Against Corruption
YR	Yemeni Rial
YSP	Yemeni Socialist Republic

EXECUTIVE SUMMARY

THE POLITICAL ECONOMY OF CORRUPTION IN YEMEN

A precarious balance between tribe and state has existed in Yemen ever since the creation of a modern state after the 1962 revolution. Tribes have been and continue to be predominant political players in the country. The state's military and security apparatuses have come to reflect tribal interests, and a tribal parasitic bourgeoisie reliant on state contracts has emerged and further captured state resources for private gain. Unification in 1990, and more important, the north's clear victory over the south in the 1994 civil war, have further consolidated the hold of Yemen's predominantly northern tribes over state resources.

A system of grand corruption has emerged over the last several decades thriving on the combination of weak state institutions and a fragmented elite structure. In the absence of strong state institutions, informal patronage networks have proliferated. Indeed, patronage networks cripple what little capacity state institutions have. Allies are rewarded and other elites pacified by grand patronage payoffs in exchange for political quiescence. Yemen's recent oil wealth is the main source of state patronage. The fact that Yemen's oil is projected to run out in about a decade's time suggests that the current structure of corruption is not sustainable. Economic growth, not compatible with grand corruption, is needed for basic needs and services to be met and for the state to be sustainable in the near term. Failing that, significant political instability may be on the horizon.

There are five main elite groups that profit from the structure of corruption in Yemen. The two most important are also the two with the most overlap: tribes and the military-security establishment. Leaders of key tribes constitute the lion's share of top military and security officers. A similar pattern is found in the security forces. Yemen's military controls an extensive array of commercial activities, some legal and some extra-legal.

A third powerful elite group is the business community. The traditional business elite are non-tribal, and they have remained important players in this new political economy. However, their relative decline and their generally pessimistic view of Yemen's future have prompted some businesses to leave the country. In addition, a parasitic bourgeoisie of tribal businesses has grown in recent years and derives virtually all of its income from state contracts, often awarded under corrupt circumstances.

"Dispensable" elites consist of the technocratic class that remains essential to run the state in a relatively modern way, and regional elites that enjoy high status within important local constituencies. The state has far more ability to promote and demote individuals within these elite groups than it does with tribal, military and business elites. Unlike the more important elite groups, these two groups have little aggregate power to act collectively and, therefore, they reflect neither a significant political threat nor significant political promise at this point.

There are four primary mechanisms by which grand patronage is distributed in Yemen. One mechanism is through the national budget. The national budget contains some discrete payoffs to favored groups, such as tribes, and allocates vast resources to the military—reportedly through a single line item in the budget. There is no meaningful oversight of the budget provided by Parliament, which, in any case, is only allowed an up or down vote on the budget. The power of the purse rests with the executive branch, and is exercised primarily through the Ministry of Finance. Because of the way the Republic of Yemen Government (RoYG) forecasts oil revenues, end of the fiscal year supplemental budgets are substantial and entirely discretionary.

The other three principal mechanisms to distribute patronage are the procurement system, the military-commercial complex, and the General People's Congress (GPC) party machine. While reform is starting to occur in the procurement process, in recent history procurements were very often done without open and competitive bidding, and with little transparency or accountability. The tendering process could easily become a means to reward favored allies with lucrative contracts. In addition to the budget process, military elites are rewarded financially through their control of extensive commercial enterprises. Other resources allocated to military elites via the phenomenon of 'ghost soldiers' are reportedly resold on the open market for profit. The GPC distributes resources to regional and other elites in order to keep them in the political fold.

Other factors are typically not defined as corruption *per se*, but do create an enabling environment in which corruption may flourish. Those enabling factors in Yemen include the extensive presence of poor administrative practices or maladministration, the low quality of Yemen's educational system, an electoral system that encourages the worst forms of parochial interests and identities and the largely systematic (albeit cultural) exclusion of women from public affairs.

The expected diminution of oil wealth in Yemen in the next decade, and therefore the sharp decrease in patronage resources available for distribution, leads to two rational elite strategies to maximize interests. The first strategy would be to 'take while the takings are good' and then exit the system and perhaps the country when oil wealth runs out. A second strategy is one of enlightened self-interest. This strategy would encourage reform, especially vis-à-vis corruption, in order to encourage investment and growth in the total amount of resources available in Yemen. In this way, a smaller slice of a much larger pie could yield bigger dividends to elites, as well as to the state, over time. Indeed, this is the logic that a growing number of elite reformers are using to advocate reform in Yemen today. Legislative reforms are proceeding apace and there is hope that, if the momentum is maintained, the transition to a truly modern state may have already begun.

The ultimate success of corruption reform in Yemen depends on a classic struggle between the compelling logic of reformers and the material interests and power of those who benefit from corruption. The structure of political power in Yemen is fundamentally based on patronage flows to fragmented elites who would otherwise have little interest in maintaining the status quo. Thus, grand corruption is not a tangential phenomenon. Reformers face a fundamental challenge from those with vested interests in the current system. Until recently, reformers have focused their attention at the level of administrative corruption (petty bribes, ghost workers, etc.). More recently, however, reform efforts have started going after the bigger picture, with efforts to establish a new High Tender Board (HTB) for major procurements. If implemented appropriately, such a reform could deny income to major beneficiaries of corruption while creating new sources of revenue for the state by inspiring confidence in new potential investors.

Even with the backing of the donor community, elite reformers face a great challenge in fundamentally changing the system of corruption in Yemen. The process of reform is likely long and arduous and can only succeed in gradually shrinking the arenas of corruption with strong political will from the highest levels of power.

GOVERNMENT SECTORS AND INSTITUTIONS

Judiciary and Law Enforcement. Fundamental judicial reform is important if Yemen hopes to reduce corruption and improve the country's investment climate. Increased transparency, integrity and accountability in the judiciary will increase local and international investment in the private sector and thus contribute to the economic growth Yemen so desperately needs. Police are widely viewed by Yemenis as among the most corrupt state agencies in Yemen. Historically, the lack of judicial independence from the executive branch is the key factor limiting the judiciary's ability to rein in major corruption. The anticorruption assessment team found that the sentiment toward reform is now more widely shared beyond a certain strata of high-ranking judges who were relatively isolated and lacked the power to push for change. The Supreme Judicial Council (SJC), as recently reconfigured under new leadership and no longer presided over by President Saleh, appears supportive of more far-reaching change. The current Minister of Justice as well as the Attorney General also

support judicial reform. Specific recommendations are made concerning enhanced judicial independence and administrative reforms in the Ministry of Justice (MoJ), the Judicial Inspection Board (JIB), the High Judicial Council and the Public Funds Courts (PFCs).

Parliament. Parliament has considerable potential but a long way to go in exercising its general transparency and accountability roles as the legislative branch of government. Embedded in these larger roles are Parliament's more specific contributions to anticorruption in Yemen. In particular, given the efforts of some committees, oversight is perhaps the most promising function related to anticorruption. There is a tendency in much donor parliamentary-strengthening work to focus on a Parliament's budget review capacity and infrastructure. This is inspired both by the (correct) assumption that the ultimate source of corruption and approach for anticorruption is financial and by the US Congressional model, where the legislature is the source of the budget. In Yemen, however, the legislature has limited constitutional budget authority and limited political influence. Recommendations are made concerning means to reform the budgeting process, to build parliamentary capacity both as an institution and in terms of individual members of Parliament (MPs) and to undertake specified administrative reforms.

Civil Service. As the ministry that manages employee affairs for most government agencies, the Civil Service Ministry, was particularly prone to administrative corruption based on employment. A recent finding by this ministry found that up to 30,000 of its employees (out of 473,000) were 'ghost workers' who never showed up for work, or 'double dippers' who were on more than one payroll. With the assistance of the World Bank, the civil service has undertaken the Civil Service Modernization Program. Included in this project are a new management information system (MIS), biometric identifications to prevent ghost workers and double dippers, payroll reform and a program of early retirement as a cost savings measure. Recommendations are made regarding capacity building, implementation of performance-based reviews and rationalization of the evaluation and promotion systems in the civil service.

Supreme Audit Institution (COCA). The Central Organization for Control and Audit (COCA) is an anomaly in an otherwise weak set of state institutions. By comparison to other ministries and agencies, COCA appears to have a sufficient number of competent and professional staff. As the lead government auditing institution, this relative advantage in institutional capacity is important. Still, COCA does not appear to be fully independent of the executive branch, and the cases it has chosen to prosecute, and those that it has not, have caused some concern about overly political prioritization. COCA's relationship with Parliament and the PFCs is not yet systematic and rationalized, and constitutes fertile ground for reform measures and assistance for such measures by the donor community. Recommendations include assistance to enhance anticorruption measures through the institutionalization of relations between COCA and both Parliament and the PFCs; enhanced auditing capacity of those ministries with a reputation for corruption, or those that have especially large budgets or are involved in economic development activities; and capacity building in monitoring and enforcement and enhancement of COCA's activities within the Ministry of Oil, as that ministry oversees Yemen's primary producer of government revenues.

Anticorruption Agencies. Legislation was recently passed to establish an independent National Authority for Fighting Corruption (NAFC) that will be charged with overseeing all government activity pertaining to corruption. While most parties welcome this development, there is concern over the extent of NAFC's independence from the executive branch. A previous draft proposal calls for the president to select its nine members from names forwarded from Parliament and the Shura Council. Thus, the GPC, as it controls both houses, will effectively choose the members of the NAFC, diminishing at least the appearance of independence. The assessment team is concerned that this entity could potentially cause bureaucratic confusion and disappointment if it does not perform its expected roles. In addition, Yemen has engaged in a media and awareness campaign on corruption. The Ministry of Planning's efforts, with USG assistance, should be expanded to rely more on civil society NGOs and to better reach rural as well as urban areas. Recommendations include harmonizing the NAFC law with laws governing related institutions such as Parliament, COCA and the PFCs; monitoring the development of the NAFC, especially the extent of its

independence, and supporting its work if it appears to be fruitful; and support for the anticorruption awareness campaign by developing metrics to gauge its effectiveness.

Regional and Local Government. While corruption exists at subnational levels, the amount of public funds susceptible to corruption in local administration is much less in the aggregate when compared with sectors such as health, education and agriculture. Local councils in particular, but also administrators, have a long way to go to build their capacities to play the active planning, budgeting and monitoring roles envisioned for them. At the expense of their district counterparts, governors and governorate officials seem to have unduly increased their access to resources and influence at the intermediary level of government in Yemen. If more resources and authorities are transferred quickly to governorates and districts, there is a risk of proliferating corruption if local actors do not assume more active and collaborative roles, and if transparency and accountability mechanisms are not built into Yemen's emerging decentralization architecture.

Recommendations include enhancing training and appropriate empowerment of local officials; providing greater coordination between and among districts, governorates and line ministries; encouraging greater civil society input; and enhancing transparency and accountability in revenue collection at the local level.

Elections. Since the early 1990s, Yemen has held a series of popular elections at the local, parliamentary and presidential levels. While the elections have constituted a step forward, they have also been plagued by problems and questions. Those problems include the overly partisan system of administering the elections,¹ questions over the integrity of voter rolls, greater difficulties for opposition members to register as candidates, irregular polling places and rules in presidential elections, concerns over the printing and safekeeping of ballots and ballot boxes, the abuse of government facilities to privilege the GPC and its candidates and unsatisfactory election dispute mechanisms. The September 2006 presidential elections represented significant movement forward in that a credible opposition candidate was allowed to compete and reaped a significant portion of the popular vote.

Recommendations include supporting the creation of a Supreme Council for Elections and Referendum (SCER) investigatory unit to receive, investigate and make recommendations on complaints and reports of violations of the Election Law; providing training to public prosecutors and judges at all court levels on the Election Law and related legal issues; supporting Election Law amendments and related legal and regulatory changes that facilitate its enforcement—with particular respect to investigation and adjudication authorities and procedures; and assisting the institutionalization of the SCER's leadership role over the security forces with respect to elections administration. A recommendation generated by the discussion in Section 1 is for the donor community to support a closed-list proportional representation system of elections in Yemen, which are the least prone to corruption.

Political Parties. The GPC's predominance does not provide incentives for it to become more transparent or to diminish those heavy-handed, manipulative practices that go beyond the natural advantages of incumbency. Because they are at such a relative disadvantage, the opposition does not have any incentive to model best practices. The principles related to uses of public office and money are admirable, but compliance and enforceability are likely insurmountable obstacles. The general consensus over the SCER's monitoring role in this regard may hold some concrete promise as a future mechanism, but the SCER's rocky recent history with the Joint Meeting of Parties (JMP) clouds the prospect for it to play this role. For reasons discussed at length, the assessment team does not believe political party reform is a fertile area for donor investment in anticorruption activities.

Taxation System. The Tax Authority is currently undergoing reform. The International Monetary Fund (IMF) is working with it to improve tax laws and modernize tax collection. Price Waterhouse Coopers is also providing technical assistance, which aims to improve efficiencies including through select computerization.

¹ Such problems are not unique to Yemen and reflect the controversy in the United States about the alleged increasing partisanship of secretaries of state who administer state and federal elections.

Many problems remain. There are still widespread reports of bribery and intimidation; there is no internal mechanism to investigate alleged impropriety; a burdensome reporting requirements system encourages tax evasion among businesses; the Tax Authority has not earned popular trust; and the agency's low salaries provide fertile ground for bribery. The endemic lack of clarity on tax liability creates a system of tax farming, where tax liability is often arbitrarily assigned and then negotiated in the absence of a rational basis for determining actual liability. Recommendations focus on creating effective complaint mechanisms, enhancing internal investigative functions, increasing training, initiating public outreach programs and reforming specified human resource problems.

Customs. In the past two years, the Yemeni Customs Administration has gone through a “quantum leap” in terms of reform. Yemen is a member of the World Customs Organization (WCO) but has not yet fully accepted the Revised Kyoto Convention, which outlines the standard policies and processes of a modern customs administration. Yemen currently operates on the United Nations Conference on Trade and Development (UNCTAD)-computerized Automated System for Customs Data (ASYCUDA++); however, this system is not fully deployed at all ports. Implementation of ASYCUDA++ began in 2003 and has now reached an estimated 90% of ports of entry. Despite major reforms and growing integration with the system of global trade, the Yemeni Customs Administration remains one of the most corrupt government agencies according to our contacts from the private sector. Major issues include the lack of a clear system of valuation, incomplete implementation of the ASYCUDA system, lack of complaint and investigation mechanisms, underdeveloped dispute mechanisms and constraints in the area of human resources. Recommendations include support for the Arusha Declaration, implementation of the ASYCUDA++ information technology (IT) clearance system in 100% of customs points and capacity building in a number of specified areas.

Healthcare. The major area where corruption occurs in the health sector is in the procurement and distribution of medical facilities and supplies. The lack of transparency and accountability in the procurement process encourages corrupt practices. Reform of the High Tender Board may mitigate corruption of major procurements, but will likely do little for rampant petty corruption. Corruption in the healthcare sector not only creates the usual distortions and inefficiencies, but also takes a toll in human lives and well-being. Recommendations include support for the creation of community boards for pilot health facilities, suggestions for creating greater transparency in the system, procurement reform and creation of a viable public complaint mechanism.

Education. The Ministry of Education (MoE) is reported to be one of the top ministries in the employment of ‘ghost workers.’ Often, teachers and administrators who are on the MoE payroll simply do not ever report to work while collecting salaries. Other forms of corruption include prevalent rent-seeking behavior in the supply and distribution of school commodities and partisan politics in the education sector. Recommendations include enhanced training in specified areas, empowerment of parent councils, propagation of training modules from successful pilot programs and broad use of USAID’s Educational Quality Improvement Program (EQUIP-1) procurement practices.

Private Sector. The private sector faces multiple sources of government corruption and must adjust business practices to deal with widespread corruption or leave the market. The implementation of commercial laws, and particularly enforcement of the law, is insufficient. It appears that commercial laws were passed hastily in the 1990-1991 unification period, drawing from the “harshest and most complex” laws from other countries in order to ensure a strong legislative foundation. However, the result has been a poor understanding of, and arbitrary application of, the laws, often at the discretion of government officials. When businesspeople bring cases against the government, the private sector perceives a strong judicial bias in favor of the government. The tax and customs systems generate both corruption and ill will in the private sector toward the government. In addition, land administration lacks clarity and property rights are not always honored. Recommendations include involving the business community in the tax and customs reform process; supporting reform of commercial laws; advocating for a judicial reform program focused on commercial law; and advocating for a pilot program designed to detect, investigate and if guilty, imprison mid- to high-level government officials guilty of corruption. This would send a strongly positive signal to the private sector.

CROSSCUTTING ISSUES AND FUNCTIONS

Budget and Financial Management. The RoYG has recently adopted a strategy of public finance management (PFM) reform that includes general budget reform, enhancement of control and financial accountability, reform of the system of bids and procurement and improvement of competence and skills. In order to assist the RoYG with implementation of this sweeping reform strategy, a multi-donor group has developed a Public Financial Management Reform Action Plan. However, the RoYG has implemented these reforms slower than expected. Current deficiencies and mechanisms of financial corruption and political patronage: the budget setting process is little more than *ad hoc* bargaining ministry by ministry; there is only limited parliamentary oversight; the approved budget and the executed budget are only loosely related; the deliberate underestimation of oil revenues leads to the centrality of large discretionary supplemental budgets, which are more prone to attracting corruption; and the military budget is reportedly a single line item in the national budget, thus eliminating oversight or accountability. Recommendations include advocating for PFM reforms in the budgeting process, enhancing parliamentary oversight, building parliamentary capacity to undertake effective oversight and building capacity at the local level for budget execution.

Public Procurement. The RoYG has recently embarked upon a public procurement reform program designed to increase the transparency, efficiency and effectiveness of public procurement. The government's National Agenda, adopted in January 2006, includes key reforms on procurement. In addition, the government approved a 10-year Public Financial Management Strategy in August 2005 that contains provisions for procurement reform. The government also recently passed a new procurement law. The private sector notes the persistence of corruption in the procurement process. Major problems which promote corruption include ministries that rush procurement decisions and use 'time constraints' to justify limiting competition or sole sourcing contracts, a lengthy process that invites corruption at critical junctures, an underdeveloped complaint mechanism, uncertain commitment to procurement reform by the government and an overly personalized system. Renegotiating contracts with winning bidders has also been common, leading to long delays and suspicions of corruption before, during and after the bidding process.

Recommendations include conducting a feasibility assessment for the implementation of a Procurement Management Information System (PMIS), and assisting implementation if feasible; conducting a feasibility study for an e-procurement function; supporting the dissemination of the National Procurement Manual (NPM) and Standard Bidding Documents (SBDs); and strengthening training capacity of the HTB. At the local level recommendations include strengthening local procurement, including revision of the legal framework; developing guidelines and capacity development support; providing capacity-building support to a restructured and autonomous HTB; providing capacity-building support to new independent oversight board, including strengthening of complaint and investigation functions; and promoting requirement of public disclosure of procurement decisions and financial disclosure by procurement officials.

Privatization. Privatization of state-owned enterprises has moved slowly in Yemen, with only a few smaller state-owned companies privatized. Many of the largest state-owned companies have remained intact. The slow pace of reform in this area suggests that deeply entrenched interests are opposing reform because they benefit from state-granted monopolies and other rents extracted from the economy that result from widespread state involvement in large industry. It also appears that some state-owned companies were simply transferred to private individuals at the discretion of senior government officials. Recommendations found in this assessment include building capacity of the Technical Privatization Agency to act as an informed advocate for large enterprise privatization; reviewing privatization legislation and proposing revisions to laws and rules governing privatization; developing privatization policies and procedures manuals; supporting the privatization of a select number of large state-owned enterprises; and providing training to the Technical Privatization Agency and General Investment Authority on integrity, transparency and accountability.

CORRUPTION, ANTICORRUPTION, AND NON-STATE ACTORS

Media. Since 2004, explicit media coverage of corruption has become increasingly common in nongovernmental Yemeni newspapers. Reporting has ranged from the revelation of leaks of secret reports from COCA, the national audit bureau, to the detailing of how, in one instance, education scholarships from the Ministry of Oil reportedly only went to the children of very high-ranking officials. The lack of quality in corruption reporting is a result of low capacity; a low ceiling of media freedom; and the fact that many nongovernmental newspapers are partisan, ideologically tinged or representative of particular interests. The general GPC-opposition dynamic of political accusation and counter-accusation, especially in the run up to the last local and presidential elections, would seem to further foster the incentive for the partisan press to criticize the government. Pro-government newspapers tend to deal with corruption issues from the typical “red carpet” perspective of official or semi-official media in authoritarian and semi-authoritarian political systems. Articles frequently highlight the president’s anticorruption discourse or the actions of specific ministers who appear to be taking steps to combat corruption. Because of their broader public reach, state television and radio devote much less attention to corruption. Recommendations in the media sector include using diplomatic leverage to create more a permissive environment for journalists reporting on corruption-related issues; supporting legal reforms that would raise the ceiling for anticorruption reporting; training reporters and editors in investigative journalism techniques—with an emphasis on how to obtain and verify information, document or corroborate claims and conduct interviews; and increasing government transparency on media issues.

Civil Society. Contemporary civil society in Yemen emerged as a legacy of local development associations in North Yemen from the 1980s and as a by-product of unified Yemen’s political liberalization starting in the early 1990s. Not surprisingly, most nongovernmental organizations (NGOs) are oriented toward social service delivery and economic productivity (principally in the form of cooperatives). By comparison, the number of democracy and rights NGOs is relatively small but noteworthy—numbering in the dozens. Yemeni NGOs are generally quite weak in terms of financial resources, organization, management and basic skills. The government and GPC do not yet have a clear strategy with respect to civil society organizations (CSOs) in Yemen. CSO anticorruption activities appear to be small-scale, *ad hoc* and one-off. One of the key challenges for CSOs interested in anticorruption issues is the significant dearth of information. Compounded by a general lack of government transparency, reliable data in Yemen is quite lacking, incomplete, and usually inconsistent and contradictory. This obviously makes credible and constructive research and policy-related advocacy quite difficult.

Recommendations include requiring civil society participation as part of all donor bilateral and multilateral development initiatives within Yemen; using diplomatic leverage to promote a more permissive enabling environment for CSOs engaged in anticorruption activities; advocating for civil society participation in specific government-sponsored anticorruption initiatives; increasing civil society access to, and uses of, government information for anticorruption advocacy purposes; building an anticorruption coalition among relevant CSOs; supporting civil society participation in government strategy development, planning, implementation, monitoring and evaluation efforts in a pilot issue area or sector—e.g., health, education, agriculture; assisting CSOs to develop their own “public diplomacy” strategies as a way to counter government and/or ruling party discourses; encouraging CSOs to institute and publicize transparency measures similar to those they would expect from government institutions; and drawing on local lessons learned and best practices in future programming.

PRIORITIZING RECOMMENDATIONS AND PROGRAMMING OPTIONS

In the final section of the report, the assessment team makes two overarching recommendations in terms of prioritizing and implementing the report’s recommendations. First, we recommend that the Mission give priority to implementing recommendations in those sectors in which there are extant USAID programs. Such anticorruption recommendations could be relatively easily integrated into existing programs in the judicial, parliamentary, local government/decentralization and health sectors. Second, we recommend that the

Mission create a standalone program designed to strengthened public financial management and accountability. A standalone project of this magnitude and complexity is more difficult to implement, but its need is the most significant. As a consequence, most of this section focuses on how such a program may be constructed.

RESEARCH METHODOLOGY

The assessment team consisted of four people. The team leader was Dr. Glenn E. Robinson, a Middle East specialist at the Naval Postgraduate School. Oliver Wilcox, Democracy and Governance Advisor for the Middle East and North Africa, Asia/Near East Bureau, USAID/Washington, has extensive experience working on democracy and governance (DG) issues in the region and particularly in Yemen. Stephen Carpenter, a financial specialist at ARD, has extensive experience in the Middle East as well, especially in Palestine and Jordan, where he worked on customs reforms and related matters. Abdul-Ghani Al-Iryani is a Yemeni analyst and businessman educated in the United States.

The assessment team spent two weeks in August 2006 conducting fieldwork in Yemen. Approximately 70 interviews were conducted in this time period. The assessment team met with a wide and varied range of Yemenis in government, ruling and opposition parties, media, civil society, universities and the private sector. In several cases, interviews were conducted with groups of people. During the second week of fieldwork, the assessment team split into two groups in order to maximize the number of interviews. Since the team had already agreed upon a division of labor in writing the final report, splitting up also had the advantage of allowing team members to focus on “their” areas of specialization.

In addition to fieldwork, the team also conducted document analysis prior to and following the actual fieldwork. There are several excellent, recent documents pertinent to the issue of corruption in Yemen. Of particular usefulness were:

- ARD, Inc. *Democracy and Governance Assessment in Yemen* (January 2004);
- American Bar Association. *Rule of Law in Yemen* (January 2005); and
- Khaled Z. Amin, *Local Revenues in Yemen: Structure, Performance and Administrative Capacity*. United Nations Development Program (May 2006).

Previous USAID assessments on corruption in Mongolia (August 2005), Mozambique (December 2005), and Ukraine (February 2006) were helpful in demonstrating the evolution and implementation of the new anticorruption assessment strategy.

1.0 THE POLITICAL ECONOMY OF CORRUPTION IN YEMEN

The genesis of this assessment was the suspension in November 2005 of Yemen's Millennium Challenge Account (MCA) Threshold Country Program (TCP) bid by the Millennium Challenge Corporation (MCC). Yemen's account was suspended because of recent backsliding in a number of the 16 indicators used by the MCC to determine continuing MCA eligibility. The worst regression occurred in the area of "ruling justly," specifically the controlling corruption indicator. With an eye toward renewing its MCA eligibility, the US government (USG) and the Republic of Yemen Government (RoYG) determined that a USG assessment of corruption be undertaken that would include specific programming proposals to fight corruption in Yemen. The end product is this report.

This report closely follows the recommended strategy found in USAID's *Corruption Assessment Handbook: Final Report* (May 8, 2006). The first section of this assessment lays out the 'big picture' of corruption in Yemen, including the identification of the type of corruption "syndrome" most prevalent in Yemen. Thus, Section 1 deals primarily with systemic corruption in Yemen, arguing that the combination of the absence of strong state institutions and the presence of a fragmented elite in Yemen have given rise to a 'mogul' or 'bandit' state in which predatory elites are encouraged to appropriate state resources for private gain. Vast patronage payouts to participating elites are implemented through government mechanisms that are either directly corrupt or have little accountability and oversight attached to them. There are also enabling factors that do not constitute corruption *per se*, but do create conditions in which corruption may flourish. Section 1 identifies and analyzes the types of elite groups in Yemen. Note is taken that there is a growing momentum towards political and economic reform within Yemen.

After laying out the 'macro' picture of corruption and its main players and themes in Yemen, the assessment then analyzes the 'micro' implementation of corruption in 17 different government sectors and functions. Thus, Section 2 examines all 14 governmental sectors and institutions identified for analysis in the USAID anticorruption assessment strategy. Some sectors and institutions in Yemen are more important than others in the way corruption operates locally, so the length of each discussion varies by importance. Section 3 takes up each of the three crosscutting issues and functions identified in the draft methodology. Following the discussion of each sector, institution, issue or function, we provide specific recommendations that may help reduce corruption in that sector.

We found that an important omission from the draft USAID methodology concerned the oversight role played by non-state actors, especially the media and civil society. Thus, we have added a brief Section 4 to deal with these two important actors. Finally, Section 5 briefly suggests ways in which our recommendations may be prioritized and incorporated by the Mission programmatically.

1.1 BACKGROUND DISCUSSION

Yemen has all the usual attributes that create a permissive environment for rampant corruption, typically defined as *the misuse of entrusted authority for private gain*.² As one of the poorest and least developed states in the world, Yemen suffers from weak state institutions with under skilled and under-paid state employees. Yemen has a woeful education system; its elites and its general population are fragmented along geographic, tribal, religious and economic lines, and parochial identities appear to broadly trump a sense of national identity outside of the small and urban technocratic elite. The by-product of these factors—especially the compact of weak state institutions and fragmented elites—has created a “mogul state” in Yemen where predatory elites compete with each other to raid state resources for personal gain. Their only obligation in exchange for these payoffs is to produce political quiescence amongst their respective groups.

The current political economy of grand corruption in Yemen reflects the takeover in the 1970s of the Yemeni state by northern Zaydi tribesmen through their acquiring a dominant presence in the military officer corps. The historical tension in both the pre-modern and modern Yemeni states was between state power, representing urban and non-tribal populations derived from the Shafa’i (Sunni) peasantry who live in the fertile lands of lower Yemen, and northern tribesmen who herald from the harsh and barren lands of upper Yemen. Upper Yemen could not support significant settled agriculture, so northern tribes from that area supplemented their income through livestock herding, trade, and most importantly, raiding the more prosperous communities of lower Yemen. The state has never enjoyed full control over the tribes but has established a delicate balance of power vis-a-vis the major tribes based on the sharing of economic and political benefits of power.

The basic uneasy balance between state and tribe in Yemen continued after the collapse of the Ottoman Empire and the creation of the Imamate in what became North Yemen. Indeed, ill-fated Ottoman attempts to extend its power over the powerful northern Hashid tribe helped undermine Ottoman power in Yemen. The wealthy agricultural interests tied to the cities, especially in Sana’a, Ta’iz and Ibb, dominated the Imamate state, while the northern tribes led a largely autonomous existence. The 1962 republican revolution overthrew the Imamate, but left in check the basic power relationship between lower and upper Yemen. The fierce republican-royalist civil war that followed throughout the 1960s—in large part a proxy war between Egypt and Saudi Arabia—ultimately produced a republican and technocratic regime committed to modernizing Yemen. While tensions remained throughout the early republican rule, significant advances in Yemeni state-building did take place. Part of the strategy of this new elite was, for the first time in Yemen’s history, to bring the northern tribal areas under the full control of the state. Naturally, the tribes resisted this threatened loss of autonomy, especially to a perceived weak urban population, sometimes dismissed as the *munbantilin*, or ‘men with pants.’³

The 1970s witnessed the beginning of a considerable reversal of this historic dynamic. Instead of the state extending its control over northern tribal areas, the tribes started to take over the state. At an accelerating pace since 1994, state resources have been increasingly taken over by tribal elites, either in their capacity as tribal leaders or through their domination of the upper echelons of the military and security forces. State institutions have mostly been a sideshow, while patronage networks and the financial flows they control have been the key to elite politics.

The fall of the Berlin Wall in 1989 and the concomitant implosion of communism around the world set the stage for North Yemen’s 1990 absorption of lightly populated Marxist South Yemen, then known as the

² For the definition of corruption, its major features, and its dynamics, we rely on USAID’s *Corruption Assessment Handbook: Final Report* (May 8, 2006).

³ Tribesmen wear a form of the Jalabiyya common throughout the Arabian peninsula. More traditional garb in Yemen is a short open skirt held in at the waist by the belt of the omnipresent jambiyya, or curved dagger.

People's Democratic Republic of Yemen (PDRY). South Yemen, and particularly the strategic port city of 'Aden, had been under various forms of British control since 1839. Local insurgencies, aided by Gamal 'Abd al-Nasir's Egypt, finally pushed the British out of South Yemen in November 1967, and created the People's Republic of South Yemen. The Marxist PDRY was formed in 1970. The Yemeni Socialist Party (YSP) was the dominant political party for most of South Yemen's brief history, although an internal bloodbath born of ideological disagreements in 1986 significantly weakened the party. The YSP survived unification and is today a small but important member party of the opposition.

South Yemen was less tribal than the north, and the long British occupation had created a more secular society and politics in and around 'Aden. Merging the two polities after the 1990 unification proved a Herculean task. Two state bureaucracies, two militaries and two quite different societies had to be merged. The effort failed miserably, but did give rise to vast new means of corruption. The failure to create a single state out of two, along with North Yemen's heavy-handed and corrupt political rule, caused the southerners to reconsider unification, prompting the 1994 civil war. The routing of southern forces (ironically supported by Saudi Arabia) gave a free hand to the north to simply impose conditions of unification. This coerced unification further consolidated the political economy of corruption in Yemen, as southern lands, enterprises and other resources were confiscated and given to northern elites. Nevertheless, the state also seeks to appease southerners via political representation (seeking always to choose a prime minister from the south) and the distribution of lucrative contracts and other economic benefits.

1.2 FRAGMENTED ELITES

While state institutions are weak in Yemen, as detailed throughout this report, they are made weaker still by a pervasive system of patronage to buy the political consent of fragmented elites. There are five principal sets of elites that dominate patronage distribution. The most powerful and interrelated are northern tribes and the military officer corps. A third powerful elite is the business community, especially the newly formed parasitic business class that relies overwhelmingly on state contracts to prosper. Lesser elites that must be placated but are not centrally important include regional notables and urban technocrats, who remain an important source of expertise in Yemen.

Some elite groups are closely tied to others, most especially tribal and military elites, while others are relatively isolated. There is also a degree of fluidity between and among these elite groups, but on the whole they remain mostly fragmented.

Mechanisms for distributing patronage include:

- National budget,
- Major procurements,
- Military-commercial complex, and
- The GPC (ruling party).

1.2.1 Tribes

Since the 1970s, there has been a systematic privileging of the interests of tribes in the state allocation of resources, including in the allocation of employment in the civil service, in the promotion of military officers and the distributions of state contracts and resources. While key northern tribes have benefited from this new allocation of state resources, there the hierarchy of power within the tribal system has determined which tribes, or groupings within tribes, receive the most patronage.

Tribal interests have also emerged in a new business elite. In contrast with the established business elite, the parasitic business elite relies almost exclusively on state contracts for its business. Thus, they have profited enormously from the opaque system of awarding state contracts, and from the graft endemic in the procurement process.

Patronage payoffs to important tribes come in various forms. The most direct means is through direct budgetary support to tribes in the national budget (*mezaniyya*). The Yemeni government has rejected description of this payoff as corruption *per se*, rather deeming its support for traditional social forms in Yemen. Another example is the state's payment of salaries to the security personnel of tribal shaykhs through the Ministry of Local Administration, which is supposed to oversee local government. Tribes also benefit from patronage distributions to the military and the creation of a parasitic bourgeoisie, both described more fully below.

1.2.2 Military

While tribes are the most important elite group in Yemen, a close—and closely related—second goes to the military and security elites. As noted, the officer corps has been reinvented since 1978 so that tribes now dominate, especially at the upper echelons. This contrasts sharply with the military rank-and-file that comes overwhelmingly from non-tribal peasant stock.

Military elites engage in grand corruption in two principal ways. First, important commanding officers are provided budgets based on the number of soldiers under their command. These officers thus have an interest in inflating the numbers of men in their command through the use of “ghost soldiers.” While the Yemen military has 100,000 soldiers on paper (60,000 active duty + 40,000 reserves), it is estimated that perhaps one-third of military personnel are ghost soldiers. Ghost soldiers may be actual people who simply do not report for duty, or they may be entirely fictitious. About 240,000 young males become eligible for the military each year, providing an abundant source of names. In either case, their commanding officers reportedly will receive money for their salaries, weapons, ammunition, food and blankets, and pro-rated numbers of vehicles, fuel and tires, among other items. The tangible items then get sold on the black market with the profits accruing to the officers. Cash transfers for salaries and the like can be more simply pocketed. Highlighting the ties between top military officials and leaders of the northern tribes, profits from ghost soldiers sometimes end up in the pockets of non-military tribal leaders.

Annual military expenditures are enormously high by percentage, having reached \$1 billion, out of total government expenditures of about \$6 billion. With the sharp increase in oil profits, Yemen's Gross Domestic Product GDP has reached \$16 billion. Yemen's total military budget is a single line item in the national budget, so there is no effective civilian oversight and control over it.

A second form of patronage payoffs to military elites is through the Military Economic Corporation (MECO), now known as the Yemen Economic Corporation (YECO). YECO is a nominally independent economic corporation, but it is run by active duty military officers. YECO used to be a dominant economic force that controlled most basic commodities. With the end of subsidies, YECO got out of the commodities business. Instead, it controls large swaths of land and various parastatal enterprises, primarily from the old South Yemen. Land ownership and registration famously lack transparency and clarity in Yemen, and are rife with corruption. The military, either directly or through YECO, can claim land for military use, and then turn around and sell it for private gain to developers. ‘Tourist City’ in Sana'a is among the most well-known economic enterprises of YECO.

Payoffs to important security elites work in much the same way as in the military, but on a smaller scale. Security forces are thought to number 70,000, with 20,000 of that number coming from tribal levies.⁴ While the military's budget appears as a single line item, security sector budgets are even less transparent. Security sector monies come in large measure through discretionary budgets. End of fiscal year supplementary budgets are especially large in Yemen and entirely discretionary, expanding opportunities for corrupt behavior.

⁴ An excellent current source on Yemen's military and security forces is Anthony H. Cordesman and Khalid R. Al-Rodhan. *The Gulf Military Forces in an Era of Asymmetric War: Yemen* (Center for Strategic and International Studies [CSIS] Working Draft, June 28, 2006).

1.2.3 Business Elites

The third “indispensable” elite group to which various forms of patronage are directed is the business elite. The business elite is not as directly important to political stability as tribal and military elites, but their economic clout prevents them from being taken politically for granted. There are two primary types of major business elites: traditional and parasitic.

The traditional business elite come from the southern, non-tribal areas of what was once North Yemen. These Shafa’i Sunni businessmen arose in the context of the prosperous and settled agricultural regions of Yemen, and in close proximity to the vibrant market of the Aden Colony, then under British rule. The Hadramawt region, and to a lesser degree, the city of ‘Aden, both in the former PDRY, also support substantial traditional business interests. However, because of the civil war, the business elites are politically without clout. Indeed, many of the top businessmen from Hadramawt actually live across the border in Saudi Arabia, where the climate for their businesses is friendlier.

Since the 1970s, and especially since the civil war ended in 1994, Yemen has developed a parasitic business class that derives its wealth from its social and political proximity to state power. Profits come almost exclusively from lucrative state contracts, usually in the absence of competitive bidding. Not surprisingly, the parasitic business elite is heavily tribal and Zaydi. The northern tribes have historically been unable to generate an indigenous bourgeoisie, and their scarce business activity was limited to illicit smuggling enterprises (including human trafficking across the Saudi border, a practice that continues today).⁵ The effective tribal capture of the Yemeni state has allowed tribal elements to translate their connections with power into state contracts. The most lucrative sectors for the parasitic business class have been construction and public works.

1.2.4 Technocrats

Two other elite groups are more ‘dispensable’: technocrats and regional notables. That is, ruling elites have greater freedom to promote, exchange and marginalize individual members of these elite groups depending on their behavior. As elite groups with a degree of autonomous power, however, they are important elements to which patronage resources must be extended. Exclusion of these elites from the state bounty would be politically risky.

The technocratic elite is not a cohesive social force, but as a group commands the technical expertise necessary for running a state and economy in the 21st century. Individual technocrats that run afoul can easily be replaced, but the technocratic class cannot be. Thus, technocrats in Yemen may enjoy a good quality of life and partake of certain forms of state patronage as long as their political involvement remains relatively limited. The technocratic elite are entirely urban and increasingly based in Sana’a and a handful of other cities. Informal networks appear to link the technocratic elite, but not in a cohesive or systematic manner. Upper management positions in government ministries are a common destination for college educated Yemenis, particularly those educated in the West. Most of the newly appointed reform-oriented ministers come out of the technocratic elite. The technocratic elite had greater political power prior to the 1970s and the tribal takeover of the Yemeni state. The 1962 republican revolution helped empower these technocrats, and after the first civil war wound down, this elite spent most of the 1970s making significant progress in modernizing North Yemen. In the PDRY, a much smaller technocratic elite continued to play a key role in the governing structure all the way up to unification in 1990.

⁵ Northern tribes are not the only social groups in Yemen that practice human trafficking. Some human trafficking also takes place in the coastal area and is controlled by non-tribal groups in Tihama.

1.2.5 Regional Notables

Like most countries, Yemen has a series of regional leaders who play important local roles. These may be regional leaders, clan elders, religious figures, successful businessmen or others. In some cases, regional notables sit on Yemen's district councils, but not always. Their loyalty may be secured through general patronage distribution (for example, a state project in the area for which a regional notable may take credit), or in some cases, through individual graft (procurement being a favorite instrument with which to enrich favored individuals). The GPC plays a particularly important role in identifying and recruiting regional notables into the national power structure, and securing the distribution of patronage for them. This was in sharp relief before the April 2003 parliamentary elections when the GPC recruited a significant number of new candidates who previously had little to do with the party.

Like technocrats, regional notables may be brought into centers of power in extraordinary circumstances and only as individuals. Regional notables are even less cohesive as a unit than technocrats, and there is little difficulty in marginalizing a local notable if circumstances warrant. There is no formal structure or informal network that adheres regional notables to each other.

1.3 GRAND CORRUPTION AND POLITICAL STABILITY

Grand corruption is not a tangential problem in Yemen. Rather, it is the glue that keeps things in place. Fragmented elites are "paid off" in various ways in exchange for their political support. Yemen's state structures are so weak that patronage payoffs to disparate elites are a more effective means of social control than institutional measures. As part of a vicious circle, however, such a patronage system further weakens state institutions, making state building more difficult. Corruption is not a problem of transition until state institutions can supplant patronage as the mechanism for getting things done.

Grand corruption is essential for political stability in the short term. The essential problem, however, is that this system of social control is fatally flawed and likely to implode in about a decade's time.

The cost of the political economy of corruption in Yemen has become prohibitive. A number of signs point in this direction. First, donors have backed away from supporting Yemen due to corruption. The World Bank dramatically cut back its assistance program to Yemen for this reason, and Yemen's Millennium Challenge Account Threshold Program bid was suspended because of backsliding on a number of criteria, including corruption (again, prompting this assessment). Capital flight out of Yemen now exceeds foreign direct investment in Yemen. The loss of investor confidence in Yemen due primarily to corruption was exemplified by the decisions of major international investors, such as Singapore Port Authority, Proctor & Gamble and Cable and Wireless to leave Yemen.

The issue of corruption played a role in the diesel price riots of 2005, in part because of the loss of public confidence in the government to act in a fair and honest manner untainted by corruption. Massive corruption, abetted by oil income, has also generated a significant and expanding polarization of wealth in Yemen, often a precursor to social and political instability.

Oil plays a key role in both the capacity of elites to engage in corrupt behavior and in the inability for the political economy of corruption in Yemen to continue indefinitely. Oil accounts for between 80 and 90% of all government revenues in Yemen, depending on the market price. The high price of oil over the past two years has meant the availability of a significant state treasury for elites to plunder. However, oil in Yemen is limited and reserves scarce; Yemen is estimated to deplete its oil reserves in about 10 years time. Political friction over declining oil revenues in the years prior to actual depletion should intensify as elites compete for shares of a shrinking pie.

Yemeni elites, acting rationally, thus have two logical strategies they can pursue in order to maximize their gains. A strategy of enlightened self-interest would compel Yemen's elites to enlarge the pie—expand Yemen's GDP—and make it sustainable. In this way, corruption in even a smaller percentage of government

revenues could lead to a greater and more sustainable haul for Yemen's elites. In order to do this, however, Yemen would have to attract significant levels of foreign direct investment and donor assistance. To accomplish this, Yemen would have to seriously implement comprehensive anticorruption, even with the political risks that would accrue to such a policy. Simultaneously, Yemen's elites would have to build strong state institutions that could replace the declining patronage system as a means of social control and effective governance. All of this must be well under way before Yemen's oil runs out.

A second rational elite strategy is to maximize the predation of public resources (mostly from oil) over the next decade while ensuring that an exit strategy is in place for when the treasury runs dry. Under this scenario, state institutions remain weak, grand corruption is rampant and social tensions increase. As this strategy offers the path of least resistance, it is a likely road. There is already anecdotal evidence of elite exit strategies being put in place.⁶

What is clear is that this is precisely the debate and political struggle that is occurring currently among Yemen's elites. The past year has seen the rise of genuine reform voices among some elements of Yemen's ruling elite who recognize that corruption must be addressed and reform undertaken for their own, and Yemen's, long-term interests. While resistance to anticorruption and other reforms has been minimal so far, that is because the reforms are in their infancy. As the reforms move forward, more powerful interests will be threatened, and the parameters of possible change will become clearer.

1.4 FORMS OF CORRUPTION IN YEMEN

Following the USAID assessment methodology for corruption, we examined both petty or administrative corruption and grand corruption. The basic elements of grand corruption have been addressed above and will be revisited below when we discuss potential alterations to the methodology. In short, grand corruption in Yemen is a by-product of the combination of weak state institutions and fragmented elites. The political logic of this situation is to buy consent and political quiescence from these elites through the distribution of enormous patronage. In effect, a predatory relationship between elites and state resources has been encouraged. This most closely matches the "mogul state" classification, discussed more below, and constitutes a systemic form of corruption.⁷

In addition to the more important grand corruption, petty corruption is rampant in Yemen, and has been on the increase in recent decades (if anecdotal evidence is accepted). Petty corruption has become so ingrained in popular culture that it is no longer shameful for individuals to prosper as a result of corrupt practices. Indeed, it has become "cool" in some quarters to have gamed the system for private gain and have, for example, a new car or other consumer product to show for it.

The most common form of administrative corruption in Yemen is the taking of a bribe by a government employee. Such a bribe may be offered in advance by an applicant or may be demanded by the employee as a cost of processing an application. The logic of the deal is typically a payment in exchange for immediate processing of an application ("speed money"). Paying the bribe often makes fiscal sense. For example, a customs officer at a port has legal means to drag out the clearance process if a bribe is not tendered, making goods sit at the port for weeks. A small bribe can clear the good immediately. A related rationale for bribe giving is to win a small procurement contract. Less commonly and more nefariously, bribes can be offered as a means to limit competition. That is, a businessman may not only pay a bribe to have his application

⁶ For example, a major businessman whom we interviewed has begun to take steps to move his business to Canada. He relayed stories of similar moves by his colleagues.

⁷ The final report shied away from using the evocative 'mogul state' term that had been employed in earlier drafts and instead used the milquetoast term "weak undemocratic state corruption." We believe 'mogul state corruption' more accurately depicts both the general type of corruption syndrome and that which we found in Yemen.

expedited, he may also pay a bribe to have a competitor's application not processed in a timely fashion, or lost.

Another common form of administrative corruption is the hiring of 'ghost workers' in government ministries. Use of 'ghost workers' can also be done on a grand scale as part of elite corruption, so it is a method that links both low and high corruption. On the low end, it typically involves a local tribal shaykh or other notable calling in a chit with a friend in the bureaucracy asking that person X be put on the payroll. That person need not actually show up for work to collect a small salary. In some cases, there is an implied threat of what might happen if person X is not hired.

1.5 ENABLING FACTORS THAT CREATE PERMISSIVE ENVIRONMENT FOR CORRUPTION

There are several phenomena in Yemen that may not constitute corruption themselves, but that do create a permissive environment for corruption to thrive. Our team identified four such enabling factors in Yemen: maladministration, the education system, the electoral system and the exclusion of women.

- **Maladministration** is often confused with corruption, as its outcome is often the same as when malfeasance is present. Because Yemen is a poor country with a rudimentary education system that generates a literacy rate under 50% of the adult population, Yemen has more than its share of (often) highly unqualified government bureaucrats. Poor decisions; uninformed allocations of resources; poor management; and a lack of monitoring, evaluation or other follow up—i.e., maladministration—all flow from the low capacity in Yemen's bureaucracy, and create a breeding ground for corrupt practices to prosper. In the assessment team's interviews, maladministration was often identified as a form of corruption itself.
- Incompetent administrators are directly linked to the poor state of Yemen's **education system**. Yemen's schools lack basic infrastructure, including actual schoolhouses in some cases, and have poorly trained teachers, few books and little rigor. Education in many rural areas barely exists. Dropout rates are high, especially among female students. Even the most important educational facility in Yemen, Sana'a University, fails to generate enough qualified administrators for a modern state bureaucracy. In short, a rudimentary system of education, such as Yemen's, directly enhances maladministration, thus enabling corruption.
- The **electoral system** is set up to serve the existent system of power in Yemen as it rewards local tribal shaykhs, regional notables and other parochial interests. Unqualified and often illiterate candidates get elected to Parliament from rural areas on the say-so of a minor shaykh, sent to Sana'a to obtain patronage resources. Rent-seeking behavior by parliamentarians is not unique to Yemen, but the emphasis of localism is more pronounced there. Perhaps one-third of Yemen's members of Parliament (MPs) are fully or functionally illiterate. The hyper-parochialism of Yemen's electoral system not only elects far too many MPs who are not able to fully gauge national issues and interests, but also promotes and reifies local identities at the expense of a Yemeni national identity. Yemen does have a literacy requirement for MP candidates, but it is not enforced. An electoral system of closed-list proportional representation would help to elect a more competent and nationally focused Parliament.⁸
- The **exclusion of women** from public life in Yemen is endemic. With the exception of a handful of female technocrats, all ruling elite groups consist entirely of men. The systematic exclusion of women

⁸ The consensus opinion among elections experts is that public relations (PR) systems tend to produce less corruption, and that closed-list PR systems produce the least corruption. For a discussion of this issue, see Daniel Gingerich, *Ballot Structure, Political Corruption, and the Performance of Proportional Representation*. Paper presented at annual American Political Science Association (APSA) Conference, Philadelphia (August 2006).

from public life not only leads to a series of bad socioeconomic outcomes,⁹ but also may be construed as a direct form of corruption itself. Arguments focused on tradition and culture may suggest that the *intent* is not corrupt, but those arguments would not counter the notion that the *outcome* is an inappropriate privileging of the interests of one group of people over another. *Qat* chews are traditionally segregated affairs in Yemen. Sessions organized by political elites are entirely male based, and serve as Yemen's equivalent of the stereotypical "Old Boys' Club." It is where business deals get cemented, political agreements hammered out and sometimes even judicial decisions negotiated. The World Bank notes that the literacy rate for women in Yemen is only 28.5%, less than half the rate for men; that the economic inefficiencies that hinder Yemen's ability to attract investments fall disproportionately on women; and that women are culturally denied the ability to fully participate as workers and entrepreneurs.¹⁰ If not actual corruption, the systemic exclusion of women creates an environment in which corruption is more likely. There is some evidence that corruption decreases as the rate of female participation in public life increases.¹¹

1.6 MECHANISMS THAT IMPLEMENT GRAND CORRUPTION

There are four major means by which grand corruption patronage is distributed in Yemen: through the national budget, the tendering process for major procurements, the military-commercial complex and the governing GPC party.

By far the most important mechanism to "pay off" allied elites is the **national budget**. These payoffs occur in a number of ways. The military's budget is, apparently, a single line item in the national budget; thus, how it gets distributed is entirely the decision of military elites. With no transparency or oversight, the military's large budget allocation is principally a substantial patronage payoff to key military elites. The national budget also contains direct subsidies to tribes, known as *mezaniyya*. Such payoffs are defended as not corruption but helping to sustain traditional social forms.

The national budget is based on conservative estimates of oil revenues (which make up to an estimated 80% or more of government revenues). As the fiscal year nears its conclusion and revenues are far higher than projected, supplemental budgets are crafted. Unlike the main national budget, these supplemental budgets are discretionary, providing the executive branch even greater ability to use the budget for political gain rather than for actual development.

Parliament provides no useful check on using the national budget in corrupt ways. With few exceptions, it plays no effective oversight role. First, by law it is only allowed an up or down vote on the budget. Second, by custom, the Parliament is only given a short time to review the budget, typically two weeks. Also by custom, the executive branch presents its budget to Parliament at around the same time Parliament must review closing accounts for the past fiscal year. Given that parliamentarians have no staff—or even offices—effectively covering the abundance of work in such a short period is a Herculean task. As well, given the high number of illiterate and functionally illiterate parliamentarians, even the minimal oversight allowed to Parliament by law becomes irrelevant. Since nearly 80% of parliamentarians are members of the ruling GPC party, it is not clear whether more effective oversight capability would make much of a difference under the current distribution of seats.

⁹ See the United Nations Development Program. *Arab Human Development Reports* (New York: 2002, 2003, 2004, and especially 2005).

¹⁰ <http://siteresources.worldbank.org/INTYEMEN/Resources/310077-1098870168865/YEU-Spring06.pdf>.

¹¹ <http://www.u4.no/helpdesk/helpdesk/queries/query98.cfm>.

The Ministry of Finance (MoF) plays a central role in the drafting of the national budget, thus granting the executive branch wide discretion on its contents. Sometimes referred to as “the imperial ministry,” the MoF is the final decision maker when it comes to allocating the national budget, and the process by which it does so is far from transparent. The vast power the MoF has over budget matters may be useful to reformers when the Minister of Finance is himself a reformer, as is now the case.

A second prominent mechanism for the distribution of payoffs to privileged elites is the **tendering process for major procurements**. The process is not transparent, appears to regularly award large tenders with at least the appearance of favoritism, and for the largest procurement tenders, directly involves the cabinet in decision making. Such direct politicization of the procurement process further erodes public trust in the honesty and fairness of the process. The High Tender Board is currently undergoing reform, but it is not clear how much independence from the executive branch and transparency it will ultimately have. The procurement process, from the smallest to largest tenders, is a major source of corruption throughout all levels of Yemeni government.

A third major mechanism for patronage distribution to favored elites is the **military-commercial complex**, primarily via the Yemen Economic Corporation, or YECO, run by active duty military officers. As noted above, YECO derives its profits from open economic ventures, from control over lands and from ownership of mostly southern parastatal organizations garnered after the north’s military victory in the 1994 civil war.

The **General People’s Congress** (*al-Mu’tamar*), or GPC, is generally similar to other party machines, from Mayor Daley’s Democratic Party in Chicago to the current day National Democratic Party in Egypt. That is, the GPC has no real ideology to speak of, and its *raison d’être* is to distribute patronage to any local leader wishing to participate in the system. The GPC can set up employment for clients of local patrons, it can arrange for projects to be built in the parliamentary districts of its members, and given the absence of disclosure laws, it can distribute funds as it deems necessary. The boundary separating the state’s finances from the GPC’s is not clear. While the state awards bloc grants to parties based on their number of seats in Parliament (so the GPC gets 80% of this money), it is widely believed that such open distributions to the GPC make up only a small fraction of state monies that find their way into the GPC coffers.

1.7 STRUCTURE VERSUS AGENCY: REFORMERS AND REFORM

The basic tension in confronting corruption in Yemen is between a structure that promotes grand corruption, and a small number of elite reformers bolstered by international pressure. The reformers have had some key political and legislative successes in the past year, including the sacking of a number of corrupt ministers and their replacement with reformers in the most powerful ministries, including those of finance, public works, oil and planning. Laws have been passed that will create an independent national authority to crackdown on corruption, that require financial and conflict of interest disclosures by government officials and that open up the major procurement tendering process. A media campaign against corruption has also been launched. The civil service, with assistance from the World Bank, has initiated reforms to rationalize government employment and limit ghost workers. They have not yet done anything to challenge the mechanisms of corruption by which the worst offenders prosper. Reformers are still emergent, and could be marginalized if powerful elites turn on them.

Under pressure from the US and Europe to address seriously the issue of corruption, reformers have gained momentum and garnered official support for certain reform initiatives. How far this will go is still questionable, given the centrality of corruption to political stability, at least as politics is currently configured. No powerful toes have been stepped on to date. Given the tension between the structure of power and the fragility of the reformers, a process that seriously confronts and alters the pattern of grand corruption in Yemen will be difficult to sustain. In particular, the military—because it has so much at stake in grand corruption--will be an extremely difficult actor to make and hold more accountable.

However, it may be possible to achieve some impact and further develop momentum for reform by focusing on administrative corruption. At the same time, the systemic nature of grand corruption should not discourage the donor community, acting in unison, from assisting the reformers in Yemen. The recommendations contained in this assessment will not end corruption in Yemen, but they would contain it and help roll it back. By the nature of things, administrative corruption is easier to address, and for example, we believe significant progress is being made in civil service reform with the help of the World Bank. Tackling grand corruption means, *ipso facto*, challenging the nearly unfettered access to state resources enjoyed by tribes and the military, and restricting the ability to freely distribute patronage to key allies. Reforming this political economy of corruption will take a concerted effort by donors working in concert with indigenous reformers. While there are positive signs that reforms are underway, it will be no easy task.

2.0 CORRUPTION IN GOVERNMENT SECTORS AND INSTITUTIONS

Whereas the previous section provides a broad overview of the political economy and anatomy of corruption in Yemen, the following three sections of the assessment deal with the ‘micro level’ of corruption in 17 government sectors and functions, and two non-state actors that can play critical watchdog roles. As USAID, the USG and other donors think strategically about designing programs to address the issue of corruption, we suggest considerable modesty of expectations. That is, the donor community is not in a position to end grand corruption in Yemen any time soon. However, it is possible to help constrict the circle in which elite corruption occurs, and even more likely to address directly many forms of administrative corruption. Donors may assist reformers to gain a greater foothold to address administrative corruption in an array of sectors and institutions. Other reforms, such as greater oversight and accountability in the budget and procurement processes, will be harder to implement because of their political consequences, but can have significant impact on helping to limit grand corruption. Specific recommendations are made at the conclusion of each sector’s discussion.

2.1 JUDICIARY AND LAW ENFORCEMENT

Yemen’s judiciary is reportedly rife with corruption. Judges are often bribed, and, in some cases, may be able to choose from the higher bribe offered by the competing parties to a case. A recent Yemen Polling Center poll on bribery shows that 64% of respondents believe that the judiciary is the most bribe-ridden sector in Yemen. There is no judicial code of ethics or body of norms. Judges are also structurally susceptible to political pressures and ultimately punishment from higher political levels if they render unacceptable judgments. This subsection of the assessment provides a more detailed portrait of the types of, and reasons behind, corruption in Yemen’s judiciary and pays particular attention to the Public Funds Courts, which are responsible for trying cases of alleged crimes involving state funds and other resources.

2.1.1 The Judicial System

Lack of Independence. The judiciary’s independence is severely compromised by executive intervention and control. Almost 80 clauses in the Law on Judicial Authority violate Yemen’s Constitution, as well as its own provisions regarding judicial independence. Article 149 states that “*judges are independent and not subject to any authority, except the law. No other bodies may interfere in any way in the affairs and procedures of justice. Such interference shall be considered a crime that must be punished by the law.*” More, Yemen’s penal code criminalizes the influencing of a judge and specifically forbids “any civil servant or a powerful person” from intervening with a judge. Despite these strong provisions, the actual situation is markedly different. The judiciary is politically and bureaucratically subservient to the executive.

The Supreme Judicial Council (SJC), the body at the helm of the judicial system, is dominated by successively high-ranking officials—each level beholden to the next via appointments to their original positions. Until very recently, the President of the Republic was the head of the SJC. The minister and deputy minister from the

Ministry of Justice, Attorney General, chief judicial inspector, Supreme Court president, two Supreme Court vice presidents and three senior judges comprise the SJC. The president appoints the justice minister, Attorney General and Supreme Court chief justice. The Minister of Justice, in turn, appoints his deputy minister and plays a determining role in appointing the most senior judges. While an important first step, some view the removal of the president as relatively inconsequential in promoting greater judicial independence, since the Ministry of Justice (MoJ) is still in predominant control of the council and the system.

The council is vested with primary authority over the administration and daily operation of the court system and is provided with direct budgetary funds to fulfill this mandate. The SJC determines the assignment, transfer, hiring, demotion, promotion and firing of judges. The council is responsible for the qualifications of the judges and control over the administrative staff and support for the judiciary. In practice, however, the MoJ has retained administrative authority over the judiciary, including all functions explicitly granted to the judiciary in the Constitution. In addition, prosecutors all belong to the MoJ. Even the Judicial Inspection Board (JIB) is within the MoJ, which determines the regulations of how its inspectors work. Finally, while outside of the SJC and MoJ, the Prime Minister, with cabinet approval, decides judicial salaries.

Judicial Appointments. Appointed judges are not always well qualified, since judicial appointments are often determined according to political, territorial and tribal criteria as well as technical considerations. There do not appear to be clear and consistent guidelines and procedures governing appointments, at least not ones that appear to be familiar, and to any appreciable degree, publicly known.

Judges have been transferred from courts where they served to other courts as punishment for ruling in ways presumably unacceptable to well-connected or powerful individuals. The assessment team heard about one case where a current Commercial Court judge was previously removed from a prominent court on which he had been serving to a smaller court. Another judge who made preliminary rulings against the government in a particular case was moved to another court in the middle of the same case. Five prosecutors were appointed Supreme Court judges. Also, it has been alleged that judges with a security background have assumed more prominent roles.

These random and arbitrary transfers put the MoJ's periodic large-scale judicial reshuffles over the last several years in a somewhat different light. These "reshuffles" were billed as renovating the judicial ranks and (more recently as) combating corruption. However, they may also take judges out of their substantive and geographical milieus and/or place them into appointments for which they may not be qualified. At worst, this is a systematic way to keep judges subordinate to the MoJ.

Moreover, the lines between judges and prosecutors heavily blur. Prosecutors hold the equivalent civil service rank as judges, and can be moved into judicial positions. For their part, judges can be reassigned as prosecutors. While not unique to Yemen, rotations are carried out with little or no consultation with the affected judges and not based on transparent criteria. It is thus not surprising that many judges are perceived to have a significant tilt toward the prosecution.

Administration of Justice. Court staffers are relatively few, poorly trained and poorly paid. They work in and with an extremely rudimentary infrastructure. One commercial court in Sana'a, for example, used to store its case files in what used to be the swimming pool of the former villa which is now the court's premises (rented by the MoJ); now, they are stored in shelving in a basement room. Court staff and administrators do not seemingly receive basic skills training. Clear job descriptions as the basis for skills transfers are lacking, as are organizational charts that ensure that employees understand what is expected of them and the lines of authority. As a result, courts in Yemen are notoriously inefficient with some cases dragging on for years. The lengthiness of many cases, the relative lack and uneven application of case processes and procedures and rudimentary infrastructure create an environment for court staffers to be implicit in bribery for faster service, falsified documents and the like.

Judicial Inspection Board. Currently, the Judicial Inspection Board is well ensconced in the MoJ. The JIB contains a division responsible for oversight of Public Funds Courts judges, as well as other categories of judges. While some in the JIB allegedly have ties with the intelligence service, others are reportedly more independent and reform minded.

Informal Dispute Resolution. It is reported that judges sit in *qat* chews and do business with parties to their cases. While the frequency of this phenomenon is not clear, judges may essentially be arbitrating formal court cases in this informal setting. In general, Yemeni judges often are asked to arbitrate disputes, outside of their normal caseloads and courts, because it is usually a more efficient and economical way of arriving at a settlement. This resolution of disputes tends to rest on a more consensual basis. The objective is to obtain a consensus regarding closure rather than to ascertain a solution based on legal text or precedent. Yemenis have little faith in the formal system to act as an impartial arbiter of disputes or in the courts' ability to fairly apply legal standards to reach a sound judgment based in law.

The use of customary law, traditions and dispute resolution mechanisms may also contribute to judicial corruption. They predate the “modern” judiciary and courts system in Yemen by decades, if not hundreds of years, though they continue to be used because of the weaknesses of the “modern” system—including corruption. At the same time, the overlap between informal and formal means and ends further weakens the theoretical ways in which the formal system is supposed to work.

2.1.2 Public Funds Courts

Public Funds Courts were established by presidential decree in 1996 as a response to the rise in corruption after unification in 1990. PFCs at the primary level originally were comprised of three judges (versus the typical one) and had courts in Sana'a, Ta'iz, Hadramawt, 'Aden and Hodeidah, which covered those and surrounding governorates. At first, PFCs had a broader mandate which included bribery, fraud, graft, counterfeiting (of both money and documents) and “damage to the public interest,” but their bailiwick was later narrowed to address only crimes by public servants and those that affect public funds.

Restructuring. In 1998, the PFC structure was changed so that one judge replaced the original three judges at the primary level. Additional changes included the removal of tax and consumer cases from the purview of PFCs, and existing courts would no longer hear cases from neighboring governorates; from now on, regular first instance courts would hear public funds cases in governorates where there were no PFCs.

It is not entirely clear the extent to which these changes were made for political reasons—i.e., to somehow curtail the authority of PFCs—or for arguable division of labor purposes—e.g., certain kinds of cases were better heard in other kinds of courts, or PFC caseloads for the country's principal regions were seen as considerable and therefore regular courts could handle the smaller numbers of public funds cases from adjacent governorates. In the case of certain kinds of cases being stripped from the PFC domain, it appears that this is the result of further judicial specialization; there are now (or soon will be) specialized courts for tax and customs in Sana'a and 'Aden. It also appears that there are plans to establish PFCs at an appellate level.

Record. The PFC record in successfully trying and rendering effective decisions in cases appears murky. One of the team's judicial interviewees maintained that political support for PFCs made it possible for them to serve as a deterrent. He referred to violations and cases related to ministers that are in process. He also recounted one case he heard involving a central service delivery ministry or agency. The court summoned high-ranking officials to testify at the trial. Investigations included the line minister himself. Several officials were convicted of fraud and went to jail. The case led to further allegations and investigations that ultimately resulted in an overhaul of the entity's monitoring, evaluation and inspection functions. The Ministry of Defense was cited as one state entity not responsive to PFCs.

Capacity Issues. Public funds judges usually lack the requisite specialized knowledge, including accounting. COCA officials complain that they must often “do their jobs over” in cases that the Public Funds Prosecutor refers to the courts—meaning that they must review information already provided by COCA and explain

basic accounting principles. Aggravating this lack of capacity, the first generation of PFC judges, who accumulated some experience, has also been largely promoted up the judicial hierarchy. More, growing PFC caseloads have led to the appointment of criminal court judges in PFC positions. To date, PFC judges receive no formal training. The Higher Judicial Institute is now reportedly planning on offering six to eight months of special training for commercial and public funds judges.

2.1.3 Public Funds Prosecution

The Public Funds Prosecution (PFP) is the link between COCA and the courts. Most of the PFP's cases come from COCA, but sometimes this division of the Attorney General's (AG) Office receives allegations from junior officials within ministries. There is no formal mechanism through which to receive complaints. The official from the AG's Office that the team met even noted that potential cases might arise from media reports.

Process. There are three stages to the PFP's work. First, prosecutors collect evidence, working with COCA, the police, the Tax Authority (if relevant) and the ministries in question; if existing evidence is incomplete or somehow lacking, they request more information from COCA, or prosecutors may assemble their own expert witnesses. Next, they conduct their own investigations. Finally, they determine whether there are sufficient grounds to issue an indictment and refer a case to court.

Limitations on Authority. By law, the PFP does not have the right to indict parliamentarians, governors, ministers and deputy ministers. (Other divisions within the AG's Office have the legal ability to prosecute high-ranking officials for other crimes.) Under this law, two-thirds of the Parliament must vote to indict the official, and the case would then be referred to the Supreme Court.

Capacity and Administrative Issues. The PFP has limited staff with inadequate qualifications and thus it lacks investigatory capacity when compared with COCA. From 1994 to 2005, the AG's Office was independent of Yemen's abysmally low civil service pay scale. After Parliament passed the 2005 wages legislation, judges' salaries were pegged as civil service salaries. Now, if the AG's office wants to hire additional personnel or raise salaries, they are subject to what one team interlocutor referred to as "the Cold War mentality" centralism of the Ministry of Civil Service Reform. However, it appears that some compromise is in the process of being reached whereby the Higher Judicial Council may have a role in determining the salaries of judges and judicial personnel.

Self-Monitoring and Accountability. Bribery of public funds (and other) prosecutors can and has occurred, though intimidation is reportedly not a problem. If the AG's Office receives complaints of bribes, its own internal counterpart to the JIB will conduct an investigation. If evidence shows that an indictment can be made, the case gets forwarded to an administrative court. It is estimated that in the last 10 to 15 years, 31 prosecutors were indicted—of those, 18 were fired, and the rest were moved to non-judicial jobs.

2.1.4 Police

Corruption among the police in Yemen is reportedly rampant. Most often, this seems to take the form of petty bribery. The Yemen Polling Center's recent survey on bribery found that 59% of respondents identified security bodies as among the most corruption-prone public sector institutions or sectors in the country. As with many government employees, low salaries appear to contribute heavily to police corruption. To our knowledge, there have been no government investigations of police corruption. There have been reports that some police stations have "internal affairs" sections to investigate abuses; also, citizens have the right to file complaints with the public prosecutor. Law enforcement and investigations are believed to be weak, ineffective and sporadic due to corruption; a lack of training, capacity and resources; and a slim government presence in and control over many rural areas. The police's Criminal Investigative Department (CID) reports to the Ministry of Interior and makes most arrests and conducts most criminal investigations. Because of its mandate, the CID may be the central locus of consequential police corruption in Yemen.

2.1.5 Conclusion

Fundamental judicial reform is important if Yemen hopes to reduce corruption and improve the country's investment climate. Increased transparency, integrity and accountability in the judiciary will increase local and international investment in the private sector and thus contribute to the economic growth Yemen so desperately needs. The public prosecution and police are obviously important in enforcing the law as interpreted and ruled by judges.

USAID's *Democracy and Governance Assessment* from 2003 highlighted the lack of top political support for judicial and broader rule of law reform in Yemen. In contrast with those findings, the anticorruption assessment team found that the sentiment toward reform is now more widely shared beyond a certain strata of high-ranking judges who were relatively isolated and lacked the power to push for change. However, these sentiments may not translate into a more concrete and operational consensus over the parameters of reform.

The AG and a majority of the Supreme Judicial Council appear supportive of much more far-reaching change, while the Minister of Justice may embrace a more limited vision of reform. The proposal to hive off the MoJ's judicial inspectorate and merge it with its analogue in the public prosecution is a case in point. This recommendation came out of the first judicial conference in Yemen last year. The MoJ has reportedly opposed this reform and reportedly resisted lobbying efforts by the SJC and the AG.

2.1.6 Recommendations

The following recommendations include support for reforms and other interventions dealing with both (1) the judiciary as a whole, and (2) corruption in particular. These recommendations apply to both the general judicial system and to the Public Funds Courts and Prosecution in particular. The PFCs are included both because they are a subset of the judiciary and because of their rule of law role in public finance corruption reaching levels of criminality. The PFP is included because of its relationship with the PFCs and the latter's level of dependence on the former. If successful, larger systemic reforms in the judiciary could have a significant anticorruption impact. Because not nearly as much is known about police corruption phenomena in Yemen, and because this is an area of programming traditionally beyond USAID's programming experience, the following recommendations do not cover that key law enforcement actor.

- Support greater independence of the Supreme Judicial Council from the Ministry of Justice. It should be noted that granting the SJC greater independence and authority will entail institutional restructuring at lower levels to provide it the technical, administrative and financial support it will need to play its newly expanded role.
- Encourage the MoJ's gradual conversion to a Ministry of State for Judicial Affairs that would play a more discrete bureaucratic role.
- The current system for the appointment of judges and the hiring of support personnel must be reformed. This includes not just the initial hiring, but also the transfer, promotion, demotion/punishment and retirement of judges. Criteria, based on regional and international best practices should be adopted. The judicial selection process should be made public and the RoYG should consider institutionalizing a national judicial exam and include members of the private sector and civil society in the judicial selection process to bolster public confidence.
- Promote the merger of the JIB within the MOJ and its counterpart in the Public Funds Prosecution into an independent entity under a restructured and more autonomous Higher Judicial Council.
- Support the review, clear articulation and codification (as necessary) of the processes, procedures and standards of JIB oversight and its exact responsibilities. This should be complemented by (1) their publication, and (2) the dissemination of the JIB's decisions.

- Facilitate greater COCA-PFP-PFC coordination. Currently, these interrelated actors have annual meetings, but given the interlocking and mutually dependent relationships between them, more could be done. At the same time, if this avenue of programming is pursued, careful attention should be paid to maintaining each actor’s integrity. As one of the team’s interlocutors implied, “coordination implies discretion.”

2.2 PARLIAMENT¹²

Like judiciaries, legislatures are typically seen as playing important institutional checks on executive power and its excesses—including corrupt acts. Despite some efforts, Yemen’s elected Parliament has been largely impotent in this role. This is due in large part to (1) GPC political domination—the party controls almost 80% of the seats and most leadership positions; (2) the sociopolitical profile of a majority of MPs—many with low, or very low, levels of education and even functional illiteracy, and many with military and security backgrounds; and (3) various constitutional and legal constraints on parliamentary roles and responsibilities.

However, because of the GPC’s internal diversity; the presence of some opposition MPs; and the fact that many MPs have their own individual, tribal and regional interests and agendas, Yemen’s Parliament possesses a certain political fluidity and occasionally a dynamism which MPs can exploit. This is exemplified in the recent creation of the Yemeni Chapter of the Parliamentarians against Corruption (YPAC), a cross-party grouping of reform-oriented MPs and former MPs.

2.2.1 Committees and Oversight

Absenteeism of MPs from Parliament is pervasive. At the committee level, this has the disabling consequence of preventing the establishment of a quorum for committees to hold meetings. As a result of this and other factors, some committees seemingly exist largely in name only. MPs generally do not know how to ask for and acquire information of the government, and then are at a loss of how to marshal it for oversight purposes. Committees also lack professional administrative and specialist staff—in addition to offices—to support their work.

In the midst of this picture of seemingly complete disempowerment, several committees stand out as relative exceptions. The Oil Committee has been particularly active in investigating, and in at least one case blocking, a government-sponsored international oil concession that was perceived as financially disadvantageous for Yemen in its preliminary terms. Several MPs reported that the Oil Committee’s aggressiveness on the Hunt Oil deal and other issues was important for MPs in breaking down the perceived limitations in parliamentary influence.

Under the leadership of a fairly prominent GPC parliamentarian and agronomist, Parliament’s Agriculture and Fisheries Committee has conducted several investigations of, and written reports on, fisheries and agriculture issues. For example, one startling committee finding was that only five out of 50 agriculture investment projects that received licenses were actually established. The fact that these committees have been headed by GPC MPs has helped to insulate them from political reprisal.

Opposition-led committees have not fared as well in their efforts. One opposition MP was reportedly forced out of his leadership position because of a committee investigation and report concerning the apparent imbalance in the geographic selection of localities for government-sponsored water projects. The Health Committee has been stonewalled in a number of its inquiries to the Ministry of Health.

¹² This section also draws significantly on previous Yemen MCA TCP fieldwork by assessment team member Oliver Wilcox, USAID/Washington, during June 2005. At that time, it was anticipated that parliamentary strengthening would be a component of Yemen’s eventual TCP proposal; however, it was dropped as a component because of Parliament’s low levels of capacity and political vagaries, as well as the RoYG desire to further focus its proposed TCP.

Committees are not required to keep a written record of their proceedings, thus reducing their internal transparency to other MPs and the Parliament as a whole, not to mention media, civil society and the general public. While the assessment team has no evidence of this as a problem, the lack of a written record at least in theory enables a committee's deliberations, decisions or other work to be falsified, misrepresented or upended for political reasons.

MPs or committees can ask the executive for information but ministers or other officials can determine what information and documents to furnish the parliamentary author of the inquiry. There is also no clear definition or guidelines of what information or documents are confidential or restricted. There are also reported cases of Parliament's Presidium obstructing certain MP and committees as they have attempted to exercise oversight vis-à-vis their executive counterparts. It is alleged that the Presidium has also been complicit in delaying the review and approval of government loans until the end of Parliament's session, when their passage is virtually guaranteed.

2.2.2 Budget and Finance

The government has nine months into a new fiscal year to submit the closing statements of the last fiscal year's budget to Parliament for review and ostensible approval. One to two months later, the government then submits its complete budget proposal to Parliament. The timing of executive branch budgetary submissions to the legislature is governed by law, whereas the Parliament's power to vote up or down on the budget is enshrined in the Constitution. Unlike in other Arab Parliaments, the "Budget Committee" is actually a larger constellation of actors than just the members of the Parliament's permanent Finance Committee.

Beyond the national budget, the Finance Committee has a wide range of public finance responsibilities. These include the Parliament's own internal finances, the Central Bank and monetary policy, COCA, varying types of public finance legislation and oversight of budget execution. During 2005, for example, the Finance Committee was apparently quite involved in, and played somewhat of a substantial role in, amendments to the customs and sales tax laws.

The assessment team heard somewhat mixed perceptions of the Finance Committee: that it is more "pro-government," but that it is also better educated and more experienced, in large part because of the business backgrounds of the chair and key members. In 2005, an opposition committee member indicated that the committee wanted to change the legal underpinnings of the MoF's control over internal budget execution within each ministry, as well as the centralization of procurement approval in MoF hands. He also indicated that the committee wanted to separate local governments from the MoF. At this writing, it is unclear whether these proposed changes have advanced or not; however, they indicate that the Finance Committee is able to operate in some measure autonomously of the executive and/or GPC hierarchy.

Regardless, this committee is perhaps the most important when it comes to public finance and economic growth in Yemen, and thus is a potentially pivotal anticorruption actor. Aside from the issues of political will and autonomy, there is the fact that the Finance Committee's staff is small, under capacity and not accountable in some measure to the committee itself. As of mid-2005, the committee had a clerk, a civil engineer and another specialist appointed to learn English. The committee had requested two additional technical specialists from the Presidium but was not to have a role in selecting them. At this writing, the status of the Finance Committee's request for additional expert staff is not clear.

2.2.3 Parliamentary By-Law Reform: Paper and Practice

In the summer of 2005, Parliament did vote to amend its by-law in two important respects: (1) committee heads must be elected every two years, whereas they used to remain in their positions after a new Parliament was first convened and committee were named; and (2) Parliament's top leaders—the speaker and three deputy speakers—in the Presidium must also face reelection during their normal parliamentary terms. However, certain by-law restrictions remain and hamper a greater role for independent-minded MPs.

Committee chairs must still request funding (for efforts such as MPs conducting site visits) from the Presidium to effectively play their oversight roles.

Despite these changes, however, old political practice can trump movement toward reform. Earlier this year, when the GPC parliamentary caucus was reportedly set to meet and have a secret ballot vote for a new Presidium, the candidacies of two more independent and reform-minded MPs appeared to be advancing. Reportedly, the morning of the election, top GPC leaders were directed to exert pressure for reelection of the old Presidium.

2.2.4 Conclusion

Parliament has considerable potential but a very long way to go in exercising its general transparency and accountability roles as the legislative branch of government. Embedded in these larger roles are Parliament's more specific contributions to anticorruption in Yemen. In particular, given the efforts of some committees, oversight is perhaps the most promising function related to anticorruption. There is a tendency in much donor parliamentary strengthening work to focus on a Parliament's budget review capacity and infrastructure. This is inspired both by the (correct) assumption that the ultimate source of corruption and approach for anticorruption is financial and by the US Congressional model, where the legislature is the source of the budget. However, in the Arab context, legislatures have limited constitutional budget authority and very little political influence; Yemen's Parliament is no exception and perhaps even more powerless than some of its counterparts.

There are several strategic implications in this context:

- *First*, budget work will be an especially long-term development endeavor. Even if changes can be secured in the executive's delivery of closing accounts and the draft of the next budget, political obstructionism will likely remain resilient. In addition, considerable training, technical assistance and infrastructure will be needed to support MPs in their review role. Reforms in this area are not just in ways of doing business but are systemic.
- *Second*, progress in capacity building and short-term gains are much more likely via other committees. Because of its centrality to public finance and issues affecting economic growth, the Finance Committee is one that should receive considerable attention. However, other committees (e.g., Health, Fisheries and Agriculture) with track records of effort and some modicum of political will, however modest, should also be targeted. These committees have the added benefit of dealing with service delivery and economic development issues that are important to the public and central to Yemen's long-term viability and legitimacy as a state.
- *Third*, more general parliamentary reforms can help Parliament play a more serious role vis-à-vis corruption over time. These reforms have to do with raising standards of accountability for individual MPs, such as attendance, and the institution as a whole.
- *Fourth*, follow-up and follow-through will be particularly crucial in programming. This means that training and technical assistance should be structured, as best as possible, to support a particular committee, for example, through the various steps in an oversight process or in reviewing legislation.

2.2.5 Recommendations

- Support amendments to parliamentary by-laws to (1) allow MPs and committees greater autonomy to conduct oversight, (2) establish clear and regular session schedules for Parliament, and (3) require committees to keep accurate and complete written records of proceedings.

- Communicate session scheduling and agendas to MPs in advance. Subsidizing cell phone text messages to MPs regarding the schedule might be one effective way to reach more MPs and thus increase relative levels of attendance.
- Support a Yemeni “Freedom of Information” Act (FoIA) and support a ministry pilot project on processes and procedures for addressing parliamentary information requests.
- Promote changes in the executive’s budgetary submissions process to Parliament. These should focus primarily on changing the scheduling of the delivery dates of closing accounts for the last fiscal year and the draft budget for the coming fiscal year. Also helpful would be changes to the formats of closing statements to make them more understandable to MPs.
- Support a willing ministry in the development of a detailed, reasonably itemized pilot or “model” budget to Parliament.
- Assist active and independent-minded committees in oversight. Areas of possible oversight include monitoring government performance and service delivery; evaluating a particular program; and tracking a ministry’s budget expenditures and/or compliance in a particular area.
- Regularize committee consultations with outside experts, civil society and other relevant stakeholders (e.g., the private sector). This could be piloted with committees that have some track record and then somehow institutionalized (e.g., through the creation of a simple database of experts and contact information) for replication to all committees.
- Strengthen the Finance Committee in oversight and legislative review/amendment through provision of experts and technical assistance on key legislative issue areas where corruption features prominently (e.g., in tax, customs, banking reform, etc.). A particular focus might be paid to supporting the committee’s input on the financial law governing the MoF (i.e., loosening its hold on line ministry discretionary spending) and on legislations dealing with greater fiscal decentralization.
- Systematically engage MPs and committees as partners and monitors in donor interventions. Because committees are inherently sector or issue specific, parliamentary oversight lends itself well to incorporation in programming that might otherwise have nothing to do with parliamentary strengthening.
- Encourage creation of internal accountability unit in Parliament to monitor the institution’s internal budget and to promote implementation of and adherence to institutional standards (e.g., MP attendance).
- Draft an MP code of conduct—including mandatory attendance at a minimum number of parliamentary sessions and relevant committee meetings.

2.3 CIVIL SERVICE REFORM

In Yemen’s post-civil war environment, the civil service has been an increasing mechanism for corruption. The Yemen *Country at the Crossroads* report notes that “[t]he government’s patronage system involves ‘employing’ thousands of Yemenis in government positions, with many collecting salaries for which they perform no duties.”¹³ This situation was exacerbated by the civil service laws adopted after the reunification of North and South Yemen, which necessitated a series of political compromises between the socialist system of the south and the bureaucratic system in force in the north that was based primarily on the Egyptian

¹³ United Nations Online Network in Public Administration and Finance. *Country at the Crossroads. Yemen Country Report*. 2004:
<http://unpan1.un.org/intradoc/groups/public/documents/nispacee/unpan016212.pdf#search=%22country%20at%20the%20crossroads%20Yemen%22>.

model. In addition, the newly unified civil service had to accommodate not only the employees of both former states but was also susceptible to both northern and southern demands and pressures for government jobs. In 1995, the government began a new program for administrative reform to stem continuing deterioration of the civil service and stabilize the economy.

2.3.1 Civil Service Modernization Program—Reforms in Place

The government launched a Civil Service Modernization Program in 1998 to improve operational efficiency and combat aspects of corruption within the public sector. This program focused on public funds management and modernization of the civil service. The government introduced a basic management information system (MIS), and established a database of all civil servants. Today, governorates are able to access information in this database. The Civil Service Modernization Program led to the first civil service survey, which initially found that of the 473,000 employees in civil service, 15,000-30,000 were either double-dippers or multi-dippers (those who receive more than one government salary) or ‘ghost employees.’ Program reforms include the following:

- **The civil service has implemented programs, policies, and procedures to reduce the discretionary powers of supervisors.** For example, the civil service relies on the automated MIS to minimize human discretion and automate promotions. All job applications are entered into the database, as an attempt to minimize human interaction between job seekers and government employers, thus reducing opportunities for corruption. However, the civil service acknowledges that it is difficult to fully limit human interaction in the hiring process. Use of the civil service database and MIS shortens the time required to vet curricula vitae (CVs) and creates a greater perception among the public that the hiring process in government is relatively fair.
- **The government is in the process of implementing a biometric identification card system.** As mentioned above, the Civil Service Survey revealed a high number of potential double-dippers and ‘ghost employees.’ As an attempt to control double-dippers, the government is in the process of implementing a biometric identification card system. The Biometric identification cards are civil service identification cards that contain a unique biometric identification of the employee. The president issued a Presidential Decree mandating the adoption of the biometric cards and the civil service has been testing the biometric system since May with plans to roll it out to all public agencies, including the police, this year.
- **Another major element of the program is the payroll system reform.** Parliament passed Law #43 (2005) to regulate the government payroll. The reform introduced a government-wide uniform pay scale based on years of experience and qualifications. In the first phase of the payroll system reforms, most government salaries were immediately reduced, making implementation to date widely unpopular. In 2005, the government decided to raise salaries against the advice of the IMF in order to compensate for the impact of the price reform measures. Transfer to a consistent pay scale is reported to be 90% complete. However, several agencies are apparently able to exempt staff from civil service pay scale reforms. In discussions with several agencies, we found that many have been able to secure an exemption from the civil service pay scale reforms.
- **In 2002, the government introduced a Civil Service Fund (CSF) to facilitate the early retirement or transfer to the private sector of public sector employees.** The CSF arranges retraining or compensation for departing civil servants. It has been one of the most effective mechanisms to encourage retirement and help the government trend toward a more rationalized number of public servants.
- **Beginning in the spring of 2006, the civil service introduced new processes for payment of civil servants.** Salaries are now paid to employees by direct electronic transfer to a post office savings account in order to reduce cash payments and therefore minimize opportunities for corruption.

2.3.2 Civil Service Modernization Program—Ongoing Reforms

- **As part of the Civil Service Modernization Program, the government is in the process of restructuring seven pilot agencies: civil service, COCA, public health, social affairs, customs, tax and civil aviation.** Restructuring involves organizational improvements and defining lines of authority. The civil service would like to build the capacity of government training facilities, provide standardized induction training to new employees and create a continuous learning environment within the government civil service. By law, agencies must train new employees in the first six months of their employment—teaching laws, regulations, and the values of the institution. However, in practice, little induction training takes place. There is no formal training program on professional ethics or corruption awareness.
- **The Yemen civil service has a 5% hiring target for disabled persons where the job is appropriate but no explicit hiring targets for women.** There are no hiring targets for women, despite the fact that the percentage of women in civil service is quite low. Civil service officials informed the assessment team that there is an informal policy to increase the number of women in the civil service. According to our contacts in the civil service, there are no laws or formal policies that discriminate against women in hiring.
- **The civil service is in the process of developing position descriptions for all civil service employees with technical assistance from the World Bank to standardize the system.** Related to position descriptions, the Civil Service Agency requires assistance in strengthening the government’s ability to implement an annual review process. Currently, supervisors have significant discretion in evaluating employee performance and granting bonuses and promotions. In addition, supervisors often tend to rate employees consistently as “excellent” in order to avoid conflict. The civil service has activities under way to minimize the discretion of supervisors in awarding bonuses and raises.

2.3.3 Recommendations

- Strengthen the civil service training capacity; develop an induction training program for all public sector employees that includes training on professional ethics and corruption awareness; foster a continuous learning environment in the civil service with ongoing training programs in professional skills and professional ethics.
- Provide technical and financial support to the Civil Service Fund; support trainers who help prepare public sector employees for a transition to the private sector.
- Support drafting of position descriptions for all civil service employees, including performance-based evaluation criteria.
- Strengthen human resources capacity and introduce modern system of performance-based employee evaluations and promotions; rationalize and harmonize incentive programs.

2.4 SUPREME AUDIT INSTITUTION – COCA

Yemen’s Central Organization for Control and Audit (COCA), the country’s supreme audit institution, is an anomaly in the country’s otherwise dysfunctional public sector exemplified by the civil service discussed in the previous subsection. COCA shows a fairly high degree of human capacity and professionalism among its staff. It seems to possess fairly well-developed, understood and implemented rules, processes and procedures for responding to complaints; performs audits and conducting investigations; deals with audited ministries or other public sector entities; monitors compliance with recommendations; and if necessary, refers cases demonstrating criminal violations to the Public Funds Prosecution. While purely impressionistic, one senses a level of activity and productivity absent upon visiting the premises of other central government ministries.

Despite COCA's relative internal strengths, there appear to be external political limits in how far it can exercise its mandate. While largely impressionistic, low-level administrative infractions do not generally appear to be subject to these constraints; indeed, a couple of the assessment team's interlocutors complained that COCA spends too much—or equal amounts of—time and energy on “easy” (meaning politically low-stakes or non-threatening) cases. One observer quite familiar with COCA confirmed that large cases have been stopped from proceeding because of political pressures but did not elaborate. Thus, COCA seems to excel in the number of and quality of the audits it performs, though their level of import and consequences vary.

2.4.1 Internal Structure

COCA's two main divisions are the Administrative and Economic Departments. The Administrative Department audits all central ministries, Parliament, the President's Office and High Committees, like the Supreme Council for Elections and Referendum (SCER). This department is divided into divisions that handle (1) health and social affairs; (2) finance and planning; and (3) productive sectors like agriculture, fisheries and industry. Because of its vast purview, it is estimated that the Administrative Department handles the government actors accounting for 80% of state expenditure and 90% of public revenues. This department is now conducting performance audits and has completed or is completing such exercises in the Ministries of Education, Immigrants and Oil. As a result of its report on the Ministry of Immigrants, this was merged with the Ministry of Foreign Affairs.

The Economic Department is responsible for auditing parastatal companies, whether they are wholly state controlled or mixed (joint-stock) enterprises. There are approximately 76 such entities in sectors and areas such as agriculture and irrigation, among others. The Economic Department is responsible for companies in the oil sector and has a specialized oil unit. It also audits banks and is involved in Central Bank audit, as well. As the oil and banking sectors in particular become more complex (e.g., as banks begin to automate) and internationalized, the technical burden on COCA staff increases concomitantly.

2.4.2 Audit Mandate, Process and Compliance

COCA is responsible for both small and grand administrative and financial audit investigations. “Small” cases involve the cashiers in line ministries and small sums of money embezzled, where administrative action is the most likely course of action. Cases at the district or governorate level are of a similar ilk. Ministries where more of a range of cases are found include Education, Health, Agriculture and Public Works. Oil seems to constitute the single biggest sector when it comes to the financial sums involved in cases. In the case of “big violations,” where there is evidence of criminal or other illegal activities, a full report is presented to the audited state actor, which has 30 days to take action, after which time the case is forwarded to the PFP in the Attorney General's Office. Once completed, all COCA reports are sent to the relevant line ministers and the President's Office.

COCA appears to make modest efforts to follow up on its recommendations. Initially, it will ask for a response from the employee in question within 30 days and will copy supervisory levels above him or her. The audit institute will study the response when received; at this writing, it is not clear what recourse COCA has (1) if it does not receive a response, or (2) if the actions taken in response to its report fall short of the recommendations or are otherwise inadequate. When another audit case arises with respect to a government entity, COCA auditors will also look to see whether past relevant recommendations that were made have been implemented.

One COCA staffer suggested that government entities need to accept its recommendations, which suggests that they often do not. Others added that response rates vary and depend on the internal capacity and leadership at higher levels within the entity where compliance is in question. The fact that the Economic Department is engaged in certification audit of an enterprise's financial statements (the company's “books”) may have more of an impact because it can theoretically portend further investigation, more immediate legal

consequences, changes in management, etc. It was difficult for the team to test the validity of this assertion in practice; however, Economic Department staff did point to an apparently high rate of companies presenting their closing accounts, whereas some used to shirk this requirement.

2.4.3 Capacity Issues

COCA's Administrative Department has 100 auditors for a diverse range of sectors. While on the whole COCA employees seem well educated when compared to many of their public sector counterparts, only 60% or so of this department's auditors have degrees in accounting (the rest tend to be in related areas like law and economics). In addition, many in this department lack English language skills, which are important since many contracts signed by ministries are in English.

As a body that plays monitoring and, increasingly, evaluation functions across the public sector, COCA's work is affected by the lack of capacity in their counterparts. Ministries usually have vague plans, lack performance indicators and do not possess methods to measure progress. The lack of IT systems and skills compounds the problem of having little useful information readily available for audit. This often means that investigations are staff intensive and take a long time to complete. COCA gave the example of one case with the Ministry of Education that took almost a year and a half to complete. For their part, Economic Department staff said that some directors of finance at companies under their purview are not graduates in accounting.

2.4.4 COCA, Public Funds Prosecutors and Courts

COCA works relatively closely with the PFP and the PFCs. In preparing its reports of cases that it forwards to the PFP, COCA does a considerable amount of the investigatory groundwork for the prosecution. However, COCA claims that its involvement continues in efforts at a level of detail that probably the prosecution should handle on its own as it decides whether to issue an indictment and forward the case on to the PFCs. This seems to be related both to lack of PFP and PFC capacity in skills—it has been asserted that prosecutors and judges do not understand the basics of auditing and accounting—as well as staffing constraints. In addition, the PFP often asks COCA to obtain original documents from those COCA audited in the first place. Also, it is claimed that many cases—according to one estimate, less than 50%—get “lost” once forwarded to the PFP or PFCs.

2.4.5 COCA and Parliament

While COCA reports primarily to the president, it also has a reporting requirement to Parliament which is also legally mandated. Each year, according to Article 91 of the COCA law, it must provide Parliament with its report on the annual budget, the government's closing statements and notes. This reporting contains information on the main violations COCA has discovered during the past year—including violations of administrative rules in budget execution, steps COCA has taken to prevent violations, the level of cooperation COCA has received from government entities and COCA's recommendations to prevent future violations. COCA holds a special session with Parliament each year to present its report.

Parliament also has the right to request that the audit bureau perform specific audits. COCA is obliged to respond to such requests and reportedly usually does. It has worked with a number of committees in Parliament—in particular, the Finance Committee. In 2005, COCA also apparently played an important role in dispelling parliamentary reservations about the United Nations Anticorruption Convention.

2.4.6 Recommendations

- Support those divisions within the Administrative Department which are responsible for the audit of (1) more corruption-prone ministries, and/or (2) ministries with relatively larger budgets, and/or (3)

ministries engaged in economic development and productivity. In some cases, the same ministry may meet all three criteria. In other cases, ministries may meet only the first two criteria.

- Provide tailored training and technical assistance to the Administrative Department in its audit of the Ministry of Oil and complementary support for the Economic Department's oil unit in its audit of companies. *Oil, of course, accounts for an estimated 80-90% of RoYG revenues.*
- Build and institutionalize the Economic Department's role as a trainer and technical assistance provider to the internal financial audit departments of parastatals.
- Expand COCA's abilities *and* authority to follow up, monitor and enforce compliance with findings and recommendations. This would probably require changes to COCA's laws and perhaps by-laws when it comes to enforcement; when it comes to processes and procedures for enhanced monitoring and follow up, this implies changes in COCA by-laws and regulations.
- The former might be accompanied by supporting a pilot ministry as it develops discrete modalities and other capacity to respond to and implement COCA recommendations. These could be institutionalized and replicated as "model" procedures for other ministries. Legal departments within line ministries and ministerial inspectorates/inspectors are likely partners for programming of this type.
- Encourage greater COCA-Parliament interaction by creating a parliamentary unit in COCA that could work on developing more meaningful, substantive and understandable reports to MPs, whether the annual report or select reports.
- Further institutionalize existing COCA consultations with Public Funds Prosecutors and Courts. Currently, these actors only meet annually. Meetings could be held quarterly. Technical assistance could be provided to help COCA, PFPs and PFCs determine needs and develop and implement a strategic plan for greater coordination.
- Build the Legal Department's capacities to conduct investigations and follow up with Public Funds Prosecutors and Courts as they pursue cases. At present, this represents a risky investment since the number of successfully prosecuted, adjudicated and enforced public funds decisions is apparently very, very small because of political obstacles. Work in this area is probably best done in tandem with, or contingent on, improvements in the processes and performance of Public Funds Prosecutors and Courts.

2.5 ANTICORRUPTION AUTHORITIES

Beyond COCA, the Public Funds Courts and Prosecution, there is no specific anticorruption authority in Yemen as exists in a number of other countries. While at different stages, three RoYG initiatives addressing anticorruption are worth noting.

First, in response to international and domestic criticism of corruption, the president established an advisory committee on corruption that is headed by the prime minister and reports directly to the president. This effort has been effectively still-born. It had no independence, and included some widely perceived as part of corrupt acts. It appears to have met twice, held one press conference, and then effectively disbanded.

Second, an apparently more serious attempt to create an independent anticorruption "Authority" (*Hay'a*) is currently under way. Legislation for the National Authority for Fighting Corruption (NAFC) has been drafted and approved by Parliament. The exact duties of the NAFC are not yet clear, but its principal task will be to oversee the implementation of anticorruption and financial liability laws. The legislation establishing the NAFC was drafted by the executive branch, not Parliament. Its supporters maintain that the NAFC will be independent and will have broad powers to address corruption in Yemen. Detractors, including some parliamentarians, question NAFC's actual independence from the executive. They note that the president will

select the nine NAFC members from a list of 20 advanced by the Parliament and Shura Council, both of which are firmly controlled by the GPC. They concluded that the NAFC will not be independent in reality. The law that establishes the higher anticorruption authority does not appear to complement other laws and institutions that relate to corruption, including those of Parliament, COCA, and the PFCs; however, details such as this are often handled in executive regulations promulgated subsequent to the passage of a law.

Third, the RoYG recently launched an anticorruption awareness and media campaign. It includes television commercials and posters and billboards in major urban areas. While the campaign has been met with skepticism, it is a necessary feature of any attempt to raise awareness of the corrosive impacts of corruption on society.

2.5.1 Conclusion

The advancement of the concept of an anticorruption authority into legislation is a potentially important step. It suggests that the RoYG is intent on moving beyond the more informal, unstructured and dependent commission previously mentioned. On the other hand, comparative experience with anticorruption bodies is mixed. Potential risks include (1) the body becomes window-dressing or is ultimately powerless because of higher-level political interference or obstructionism, (2) it overlaps with and engages in bureaucratic infighting with related entities that may or may not be under its purview, and (3) it gets used in arbitrary or random ways to threaten or punish alleged corruption offenders. Any of these scenarios would pose significant obstacles for the NAFC, which will already face considerable public skepticism. Based on what the team heard in its many interviews, public doubts over the RoYG's sincerity already appear to have greeted its public awareness campaign. Based on these conclusions, the team's recommendations with respect to donor support for the RoYG anticorruption body are modest.

2.5.2 Recommendations

- Support legal and institutional harmonization of Anticorruption Authority Law with those of Parliament, COCA, the PFCs and related bodies. The first step is to fund a harmonization study.
- Monitor the NAFC, and in particular, its progress toward full independence from executive power. If warranted, support enhancement of institutional capacity of authority so it has the means to fight corruption.
- Develop metrics to gauge the impact of any RoYG public awareness campaigns.

2.6 REGIONAL AND LOCAL GOVERNMENT

The emergence of elected local councils after the 2002 local elections was greeted with considerable optimism in Yemen. While quite limited in authority and resources, many believed that this represented a new dimension in the country's experience as an "emerging democracy"—including a chance to move beyond Samara's central control. The relative advantage of Yemen's incipient decentralization process for anticorruption is its newness. This does not mean that corruption does not exist at Yemen's subnational levels of government; indeed, it often manifests itself there as it does at the national level. What it does imply is that there are still considerable opportunities to (1) address corruption where it does exist at the governorate and district levels, and (2) minimize its proliferation as Yemen continues to decentralize. If poorly designed or implemented, further decentralization may result in further decentralization of corruption, rather than its amelioration.

2.6.1 Locally Elected and Centrally Appointed Government

Yemen's Local Authorities Law is written as a blueprint for devolution but is a mixture of deconcentration and delegation in implementation. Main service ministries—Health, Education, Agriculture, Water—have

offices and personnel at the governorate and district levels. They have some substantive and operational autonomy. District coordinators or field staff, for example, report directly to their superiors at the governorate seat. Each district council has a small administrative unit (*diman*) that ostensibly includes technical, information, *zakat* and other revenue collection staff. The elected district and governorate councils generally have little authority vis-à-vis their appointed, administrative counterparts.

2.6.2 Local Funds, Central Finance and Intermediate Control

There are three main sources of local revenues in Yemen:

1. Fiscal transfers—these come from the central government in two tranches per year.
2. Own-source revenues—these are generated locally through *zakat*, *qat* taxes and other fees whose rates are predetermined by the MoF in Sana'a; they are shared with the governorate, which is otherwise resource scarce.
3. Recurrent budget—which pays monthly salaries of deconcentrated line ministry employees.

Revenue Collection. Perhaps because it is a traditional, recognized and legitimate institution, *zakat* collection reportedly works well. Other own-source revenue collection may or may not have bureaucratic personnel, and reportedly other locals—including soldiers—have been hired to collect. The implication is that collectors, whether regular or irregular, are often pocketing what they may collect. Governorates reportedly hold onto fiscal transfer and recurrent budget funds. As there is often little communication and coordination between districts and governorates, it may be that governors and other governorate officials skim off the top of these funds.

Local Procurement. Fiscal transfers and own-source revenues from the central government can only be spent on capital works projects and not operations and maintenance; accordingly, an estimated 80 to 90% of the Ministry of Local Authorities' (MoLA's) own budget is devoted to procurement for the construction of administration buildings in governorate capitols and the districts. This constraint automatically pushes local administrations toward the common source of much state-centered corruption in Yemen: procurement. Procurement is still most often done at or through the central or governorate level, but increasingly is seen in districts; as in most other cases of procurement in Yemen, the costs associated with projects procured at these levels are thought to be well above actual costs because of corruption (i.e., the result of choosing the more expensive or inflated bid because of connections and/or bribery). It is estimated that procurement costs could be as much as 50% lower if district authorities oversaw the tenders themselves. In one governorate, it is reported that the governorate had "hijacked" the tendering process until recently.

Tender committees are composed of representatives from a district's management committee (which has some local council members on it), a technical expert (usually an engineer) and a representative from the relevant line ministry. At the governorate level, one may find a similar composition. The extent to which processes and procedures are known or followed is not clear. Given their generally low capacities, district councils and many administrative staff do not have the knowledge, experience or skills to play this role. It is also not clear what degree of oversight—on paper or in practice—of subnational procurement exists.

Budgeting. Similarly, district councils are supposed to review and approve the annual investment plan and budget, though their capacities are generally quite limited. In some cases, the governors and governorate officials make these determinations for their localities. In these instances, local council members are probably unable to effectively understand and question, let alone push back on, the governorates. In fact, some may not even know their roles and responsibilities according to the Local Authorities Law. There are planning and budget committees within local councils, but they are generally in name only. It is reported that there are considerable informal inputs into the district budgeting process, where district residents interact directly with the governor as the gatekeeper for the districts under his authority. This likely facilitates horse-trading and favoritism in budget allocations in return for bribes, other payback or simply political allegiance.

District investment programs and budgets are submitted to governorates for approval. Governorate councils, which are essentially amalgamations of all district councils in particular governorates, do not actively review the budgets. The MoF official at the governorate must approve the budget before it is then forwarded to MoLA and ultimately to the MoF in Sana'a. As with Ministry of Finance accounting units in central ministries, MoF personnel have incentives to control costs, which may actually increase the propensity for their requesting or accepting bribes for their concurrence in transactions.

Outreach. While the team was unable to meet local council members, we believe that local councils generally do not engage the public on a regular basis. If it is like other Arab countries in this respect, then many local council members in Yemen believe that they represent their communities because they are from there, were elected and have informal interactions at *qat* chews, Friday prayers, weddings, funerals and other holidays or celebrations with attendant social gatherings. One local official in Sana'a told the team that the 10 districts in Sana'a are fairly engaged with the public but not with NGOs.

2.6.3 MoLA: Views from the Center

Limited Oversight. MoLA receives semi-regular reports from local authorities. The most important are quarterly reports that include amounts and types of revenues, status of implemented projects and minutes of meetings of local councils and administrative executive bodies. Some councils (e.g., in Ta'iz) have periodic publications that are disseminated in their districts. Interestingly, the MoLA official who talked with the team maintained that the recurrent budget—and not procurement—offers greater opportunities for corruption. This is because it is composed of many smaller, scattered allocations. The funding is actually given in advance to officials who will spend the money and then prepare fictitious receipts.

Limited Public Engagement. MoLA claims to have a good relationship with the parliamentary committee that oversees local government in Yemen, though they note that Parliament sometimes has passed laws that are in contradiction with the Local Authorities Law. (USAID's 2003 *Democracy and Governance Assessment* notes that a large number of laws need to be reconciled with the local government law.) MoLA's relationship with their corresponding committee in the *majlis al-shura*, Yemen's appointed quasi-upper house, is reportedly quite good—in part because of the higher capacity of shura members to understand the issues (many are former officials).

As with many other ministries, MoLA makes little effort to engage Yemen's media. The ministry seems to shy away from nongovernmental newspapers because of their perceived personalization, politicization and sensationalism. Thus, they tend only to seek the publication of press releases or other information in official newspapers. MoLA does keep some track of press coverage of local government and decentralization issues on a monthly, bimonthly or quarterly basis. The annual conference of local authorities usually provides the media a key local governance focal point, but otherwise local governance issues do not figure prominently or consistently in media.

Reform Possibilities. In part because of the annual conference of local authorities, MoLA is aware of the key factors behind the lack of transparency and corruption. While wary of the lack of ability of most local authorities to manage resources, the MoLA official who met with the team referred to a draft Law on Financial Resources that would allow local councils to raise new and/or use a percentage of revenues to improve service delivery in any sector. This emerged as a demand from the last conference on local authorities. The same official also implied that there might be a future role for local authorities in public lands zoning/planning (an advancement that would be facilitated by the fact that the RoYG recently consolidated its two land authorities into one new entity).

2.6.4 Conclusion

While corruption exists at subnational levels, the amount of public funds susceptible to corruption in local administration is much less in the aggregate when compared with national sectors such as health, education and agriculture. Local councils, in particular, but also administrators have a long way to go to build their

capacities to play the active planning, budgeting and monitoring roles envisioned for them. At the expense of their district counterparts, governors and governorate officials seem to have unduly increased their access to resources and influence as the intermediary level of government in Yemen.

If more resources and authorities are transferred quickly to governorates and districts, there is a risk of proliferating corruption if local actors do not assume more active and collaborative roles, and if transparency and accountability mechanisms are not built in to Yemen's emerging decentralization architecture.

2.6.5 Recommendations

- Train local councils in their rights and responsibilities according to the Local Authorities Law and in how to conduct their basic business (from holding meetings, to keeping minutes, etc.).
- Support an activation of governorate councils in playing their roles, especially with respect to district budget review.
- Facilitate greater district and governorate council interaction and coordination with respect to the links between district budget and investment plan development and governorate planning.
- Promote interaction and coordination between district councils and line ministry personnel, and governorate councils and line ministry officials, in planning and budgeting.
- Encourage greater organization, advocacy and coalition building among NGOs within and across districts in a governorate; link these civil society activities to local needs identification and consultations with local authorities over appropriate budget priorities (i.e., recognizing that the current scope is limited for spending).
- Increase efficiency, transparency and accountability of existing district revenue collection; support study of ways to diversify own-source revenue options.
- Introduce MoLA, leading local authority conference representatives and relevant parliamentary committee members to comparative models of fiscal transfers with successful transparency mechanisms at different levels of government.
- Support a review of existing laws that may conflict with the Local Authorities Law and make recommendations for changes that might increase autonomy and transparency of local authorities; provide Parliament and Shura Council committees with specialized technical assistance to support debate over possible amendments.
- Build MoLA's capacity to train local council members, district administration and service delivery personnel.

2.7 ELECTIONS¹⁴

There have been a number of local, parliamentary and even presidential elections in Yemen since the early 1990s. While still problematic, the 2003 parliamentary elections were somewhat freer and less conflict ridden than the 1997 races. President Salih was one of the first Arab rulers to run against at least nominal (he still

¹⁴ This section draws heavily on the following documents: National Democratic Institute (NDI). *Monitoring Report: Yemen 2006 Voter Registration Update* (2006); NDI. *Statement of the NDI Pre-Election Delegation to Yemen's September 2006 Presidential and Local Council Elections* (August 15, 2006); and IFES/Yemen. *Pre-Election Assessment of Preparations for Administering the September 20, 2006 Presidential and Local Council Elections in Yemen* (August 2006).

received around 96% of the vote) opposition in 1999. The 2006 elections witnessed a fairly major candidate for the presidency, backed by the two largest opposition parties. This was the first time an Arab head of state or government allowed a semi-competitive race. The main opposition candidate took almost 22% of the popular vote. Considerable improvements in the organization and administration of elections were also adopted by the SCER with assistance from the major international NGOs working in Yemen. However, key systemic features still offer considerable undue advantage to the ruling party and facilitate aspects of electoral corruption.

2.7.1 Partisan Representation in Administration

Until June 18, the elections as a process were looking more susceptible than usual to instances of fraud at multiple levels. It appeared that there would not be any opposition presence on any of the administrative commissions. However, the “June 18 Agreement” between the GPC and Joint Meeting of Parties (JMP) finally facilitated the appointment of a fairly equitable partisan mix of commissioners to the governorate--and district level commissions: 46% of the appointments were determined by the JMP. At the national level, the opposition also succeeded in securing two additional appointments to the national committee: one responsible for overseeing the role of security forces, and the other responsible for external relations. The fact that an opposition representative was charged with the new security portfolio—which has the added force of the June 18 Agreement behind it—added an additional potential layer of transparency, at least allowing the opposition the ability to report on and press the issue, which could be amplified by its external relations commissioner.

2.7.2 Voter Registration

At least since the last parliamentary elections, if not before, a chief concern with Yemeni elections has been the integrity of the voter rolls. The rolls have been reported rife with the names of tens of thousands of duplicate and underage voters. As it does not have the authority to purge voter lists, the SCER identified 240,000 faulty names and initiated a legal process to remove the names and punish local commissioners and party members associated with fraudulent registrations. Sixty thousand registrant instances were multiple names which were forwarded to the public prosecutor. In one governorate, an estimated 600 people went to jail as a result. Pursuing allegations of underage voter registration is not included in the elections law, but the public prosecutor is pursuing these cases based on antifraud elements in the penal code. The SCER has also reportedly been authorized to take action on the underage voter names on the rolls.

There are allegations that this process has favored the ruling party. The provision of the June 18 Agreement to form a legal committee to study the voter roles has not been implemented.

The voter registration process for the last elections, which was held in early 2006, was characterized by a number of structural deficiencies opening the door to possible cases of fraud. These included:

1. **Staffing registration committees.** Because opposition parties boycotted appointing members to the various levels of committees charged with administering registration, the SCER moved to lists of unemployed civil servants to try to fill the vacancies. For a number of reasons, even this mode of recruiting proved difficult. Many of those appointed were apparently inexperienced and were chosen by local GPC officials. In addition, many subcommittee (the lowest/most local level) members were replaced at the last minute.
2. **Role of military and security forces.** Military and security forces reportedly interfered in the integrity of the registration process. Large numbers of military personnel were transported in government vehicles to registration centers, fueling suspicions of compulsory registration for the ruling party.
3. **Underage registration.** Repeating a pattern witnessed in preparations for the 2003 parliamentary elections, cases were observed where potential voters who were asserted to be of voting age appeared quite a bit younger. Witnesses who by law can vouch for a voter’s age in front of commissioners for them

to register were seen attesting to these fraudulent registrations. The assessment team also heard about one case where a particular witness attesting to potential voters being of legitimate age was actually blind.

It was alleged that around three million voting cards were issued for the last elections. However, only a little over two million of those who received cards were actually previously registered. The assessment team was not able to corroborate this contention, which, if true, would mean hundreds of thousands of legally questionable voters voted September 20.

2.7.3 Candidate Registration

According to some opposition leaders, governors and district directors used their offices to obstruct JMP candidate registration. To register, all candidates were reportedly required to pay a fee for ostensibly removing posters and other campaign announcements in public spaces after the elections. The assessment team heard that JMP candidates were not being provided these receipts; instead, receipts were sent to the homes of GPC candidates.

2.7.4 Polling Places

For the last elections, there were concerns that the two separate sets of polling stations would provide extra opportunities for voting fraud. In addition to the regular polling places for district and governorate level offices, there were 330 “extraordinary” presidential polling stations—one to correspond with every locality in Yemen. Yemenis are entitled by law to vote for president anywhere in the country. This parallel system would seem open up the possibility for multiple voting. It also theoretically made monitoring more difficult simply because there are so many more sites to observe.

2.7.5 Ballots and Ballot Boxes

At the time of the assessment team’s visit, it was not clear when and where (even whether in or out of country) the ballots were to be printed. This was of particular concern considering the variety and numbers of different ballots to be printed: one presidential ballot for the whole country, 333 different ballots for different governorate council races, and over 5,000 for different district-based local council races. Ballot boxes were also reportedly sitting outside of the SCER building. While seemingly the result of a lack of timely and organized pre-election preparation, this appeared to add opportunities where maladministration could be exploited for corruption at the front-end of elections organization.

In the run up to and during voting, the military and security forces were again a key actor as in past elections. They delivered ballots to polling stations, and in some cases, stored and secured ballots and other materials. They were also responsible for security of ballots and boxes during the counting of votes, once cast. During the vote-counting process, there were also reports of party and candidate representatives being excluded, undue presence or involvement of security forces and a large number of ballots (i.e., around 10%) declared invalid. There were also reports of campaigning on election day, non-secret voting and vote buying.

2.7.6 Political Messaging and Media

Political parties are not allowed to have permanent symbols posted in public. However, one frequently sees the GPC’s rearing horse symbol on buildings, including right next to ministries and other government buildings. Political parties are also supposed to have equal access to state media during campaign periods. The advantage of incumbency here is that the state’s media monopoly ensures continuous coverage of President Salih as head of state, though he is also the GPC’s presidential candidate; again, in established democracies, the incumbent leader also receives considerable—some would argue disproportionate—media attention because he is head of state and/or government. In the last parliamentary elections, GPC candidates and campaigning received more coverage than the opposition and its events. In the final analysis, it was observed

that the 2006 campaign did witness changes in official media coverage that was more even-handed than previous elections.

2.7.7 Dispute Resolution and Legal Redress

Contestations of electoral results or proceedings are heard in regular courts, and cases involving voting and counting processes can be appealed to the next level. After the 2003 parliamentary elections, the more than 30 cases heard all rendered rulings in favor of GPC candidates. Opposition parties have been reluctant to go to court because of fears of corruption, inefficiency and expense. Although they have legal teams, the parties do not seem to know how to put together solid cases but rather rely on allegations. Also, judges reportedly have no understanding of the electoral law, let alone the technical issues involved. Given the judiciary's weakness and lack of independence, it is likely that any cases coming out of the last elections will be adjudicated in a similar vein.

2.7.8 Conclusion

This assessment was completed just prior to the September 20 presidential and local elections. At this writing, reporting on the campaign period is still forthcoming. Donors also await the assessment of elections observers of the voting and counting periods. Collectively, these readouts will provide the most up-to-date, detailed picture of corruption-related electoral issues—and by implication possible solutions—from on the ground. However, based on persistent patterns from previous elections, the team offers donors several recommendations. While there are a myriad of technical needs related to freer and fairer elections in Yemen, the subsequent recommendations focus on interventions that may (1) have somewhat more political traction, and (2) address issues central to electoral freedom and fairness.

Yemen's next elections are not until the parliamentary races of 2009. This offers both a time frame in which delimited, discrete and modest anticorruption-related elections objectives might be set and implemented. At the same time, the international scrutiny and attendant pressures—common in the build up to many recent developing country elections—will likely recede in the weeks following Yemen's races. Therefore, there will be much less incentive to make necessary reforms during the intervening period. At the same time, this interregnum may allow donors the necessary time to program—and lobby—around areas that could prove more instrumental in coming elections. Without a coordinated diplomatic push for further forward movement in structural electoral reforms, these recommendations will likely continue to face considerable obstacles.

2.7.9 Recommendations

- Support creation of a SCER investigatory unit to receive, investigate and make recommendations on complaints and reports of violations of the Election Law.
- Provide training to public prosecutors and judges at all court levels on the Election Law and related legal issues. This training could be expanded to support the creation and pilot teaching of a module on the Election Law for use in law faculties and the Higher Judicial Institute, where judges are trained.
- Support Election Law amendments and related legal and regulatory changes that facilitate its enforcement—with particular respect to investigation and adjudication authorities and procedures.
- Assist the institutionalization of the SCER's leadership role over the security forces with respect to elections administration.
- Support consolidation of initial gains made in relative liberalization of official media coverage during the presidential elections through (1) establishing a modest but effective monitoring and reporting capacity of the media during campaign times—perhaps outside of but coordinated with the SCER; (2) reformulating

the SCER's media regulatory role and possibly reforming/restructuring its Media and Electoral Awareness Center; and (3) amending the Election Law to provide a more expansive legal framework for multiparty access to and use of state media than currently exists.

2.8 POLITICAL PARTIES

2.8.1 Advantages of Incumbency

As referenced in Section 1, the GPC enjoys vast privileges as the dominant and ruling party. To some extent, the advantages of incumbency for the GPC are like those of ruling or governing parties in other parts of the world. For example, opposition MPs complained to the team that the government was inaugurating new development projects—mostly water, roads and electricity—across the country just before campaigning was to start for the September 2006 local and presidential elections. MPs gave the example of one governorate where an estimated 40 artesian wells were dug in one district alone and none were dug in others. The upshot was that this was a district where the GPC might be in danger of losing control or doing quite poorly.

Incumbents around the world—whether as individual legislators or more systematically as a party—usually try to deliver services to constituents in order to curry political support and ultimately get reelected. The story one opposition MP recounted to the team underscores the almost inherent association between incumbency and patronage, regardless of partisan affiliation and whether an incumbent is from the ruling or opposition party. This MP told the team that he had worked for electrification in his district since being elected in 2003 and that just recently power was being generated. The (centrally appointed) governor and local administrators were reportedly planning a public celebration to take credit for the results of this project. Constituents called their MP in Sana'a the night before the celebration. The MP said that he arrived back in his district just before the ceremony. Seeing the MP and the reception he received, a senior governorate administrator, at the last minute, reportedly announced that festivities would be postponed because there was still some pending final work on the project. This vignette reflects the relatively simple political fact that all leaders want to be associated in their constituents' (or subjects') minds with service delivery.

2.8.2 Party Finance and Use of State Resources

The government provides each presidential candidate 25 million Yemeni Rial (YR) to campaign. Candidates are also allowed to receive contributions from individuals and the private sector. Foreign funding of candidates or parties is illegal. While its direct intervention in Yemeni politics has reportedly declined in the last several years, Saudi Arabia is still alleged to funnel support to certain figures and/or trends associated with *Islah*.

By law, all parties are required to submit annual reports to the Committee for the Affairs of Parties and Political Organizations, a body nominally charged with overseeing political party and organizations. The committee is headed by the Minister for Parliamentary Affairs (the current minister is a former head of the SCER) and composed of two other ministers and judges who are supposed to have reputations of integrity. These reports are not made public, but there are reportedly requirements for disclosing large contributions. However, to the team's knowledge, there is no active or independent monitoring of political party finances. *Islah* reportedly submits its annual report, as presumably do other parties, but no parties seem to take additional voluntary steps to disclose their finances.

The situation of the Yemeni Socialist Party offers another window onto more subtle neo-corruption issues in political party life in Yemen. One YSP leader told the team that the government and GPC have been using state resources, procedures and influence to divide and weaken the party since the end of the 1994 civil war. He claimed that jobs and properties in the south have been offered to one sector of the YSP to break away from the party. He also cited the GPC-dominated nomination process of presidential candidates as another

weapon used against the YSP. A related phenomenon is the government and/or GPC's reported establishment of "clone" or "replacement" parties to keep even the smallest parties pitted against ostensible competitors.

Yemen's laws with respect to the use of state resources are quite clear. The Governing Parties and Political Organizations Law explicitly bans the use of public positions and funds for partisan political purposes. It also provides the committee by the same name the right to bring a case to court asking for the dissolution of a party if it is found to have broken this law. This provision leaves the door open for the law's potentially arbitrary use. The Law on General Elections and Referenda reinforces this prohibition with respect to elections and opens the door for the SCER to make a complaint to the Public Prosecutor's Office. As is often the case in Yemen, the problem is not so much of legal framework as it is political practice.

In all these cases, corruption is very likely involved, but it blurs with the advantages of incumbency, political collusion and cooptation. While difficult to detail and substantiate (let alone prove), the use of public (versus affiliated private) funds to establish additional political parties for the deliberate purpose of cluttering the political landscape borders on corruption. In the aggregate, these are perhaps better conceived as political strong-arm tactics where corruption manifests itself but does not constitute the sum total of political practice.

2.8.3 Use of Other Resources

Both the GPC and *Islab* have large nongovernmental social organizations that may be used as additional means to build popular support. For the GPC, the Salih Foundation for Social Development can be viewed as a part of its patronage machine. For *Islab*, its network of charities, schools and summer camps provide its primary means of outreach. In addition, left over from *Islab's* original power-sharing arrangement with the GPC during the 1990s, *Islab* still controls a sizeable percentage of mosques in Yemen. While the June 18 Agreement bans the use of mosques for campaigning purposes, it was not clear whether—or to what extent—this was observed by *Islabi* or state-dominated mosques.

2.8.4 Corruption, Anticorruption and Political Party Discourse

When it comes to political parties in Yemen, corruption probably figures most prominently as a readymade source of charged political rhetoric. The pre-campaign and campaign periods in Yemen's recent elections saw charges and counter-charges related to corruption. The JMP and its presidential candidate, Faisal bin Shamlan, made corruption a central theme in their platform and campaigning. One reason bin Shamlan was chosen was his reported integrity as a former Minister of Oil, who resigned because of alleged corruption and gave back his ministerial vehicle, and as a former MP, who resigned from Parliament after he served the length of time of his original term though parliamentary terms were extended from four to six years.

In mass political rallies in different parts of the country, President Salih made variants of the argument that the opposition makes charges of corruption when it is corrupt. The president also touted various anticorruption elements in the GPC's elections platform.

2.8.5 Conclusion

The GPC's predominance does not provide incentives for it to become more transparent or to diminish those heavy-handed, manipulative or corrupt practices that go beyond the natural advantages of incumbency. Because they are at such a relative disadvantage, the opposition does not have any incentive to model best practices. The June 18 Agreement principles related to the uses of public office and money are admirable, but compliance and enforceability seem insurmountable obstacles. The general consensus over the SCER's monitoring role in this regard may hold some concrete promise as a future mechanism, but the SCER's relative political marginalization vis-à-vis the government and ruling party, as well as its rocky recent history with the JMP, clouds the prospect for it to play such a role effectively.

2.8.6 Recommendations

For the reasons outlined, the team does not see clear opportunities for USAID/USG or other donor programming in anticorruption areas of political party development. It is possible that future elections-related programming, as detailed in the previous subsection, could tackle this issue as it pertains to allegations of the ruling party or opposition using state or public resources for party gain. Also, supporting CSOs as informal monitors of, and advocates for, greater transparency and accountability in political party finance provides a modest, relatively low-cost approach to this issue. This could at least raise awareness of, and start to build some limited pressure for, the need for reforms in this area. The team does not recommend this as a place for immediate or priority donor investment.

2.9 TAXATION SYSTEM

The Tax Authority in Yemen has taken important steps to reduce levels of corruption, acknowledging in discussions with the assessment team that it is “very common” for companies to offer a bribe, or for tax officials to request a bribe, to reduce a company’s tax liability. In an effort to combat corruption, the Tax Authority reports recently transferring approximately 70 officials who allegedly solicited bribes from taxpayers.

The IMF is providing technical assistance to the Tax Authority in tax law reform and tax modernization. The accounting and auditing firm PricewaterhouseCoopers (PWC) is implementing a program of technical assistance to “Reengineer the Tax Authority.” This project involves modernizing the tax authority, computerizing selected tax functions, minimizing the transaction time for taxpayers, and building confidence between the tax authority and taxpayers. The Large Taxpayers Unit (LTU) is in the process of partial computerization with the intent to minimize human interaction between taxpayer and tax official in the LTU. The Tax Authority has recently adopted the self-declaration form for taxpayers. Out of 500 companies eligible to present a self-declaration, approximately 200 choose to use the self-declaration. This is a major step forward in the process of tax modernization.

Despite these important reform efforts, there are still widespread allegations of bribery, intimidation and other forms of corruption. The Authority lacks a developed internal mechanism for investigation. The formal tax burden on companies is unusually high, leading to widespread evasion, and allowing for increased opportunities for corruption. The World Bank notes in the spring 2006 *Economic Update for Yemen*, “Interactions with government officials are often difficult, the average firm experiences 16 inspections a year, and requests for illegal payments or gifts are common.”¹⁵ The International Finance Corporation (IFC) *Doing Business* report for Yemen shows that entrepreneurs must make 32 payments, spend 248 hours, and pay 48.04% of gross profit in taxes. Doing Business rates Yemen 89th in the world for paying taxes based on this unsustainable tax burden.¹⁶

2.9.1 Unclear Tax Liability

Unclear tax liability leads to bargaining or “tax farming.” The Tax Authority reports that most businesses do not keep adequate financial records, as mandated by law. In the absence of audited financial statements, tax officials must resort to other methods to calculate a company’s tax liability. This often involves a process of negotiation with the business which in itself is a significant opportunity for corruption. Tax officials may also visit a business establishment (averaging 16 times per year, according to the World Bank) to observe over the

¹⁵ World Bank. Yemen Economic Update. (Spring 2006) p. 8:
<http://siteresources.worldbank.org/INTYEMEN/Resources/310077-1098870168865/YEU-Spring06.pdf/>.

¹⁶ World Bank. *Doing Business*. (September 2006):
<http://www.doingbusiness.org/ExploreEconomies/Default.aspx?economyid=205>.

course of several days their business operations and assess the tax liability. This method is problematic, as it does not factor economic concepts like seasonality of business and may in fact be a form of intimidation. Although the law has reportedly been amended recently to strengthen business owners' rights with regard to visits from tax officials, the "visit" is in practice still used as an effective tactic of intimidation and as an opportunity for corruption. The Tax Authority acknowledges that bargaining to determine tax liability is a problem but senior members of the authority suggest that the problem lies with private sector businesspeople who do not carry out their obligations under the law to maintain proper business records. There are approximately 1,500 large taxpayers. Of these, only 100 or 150 large taxpaying businesses keep adequate records according to the Tax Authority. The LTU provides 80% of tax revenue. The Tax Administration has conducted limited public outreach to the large taxpayers regarding taxpayer rights and responsibilities, believing that they already know their rights and responsibilities.

2.9.2 Underdeveloped Complaint and Investigation Mechanisms

The Tax Authority does not have a formal system in place to receive or investigate complaints. For example, there is no complaints department, no hotline, or published email address that a business may use to register a complaint, either by name or anonymously. Tax officials reported to the assessment team that businesses can freely speak with senior officials in the Tax Authority and their complaints will be addressed. However, discussions with the business community reveal that complaining to senior members of the Tax Authority often results in retaliation rather than redress. If there is a dispute between the Tax Authority and the taxpayer, particularly over tax liability, there are three stages of appeal:

- Stage 1: An informal compromise stage of negotiation with the Tax Authority (where extensive bargaining goes on).
- Stage 2: A special tax appeal committee chaired by a chartered accountant from the Accounting Association. Other members include two individuals from the Chamber of Commerce and two members of the Tax Committee.
- Stage 3: The formal court system.

The Tax Authority estimates that more than 60% of all disputes are solved through the informal compromise stage described above. There is an internal audit function within the Tax Authority, particularly focused on the LTU. There are audit/internal control units in each municipality/governorate office. Investigations have recently targeted corrupt tax officials. To date, companies that pay bribes or attempt to bribe officials have not been penalized or fined for tax evasion.

2.9.3 Revision of Tax Laws

The tax laws are in process of being revised. A general sales tax (GST) law was passed in 2005 and was scheduled to come into effect in early July 2006. However, the government delayed implementation due to public pressure and reduced the tax rate from 10% to 5%. Beginning next year, GST will be collected at all customs points. The government is in the process of amending the income tax law to lower the tax rate from 30% to 15-20%. The corporate income tax (CIT) is currently 35%. A sales tax was introduced in 2005. A production and consumption tax was introduced in 1996. Full compliance with all legally required taxes is unsustainable for an average-sized company in Yemen. As noted above, an average-sized firm must make 32 payments to the Tax Authority per year, spending an average of 248 hours, and paying 48% of gross profit in taxes.¹⁷ Therefore, firms must either pay bribes or operate in the informal sector to stay in business. As with many other areas for reform in Yemen, the assessment team learned that many laws as they appear on the books are deemed adequate, but the implementation of the law is lacking. This is also true in tax

¹⁷ World Bank. *Doing Business*. (September 2006): <http://www.doingbusiness.org/ExploreEconomies/Default.aspx?economyid=205>.

administration, where politically powerful or savvy firms are able to lower their liability through their connections within the patronage system or a willingness and ability to bribe effectively.

2.9.4 Poor Public Perception of the Tax Authority

There is an ongoing need to improve the perception of the Tax Authority and build confidence between taxpayers and the Tax Authority. According to the World Bank Economic Update, 71% of businesses consider tax rates a “major” or “very severe” constraint. Similarly, 54% of businesses rank the tax administration as a major or very severe constraint.¹⁸ There have been some efforts in the past two years to build trust and improve the Tax Authority’s image and coordination between the Tax Authority and private sector has been increasing. There is a broader governmental committee of cooperation between government and the private sector and the Tax Authority has made efforts to include members of the business community in important tax meetings. Further, members of local chambers of commerce help set the predetermined tax liability for smaller businesses.

2.9.5 Inadequate Salaries for Tax Officials

The Tax Authority has been subject to salary adjustments as part of the broader Civil Service Modernization Program (described in the civil service section of this report, Section 2.3). The Tax Authority feels that tax officials’ salaries are now woefully inadequate, and officials must solicit bribes simply to maintain a livable wage. They believe inadequate salaries are a major factor contributing to the prevalence and persistence of corruption within the Authority. There are some financial incentives for tax officials (for example, officials can receive up to 1% of sales tax collected). However, the incentives as currently structured are inadequate, are distributed based on high levels of supervisory discretion, and provide a perverse incentive to tax officials. For example, in the case of a 1% bonus for all sales tax collected, tax officials are financially motivated to collect more sales tax than what is required by law.

2.9.6 Recommendations

- Introduce effective complaint mechanisms, such as hotlines, email address, or suggestion boxes. Ensure complaint mechanism appropriately staffed with tax officials specifically trained in complaint and investigation.
- Strengthen internal investigation function to follow up on complaints. Support the ability of the Tax Authority to conduct internal investigations through use of modern investigative tools and techniques, such as computer forensics and dactylography.
- Provide comprehensive induction training in tax integrity. Establish continuous learning environment that emphasizes a regular course of study in integrity and anticorruption.
- Launch outreach program to taxpayers on rights and responsibilities. Launch public relations campaign publicizing key reforms within the Tax Authority, thus improving the public image of the Authority.
- Address human resources issues, including restructuring the current incentive structure.

2.10 CUSTOMS

In the past two years, the Yemeni Customs Administration has gone through a “quantum leap” in terms of reform. Yemen is a member of the World Customs Organization (WCO) but has not yet fully accepted the

¹⁸ World Bank. Yemen Economic Update. (Spring 2006). p. 8:
<http://siteresources.worldbank.org/INTYEMEN/Resources/310077-1098870168865/YEU-Spring06.pdf>.

Revised Kyoto Convention, which outlines the standard policies and processes of a modern Customs Administration. Yemen currently operates on the UNCTAD-computerized automated system for customs data (ASYCUDA++); however, this system is not fully deployed at all ports. Implementation of ASYCUDA++ began in 2003 and has now reached an estimated 90% of ports of entry. The government plans to upgrade to ASYCUDAWorld at some point in the future after full implementation of ASYCUDA++, and has already begun discussions with UNCTAD on the possible upgrade starting as early as 2007.

Despite major reforms and growing integration with the system of global trade, Yemen customs remains one of the most corrupt government agencies according to our contacts from the private sector. Major issues include the lack of a clear system of valuation, incomplete implementation of the ASYCUDA system, lack of complaint and investigation mechanisms, underdeveloped dispute mechanisms and constraints in the area of human resources.

2.10.1 Lack of Clear Valuation System

The Customs Administration is undergoing a Program of Organizational Improvements with technical assistance from a Department for International Development (DfID)-funded team. The cabinet decided to reengineer both tax and customs in order to increase efficiency and effectiveness of revenue collection and reduce transaction time. Currently, if all customs documents are in order, clearance of imported, exported, or transit goods can occur in three to four hours. If documentation is unclear, for example if the valuation of a good is uncertain or disputed, clearance could take weeks. The Customs Administration reports that disputed valuation is the single most important factor for delay. If there is a dispute over the self-assessed value of a shipment, the importer can present a bank guarantee for the higher assessed value in order to clear the goods and resolve the dispute at a later date. In the case of disputed valuation, the Customs Administration may write to the original supplier for more information on value, which may take weeks to resolve. The threat of substantial delay typically forces importers/exporters to pay the higher assessed value, pay a bribe, or resort to smuggling in order to avoid such problems in the future. In fact, the businesspeople with whom the assessment team spoke were frank about smuggling as a fact of doing business in Yemen. If there are discrepancies between the self-declaration form and the assessed value, standard forms #3 and #4 must be completed by a customs official. The Customs Administration has noted its need for more information on valuation. For example, they have expressed a need for increased access to professional periodicals, Web sites and contacts with other customs agencies in the region.

Many laws governing customs are in the process of revision. There is a draft amendment to the Customs Law in Parliament now but the Customs Administration has asked Parliament to freeze this draft in order to amend the draft law further. The original draft law was submitted by the Ministry of Finance without consulting with the Customs Administration. Customs would like to add provisions for:

- GATT membership, Article 7 (which addresses valuation in detail and once implemented should eliminate this specific opportunity for corruption);
- Risk management; and
- Organizational improvements.

2.10.2 Customs Clearance (IT) System Not Fully Implemented

Yemen is implementing the ASYCUDA automated customs system. ASYCUDA is a computerized customs management system which covers most foreign trade procedures. The system handles manifests and customs declarations, accounting procedures, transit and suspense procedures. The implementation has not yet reached 100% of points of entry/exit in Yemen. It is possible that important ports are still based on manual entry.

2.10.3 Insufficient Complaint, Investigation and Dispute Mechanisms

Similar to the situation in the Tax Authority, there does not seem to be a formal process of internal investigation into allegations of corruption in the Customs Administration. The Customs Administration suggested that they would set up a sting operation if a customs official is suspected of corruption, but it was unclear whether such a sting operation has ever been carried out. In theory, if there are allegations of bribery or other forms of corruption, the Customs Administration would first form a committee to investigate. Once sufficient evidence is collected, the evidence would be forwarded to the PFP. There are, in fact, a number of customs officials under investigation. There is an internal investigations capacity within the Customs Administration, which includes random inspections of customs points. If corruption is suspected through these random visits from the central office, officials are suspended, warned or most often transferred. Procedural improprieties are dealt with internally, meaning that most cases are not referred to the PFP but dealt with through more informal administrative mechanisms, such as intra-office transfers. There is no formalized complaint mechanism for the private sector. Businesses may attempt to contact senior officials within the Customs Administration if they have a complaint, although this may not necessarily result in a formal investigation. Direct complaints are clearly inconvenient, insufficient, and potentially dangerous—many report that complaints usually lead to retribution rather than redress. In any case, the Customs Administration asserts that the number of complaints received is small.

2.10.4 Need for Training in Modern Risk-Based Audit Methodologies

The Customs Administration employs a post-audit methodology at ports of entry, and is investigating risk-based methodologies for post audit. Current post audits investigate valuation, quantity and origin. Senior Yemeni customs officials have noted that the Customs Administration needs to build its capacity in risk management. The Administration requires training in principles of risk management, and requires more personnel to carry out risk-based post audits.

2.10.5 Insufficient Training in Integrity and Anticorruption

The Customs Administration was not familiar with the WCO Arusha Declaration on Customs Integrity but indicated that they do emphasize anti-smuggling in customs operations. The Customs Administration has attempted to establish a continuous training policy on anti-smuggling that touches on integrity and corruption issues.

2.10.6 Exceedingly Low Salaries for Customs Officials and Other Human Resources Weaknesses

The Customs Administration has hired people, according to one senior customs official, for “certain reasons”—meaning that positions in the Customs Administration were often granted as part of the patronage system or secured through a bribe. As in many developing countries, customs positions are highly sought after because it is understood that customs officials are able to top up their salaries through frequent opportunities for corruption. As a result, many personnel lack the proper skills for the modern administration of customs. In the past seven years, there has been a freeze on hiring. It is very difficult to fire people from the Customs Administration, even in cases of outright bribery or corruption. However, management can transfer officials away from functions where there are ample opportunities for corruption. The civil service also has a program that can provide incentives for officials to retire. Senior customs officials have expressed the need to hire high-caliber graduates for positions throughout the administration. The Administration has some ability to award financial incentives for performance, but these incentives are woefully inadequate. In addition, there is a high level of supervisory discretion in the allocation of incentive payments, which in itself is problematic. For example, if an inspector discovers an irregularity or discrepancy in valuation, s/he may be eligible for a portion of the fine levied. This, of course, creates a perverse incentive to identify discrepancies where none may exist.

2.10.7 Improve Relations between Government and the “Trade”

According to the *Yemen Economic Update*, 40% of Yemeni enterprises evaluated customs and trade regulations as a major or very severe constraint.¹⁹ The Economist Intelligence Unit reports that “excessively complex customs procedures” act as a barrier.²⁰ The Customs Administration has expressed a desire to improve relations with the Trade Administration to facilitate commerce. Further, the Customs Administration has identified the need to improve internal review and internal audit functions within its organization. Related to this, the Administration would like to improve its relationship with COCA. Customs would like to sign onto all major international agreements governing Customs modernization and implement provisions to promote a modern, effective and efficient customs operation.

2.10.8 Recommendations

- Support the implementation of Arusha Declaration on good governance and integrity in customs.
- Support full implementation of the ASYCUDA++ IT clearance system in 100% of customs points.
- Launch training program on risk-based, post-audit procedures. Post-audit clearance allows for the speedy clearance of goods at entry points through risk-based targeting. The objective of post-audit clearance is to verify the accuracy of information provided at the time of clearance and whether the goods were cleared within the framework of the laws, regulations and division’s operating procedures.
- Provide capacity building in valuation and support revisions to Customs Law to fully implement Article VII of the General Agreement on Tariffs and Trade 1994; and related ministerial decisions: “Decision Regarding Cases Where Customs Administrations Have Reasons to Doubt the Truth or Accuracy of the Declared Value” and “Decisions on Texts Relating to Minimum Values and Imports by Sole Agents, Sole Distributors and Sole Concessionaires.” Support revision to law or by-laws to fully accept the WTO agreement on customs valuation. This agreement on valuation aims for a fair, uniform and neutral system for the valuation of goods for customs purposes, and outlaws the use of arbitrary or fictitious customs values. The agreement provides a set of valuation rules, expanding and giving greater precision to the provisions on customs valuation in the original GATT.

2.11 HEALTH

2.11.1 Procurement Corruption in a Politically Tradable Ministry

Corruption in the Ministry of Health (MoH) is alleged to have existed at the highest levels under a number of past ministers. In part, this is probably no different from instances or patterns of relatively grand corruption in other ministries over time in Yemen—e.g., Education and Public Works. However, the MoH is one of the “low politics” ministries in Yemen that sometimes has been transferred to dispensable political allies in the past. Parallel to this use of the MoH as a transferable fiefdom has been the continuing presence in the ministry of political loyalists with alleged ties to the intelligence service.

Not surprisingly, corruption in health appears to have not just deleterious budget and financial management consequences but also serious implications for the quality of services delivered and the difference between life and death for some patients. Internal MoH accountability mechanisms appear to be weak and ineffective.

¹⁹ World Bank. *Yemen Economic Update*. (Spring 2006) p. 8:
<http://siteresources.worldbank.org/INTYEMEN/Resources/310077-1098870168865/YEU-Spring06.pdf>.

²⁰ Economist Intelligence Unit. *Yemen Country Report*. (May 2006).

One former MoH inspector, for example, was reportedly fired after he tried to take action against the smuggling of counterfeit medicines from India.

Most private medical supply and drug companies are believed to collude with government health officials on securing procurement bids and then share their future wealth with those same officials. Some of the private drug companies may be knowingly involved in the apparently growing fake pharmaceuticals market, which involves the import and distribution of faulty pharmaceuticals from developing countries such as India. The import of an estimated half of pharmaceuticals is thought to be tied up in smuggling, which allegedly has involved not only senior health officials, but local shaykhs and military and security personnel who facilitate the illegal trade in return for bribes.

The construction and rehabilitation of health facilities have often been subject to the politics of preferential geography, rather than independent data on population distribution and so on. Sometimes, MoH construction contractors do not get paid for several years, which means that a particular building project could take several years. In contrast, building projects under USAID/Yemen's health contractor handling health facility construction might take six months.

2.11.2 Personnel

Many, if not most, midlevel employees are thought to be hired and retained only if they share kickbacks and bribes. Alongside the Ministry of Education, the MoH is reportedly the ministry most plagued by the ghost worker phenomenon. Again, this appears to be particularly acute in more rural and remote regions of Yemen. In a related vein, many healthcare managers (generally not the doctors or other medical staff) are from the same areas where their particular facilities are located and treat their positions as almost hereditary property that can be passed along to a relative when they die. Many attempt to secure positions for their family, relatives and tribal kin.

2.11.3 Service Delivery

Most basic public health services in Yemen are heavily subsidized, and patients are supposed to pay only a nominal fee; private sector health fees are often three times the cost of public sector fees. Many patients make informal payments and give gifts at all levels to receive services. Public to private transfer of patients is common by doctors employed in the public sector who also run their own private practices. This is similar to the situation in Egypt where many public sector physicians not only see public sector patients on a private basis but do so in public health facility premises.

Health facilities in remote, rural areas may also be in effect closed, even though projected personnel, supplies and operational and maintenance costs are being fully funded by the central MoH. Recently, it was estimated that only eight out of some 200 clinics in the remote al-Jawf Governorate were actually open and operating.

2.11.4 Supply and Distribution

The government has an annual order for medicines and medical supplies for public health services. All distribution starts from the MoH's central warehouse in Sana'a. Many supplies that are supposed to be of no charge to the consumer "get lost," leaving health providers without supplies and patients often in a position where they must purchase their own for use in medical treatment. Much of this diversion may occur at the more local points of service delivery.

There have been cases of donor-provided equipment to health clinics not being present in the facilities, and ending up in the homes of local shaykhs or MoH Director Generals. The equipment was either intended for personal use, sale on the market or protection from being stolen for these purposes in the first place. Health facilities themselves have also been known to be used for housing purposes.

The organizational and logistical steps of USAID/Yemen health contractors when donating equipment or supplies to governorates and districts offer potential best practices for other donors as well as the RoYG. First, the contractor exchanges letters with the particular governorate’s Health Director General regarding the items to be donated. They also publicize lists of their donations across the governorate. Second, the contractor and local officials organize public events celebrating the donations, where they also specify the inventory of items donated and secure official maintenance commitments. Local press correspondents are invited to cover these inaugural events.

2.11.5 Community Participation

According to law, each health facility in Yemen is supposed to have a committee composed of community members. In reality, the law is barely applied.

2.11.6 Recommendations

- Support the creation of pilot health facility community boards and train members in how to conduct basic oversight. Their creation and activation would ideally come before the beginning of operation, or even construction, of the facility and could involve input into decisions on key personnel.
- Promote the use of USAID/Yemen supply and distribution transparency measures in a promising pilot non-USAID governorate.
- Work with local authorities in a district/governorate to use USAID/Yemen’s education-related procurement practices in a future health procurement.
- Combine work in strengthening health systems with targeted MoH capacity building in inspection and investigation—including mechanisms to receive, follow up and publicly report back on public complaints.

2.12 EDUCATION

2.12.1 Personnel

University graduates will often try to buy positions in the Ministry of Education (MoE). A written exam and interview might be part of a formal qualifying process, but who the aspirant knows or can influence to take action on their behalf is the determining factor. In this context, the corruption vulnerability points appear to be multiple—that is, one needs allies not just within the MoE but also inside the Ministries of Civil Service and Finance, who have to approve the new hires and finance them. In education, it appears that both professional (e.g., teacher and principal) and administrative positions are equally susceptible to such multiple bribes for hire.

Within the education system, significant maladministration probably facilitates corruption by creating gaps in accountability. For example, while there appear to be criteria and regulations for appointing personnel, people who receive appointments may not meet minimum qualifications. This may happen because of laxity in application of hiring criteria, but it also opens the door for appointments based on bribery. In a related vein, the MoE’s inspection entity reportedly has underdeveloped measures and forms for assessing performance, which, in turn, effect promotion. Again, this may allow underperforming or even unqualified teachers to advance (e.g., it reportedly only takes three years of “very good” annual ratings to be promoted to the rank of “first teacher”). It is also a potential corruption vulnerability point in that a teacher could bribe an inspector to not report deficiencies and/or provide the requisite positive ratings for promotion.

Probably the single most prevalent education sector corruption problem related to personnel is that of ‘ghost workers.’ Eighty percent of the MoE’s budget goes to personnel, and it is estimated that 40% of those on the

payroll are ghost employees. MoE officials at the local level tend to make recommendations for ghost employees, who are often sons and relatives of local shaykhs. The multiple names common to Yemenis are used to mask non-MoE paid “staff.” Schools also suffer from a distinct problem of absenteeism of teachers.

2.12.2 Procurement

Internal MoE procurement rules, processes and procedures are like those for other line ministries, and on paper are reasonably well developed. There are two levels of reviewing and approving proposals for ministry-funded projects: a technical committee that has evaluation and approval powers for lesser-valued contracts and a higher-level committee for contracts of larger monetary value. The technical committee is supposed to be composed of ministry employees who have relevant technical backgrounds. The higher committee also appoints the technical committee for relevant contracts. Not surprisingly, bidders reportedly often try to influence committee members.

In its education-related procurements, one of USAID/Yemen’s contractors has established what amounts to a parallel process that deliberately bypasses the MoE. This process has a number of extra steps, measures and layers intended to promote greater accountability and transparency. Initially, six firms were selected to determine statements of needs for over 70 schools in Shabwa, Amran and Marib governorates—two firms per governorate. Once actual renovation work on schools had started, the USAID/Yemen contractor hired other firms to monitor the work.

Other steps in USAID/Yemen’s parallel process included a preliminary advertisement that was published in newspapers, a RFP that was issued for all aspects of work, and a bidders’ conference held at a Sana’a hotel. Some in attendance at this gathering reportedly remarked that this was the first time that they were aware of such an open gathering being organized. Copies of questions and answers from the conference were sent to those bidders not in attendance. Finally, the contractor took subsequent questions by mail and disseminated those questions and answers to all bidders.

2.12.3 Supply and Distribution of Commodities

With respect to supplies and supply chains, school principals and their immediate administrative superiors may constitute particular rent-seeking categories of education employees. There are anecdotal cases of principals asking students to pay more for textbooks and pocketing the difference, as well as selling MoE-issued books in local markets for a personal profit. Education personnel—from MoE cashiers to Director Generals—at the governorate level are thought to be involved in similar schemes since the supplies pass through their offices even before reaching individual schools. While there is a system in place and a paper trail, it is believed that relevant paperwork is often simply falsified to mask the corrupt activities.

2.12.4 Community Participation

According to a Yemeni MoE by-law, community participation in education is required. However, the application of this provision has been largely nonexistent. Nonetheless, with support from a USAID/Yemen contractor, last May, 104 parent councils were elected in 77 schools in the five governorates where USAID works. Large majorities of men and women turned out to vote for separate councils of mothers and fathers of school children. The new councils then received some training in June. While a new experiment, this programming appears pioneering and bears watching for where parent councils become active and take on a life of their own.

2.12.5 Role of Partisan Politics

One peculiar characteristic to corruption in education in Yemen is how political party affiliation may encourage administrative corruption in schools. One former long-time, mid-ranking MoE official told the assessment team that local-level MoE personnel could temporarily leave their positions to work for their

political parties while remaining on the state payroll. He recounted a recent case of which he was aware concerning a local MoE employee who produced a letter from the GPC stating (or appearing to authorize) that he would be away from his position for four months while working for the party. Related to elections, there have also been reports of teachers attempting to register young students as (underage) voters. This form of electoral fraud has been associated with not only the GPC but also *Islab*.

2.12.6 Recommendations

- Train promising parent councils, district councils and MoE personnel on community rights and responsibilities according to law, by-law and regulations and basic internal governance (e.g., how to conduct meetings).
- Support role for promising parent councils in relevant aspects of planning from needs identification; to participatory strategic planning; to conceptualization, design, procurement, implementation, monitoring and evaluation of specific projects. This would be best done in coordination with district councils and MoE personnel.
- If such local pilots get traction, develop training modules and conduct trainings for central MoE personnel to replicate practices to other districts/governorates.
- Promote use of EQUIP I procurement practices in a future district, governorate or central-level MoE-run tender/procurement. Media coverage of, and community participation in, the particular tender/procurement would prove complementary.

2.13 PRIVATE SECTOR

The private sector faces multiple sources of government corruption and must adjust business practices to deal with widespread corruption or leave the market. The World Bank's *Yemen Economic Update* reports that "in part because of evasion, unequal treatment, and corruption, firms feel that competitors are able to undercut them....many formal firms contend with informal competitors that are less burdened by taxes and regulations."²¹

The assessment team met with several representatives from the private sector who informed us that implementation of commercial laws, and particularly enforcement of the law, is insufficient. Some felt that commercial laws were passed hastily in the 1990-1991 unification period, drawing from the "harshest and most complex" laws from other countries in order to ensure a strong legislative foundation. The result, however, has been a poor understanding of, and an arbitrary application of, the laws, often at the discretion of government officials. When businesspeople bring cases against the government, the private sector perceives a strong judicial bias in favor of the government.

2.13.1 Size of Firms Matters

Larger firms can work within the system, smaller firms forced to exit the formal sector due to corruption. Large or medium-sized businesses are able to bribe government officials and consider this simply the cost of doing business in Yemen, and may even benefit from well-placed payments. Smaller businesses are not able to afford the cost of maintaining relationships and are therefore forced out of the formal sector. Foreign businesses, as well, tend not to know how to navigate the complex network of patronage, corruption and intimidation, and are also forced out of the market.

²¹ World Bank. *Yemen Economic Update*. (Spring 2006) p. 9:
<http://siteresources.worldbank.org/INTYEMEN/Resources/310077-1098870168865/YEU-Spring06.pdf> .

2.13.2 Private Sector and the Tax Authority and Customs Administration

Tax Authority and Customs Administration major sources of corruption, though some improvements noted. Our private sector interlocutors indicated that they frequently encounter corrupt practices in their dealings with the Tax Authority. They estimate that only 30-40% of revenue collected by tax officials actually enters the public treasury. Bargaining to establish tax liability is commonplace. Blackmail was described as a common practice. However, representatives from the private sector have engaged with the Tax Authority on tax policy and tax administration reform. Many reported that the Customs Administration is improving, although smuggling is still widespread as a matter of course. Customs legislation is considered particularly harsh and unfriendly to business, and customs officials can wield this legislation as a threat against businesses. The private sector recognizes that technical support in the Customs Administration since 2000 has improved policies and procedures, particularly with the implementation of the ASYCUDA computerized clearance system. However, there are still widespread problems with the Customs Administration and disputes over valuation can delay clearance significantly.

2.13.3 Business Registration

Business registration is one of the biggest constraints to entry into the market in Yemen. According to the IFC's *Doing Business in Yemen* report for 2006, Yemen is ranked 171st for starting a business.²² *Doing Business* goes on to report that entrepreneurs can expect to go through 12 steps to launch a business over 63 days on average, at a cost equal to 228.0% of Gross National Income (GNI) per capita. Businesses must deposit at least 2,565.7% of GNI per capita in a bank to obtain a business registration number.²³ The business community reported to the assessment team that there are no clear rules for business registration and that an entrepreneur must bargain with government officials at every step of the way.

2.13.4 Land Administration and Property Rights

Land administration and property rights are another area of corruption and maladministration that negatively impacts the private sector. Disputes over land are frequent, and the *Yemen Country at the Crossroads* report notes that "the government's record on respecting and enforcing property rights is weak, particularly in parts of the country where tribal forces are strong and government authority is limited."²⁴ Businesses are subject to lawsuits and spurious land claims.

2.13.5 Government Corruption Committee

The private sector is an active partner in the Government Corruption Committee, providing their views and experiences to the government. The private sector wants the committee to be more independent, and perhaps include members from the Federation of Chambers of Commerce.

2.13.6 No Formalized Complaint Mechanism

There is no formalized complaint mechanism whereby businesspeople may report allegations of corruption to the government. Chambers of commerce, and the Federation of Chambers of Commerce, sometimes

²² World Bank. *Doing Business*. (September 2006): <http://www.doingbusiness.org/ExploreEconomies/Default.aspx?economyid=205>.

²³ *ibid.*

²⁴ UNPAN. *Countries at the Crossroads. Yemen Country Profile*. (2004) p. 7: <http://unpan1.un.org/intradoc/groups/public/documents/nispacee/unpan016212.pdf#search=%22Yemen%20Country%20at%20the%20Crossroads%20%22>.

advocate on behalf of businesspeople to the government. In some extreme cases, the federation has been able to raise issues to the level of the president. Even if government investigates complaints, the private sector experience is that enforcement of law is weak and lack of judicial independence often means that judges rule in favor of the government. The private sector notes that there has not been a single case of a high-level official being prosecuted and imprisoned for corruption, although everyone knows that corruption is prevalent.

Procurement, as an area of corruption affecting the private sector, is discussed below.

2.13.7 Recommendations

- Involve private sector in all aspects of tax and customs reform discussed above.
- Revise commercial laws to strengthen legal rights of businesses, simplify business registration procedures and eliminate paid-in minimum capital requirement for business registration. Strengthen property rights legislation.
- Launch judicial reform program focused on commercial law.
- Support the government's internal investigative capabilities and ability to effectively collect and process allegations of corruption.
- Pilot a project—facilitate the detection, investigation and imprisonment of mid- to senior-level government officials engaged in meaningful corruption.

3.0 CORRUPTION IN GOVERNMENT FUNCTIONS

3.1 BUDGET AND FINANCIAL MANAGEMENT

The RoYG has recently adopted a strategy of public finance management (PFM) reform that includes reforming the general budget, enhancing control and financial accountability, reforming the system of bids and procurement and improving competence and skills. In order to assist the government with implementation of this sweeping reform strategy, a multi-donor group has developed a Public Financial Management Reform Action Plan. The Reform Action Plan outlines the history of reform, including relevant cabinet decisions (for example, the August 9th, 2005 Cabinet Resolution to approve the Public Finance Management Reform Strategy and establish a ministerial committee to oversee reform). In brief, the PFM Reform Strategy covers the following areas:

- Improving level of priority setting and basis of budget decision making;
- Improving budget execution;
- Developing public finance management information systems;
- Enhancing control and financial accountability;
- Reforming system of bidding and procurement;
- Improving capacity and skills of public finance workers to build capacity in public finance and auditing; and
- Establishing regional training institute of public finance management.

3.1.1 Deficiencies

The RoYG has acknowledged the deficiencies in the PFM system, and has engaged with donors to reform the system. However, reforms have gone much slower than expected, drawing into question the extent of the government's actual level of commitment to reform. Several of the current deficiencies and mechanisms of financial corruption and political patronage are outlined below.

Budget setting process *ad hoc* bargaining ministry by ministry. Currently, there are very low levels of transparency in the budget-setting process. In fact, the processes themselves are unclear to many who participate. Annual budgets for line ministries are not based on needs, strategic planning, performance or objectives. Rather, a given ministry is awarded a budget based seemingly on the relative power of the minister or other senior-level ministry officials. The budget actually stands as a barometer of political power between ministers at a given point in time. The multi-donor PFM Reform Action Plan has outlined key reforms to improve the budget formulation process, including improving the level of priority setting and budget decision making.

Limited parliamentary oversight of budget process. Members of Parliament are given two weeks to review the submitted budget and can only vote yes or no. They are not able to contest line items in the budget. Many also noted that there is considerable pressure from the Executive Office to accept the budget. Many recommended to the assessment team that USAID support capacity building of parliamentary budget

oversight committees, as parliamentarians in general lack the basic skills and knowledge to effectively review and evaluate a national budget.

Approved budget does not relate to executed budget. Once the budget is approved by Parliament and enacted, the actual budget available to line ministries does not closely resemble the approved budget. For example, in terms of budget execution, if there is \$100,000 in a line ministry's budget for the purchase of 10 vehicles, they should not expect to actually get that money. Line ministries are forced to bargain for every expenditure, and perhaps bribe or otherwise bypass MOF officials stationed in the line ministry. The PFM Reform Action Plan envisages utilizing a Government Financial Management Information System (GFMS) to strengthen draft budget execution procedures, including commitment controls.

Perverse MOF incentive structure with regard to line ministries. MOF officials have a financial incentive to limit the release of funds to line ministries. They receive a percentage of funds "saved" by not disbursing money to line ministries or local governments for budgeted amounts. MOF officials receive bonuses for limiting the amount of money transferred to line ministries, while the rest of the cost savings allegedly travels to senior levels of the MOF perhaps as a discretionary budget. MOF officials sitting in all government agencies—even down to the local level—are there, in part, to identify potential cost savings and limit disbursement of budgeted amounts.

Overly conservative estimates for price of oil leading to large, discretionary supplementary budgets. The assessment team learned that the MOF has recently underestimated the cost of petroleum in the official budget, fully anticipating the price of gas to be much higher in reality. This results in a significant increase in revenue throughout the course of the year against budgeted amounts, leading to a large discretionary budget that may be as much as 50% of the original budgeted revenue amounts. It is unclear what Parliament's legal role is with regard to oversight of this supplementary budget.

Military expenditures as lump sum in budget. The military budget is reportedly presented as a single line item in the budget with no breakdown. If this is in fact the case, there is no parliamentary oversight of the military budget.

3.1.2 Recommendations

- Coordinate with existing multi-donor technical assistance program to support RoYG initiatives. Continue to support budget formulation process including priority setting. Strengthen budget execution process and revise MOF incentives.
- Support program of legislative reform to require Parliament's review of line items in the budget and supplementary budgets.
- Conduct capacity building for parliamentary budget oversight committees.
- At the local level, improve the local authorities' budget execution.

3.2 PUBLIC PROCUREMENT

The RoYG has recently embarked upon a public procurement reform program designed to increase the transparency, efficiency, and effectiveness of public procurement. The government's National Agenda, adopted in January, 2006, includes key reforms on procurement. In addition, the government approved a 10-year PFM strategy in August 2005 that contains provisions for procurement reform. The National Agenda includes the following objectives on procurement reform:

- Cabinet approval of the National Procurement Manual (NPM) and Standard Bidding Documents (SBDs)—completed;
- Establishment of a tracking system to monitor all public procurement;

- Invitation of international experts and local external observers to participate in the High Tender Board (HTB); and
- Amendment of the Public Tenders Law to better define the role of the HTB, require disclosure of public procurement information, mandate disclosure of income and assets of individuals with public procurement roles, and require disclosure from bidders of close relationships with decision makers in public procurement.

In April, 2006, the cabinet approved new procurement manuals and standard bidding documents, prepared with support from the international consulting firm, Crown Agents. The government launched a two-week training workshop in July, 2006, for about 60 trainers identified by line ministries. The trainers are expected to take responsibility for training staff within the respective line ministries and implementing the new procurement guidelines. The government is also preparing a new procurement law that was finalized and approved by Parliament this year.

One of the last draft versions of the Procurement Law was recently amended to include a new set of institutional arrangements for the public procurement system. These modifications were approved by the ministerial committee in charge of amending the law after careful consultation with the assistance of expert from Crown Agents and Booz Allen Hamilton that took place during May 2006. The cabinet voted on these amendments and the draft law was forwarded to Parliament. The major highlights of the proposed procurement structure, as it stands now, include the following major issues:

- Improve transparency, including provisions in the law for a public procurement Web site and improved complaint mechanisms.
- Ensure independence of the HTB by preventing ministerial participation on the HTB.
- Strengthen the authority of the HTB and eliminate opportunities for post-award negotiation (in other words, HTB decisions to be final).
- In addition to the HTB, establish a new independent oversight board made up of members of civil society, MPs, members of professional associations and technical experts whose tasks include monitoring procurement process, setting policies, building capacities and receiving complaints, including referring cases to prosecuting bodies.

In addition, the Law on Procurement and the Local Authorities Law must be harmonized. The links between the NPM and the local authorities' procurement procedures will have to be defined, including the need for elaboration of a new local authority procurement manual and guidelines.

3.2.1 Deficiencies

The government's reform agenda has moved slowly, however, and the private sector notes the persistence of corruption in the procurement process.

Ministries rush procurements and use time constraints as a justification for limiting competition or sole-sourcing procurements. In 2004, only 20% of public works contracts were awarded through a tender. The assessment team learned that the line ministries and procurement agency often invoke "urgent need" to limit competition. For example, in one highly publicized case, a large public procurement bid for construction of a power transmission plant was awarded without competition on the basis of an urgent need to stop electrical outages in the city. Cynical observers have noted that the power has been going out in Sana'a for 20 years, and ask why the procurement is suddenly so urgent as to preclude full and open competition.

Lengthy procurement process, bribery, and other opportunities for corruption abound. Common forms of corruption include long delays in the line ministries of up to one year or more. Bribery at the line ministry level is quite common, in order to encourage line ministry staff to forward their recommendations to the HTB for the preferred bidder. Bidding documents have been unclear or overly complex.

Inadequacy of complaint mechanism to report potential fraud/corruption cases. As is the case for tax, customs and other government agencies described in this report, the assessment team found a weak capacity for collecting and acting on complaints. The complaint process is informal, and internal investigations are *ad hoc*. If a procurement official is suspected of corruption, that official would most likely be transferred to a new position.

Unclear commitment for reform from the ministries. For example, approval of the NPM and SBDs was delayed due to “editing requirements” from the Ministry of Finance and frequent breakdown in communication between the outside consultants and the ministry. In the World Bank’s *Country Assistance Evaluation for Yemen*, dated August 9, 2006, the Bank notes that “little or no progress has been achieved in the core objective of Bank assistance—to modernize the civil service and improve governance”²⁵ which includes reform of the public procurement system, and that “the Bank, however, overestimated the depth of government ownership on civil service reform.”²⁶

High levels of person-to-person interaction leading to increased opportunities for corruption. For example, it is reported that not all tenders are publicly released. There is limited computerization of the HTB or any functions of the public procurement process, although there is a plan to develop an MIS system, and the HTB has discussed adopting an e-tendering capability in the near future.

3.2.2 Recommendations

- Conduct a feasibility assessment for the implementation of a Procurement Management Information System (PMIS).
- Implement a PMIS to manage information for monitoring procurement compliance and collecting information about contractors, suppliers, consultants, scale of works, supplies or services and performance.
- Conduct feasibility study for e-procurement function.
- Support the dissemination of the NPM and SBDs and strengthen training capacity of the High Tender Board.
- At the local level, strengthen local procurement, including revision of the legal framework, development of guidelines and capacity development support.
- Provide capacity-building support to restructured and autonomous High Tender Board.
- Provide capacity-building support to new independent oversight board, including building capacity of complaint and investigation functions.
- Promote requirement of public disclosure of procurement decisions and financial disclosure by procurement officials.

²⁵ World Bank. *Country Assistance Evaluation for Yemen*. (August 9, 2006) p. 14: [http://inweb18.worldbank.org/oed/oeddoclib.nsf/DocUNIDViewForJavaSearch/9CAC304CE6523E6C852571690067E96C/\\$file/yemen_cae.pdf](http://inweb18.worldbank.org/oed/oeddoclib.nsf/DocUNIDViewForJavaSearch/9CAC304CE6523E6C852571690067E96C/$file/yemen_cae.pdf).

²⁶ *ibid*, 16.

3.3 PRIVATIZATION

Privatization of state-owned enterprises has moved slowly in Yemen, with only a few smaller state-owned companies privatized. Many of the largest state-owned companies have remained intact.

3.3.1 Deficiencies

The slow pace of reform in this area suggests that deeply entrenched interests are opposing reform because they benefit from state-granted monopolies and other rents extracted from the economy that result from widespread state involvement in large industry. The assessment team also learned that some state-owned companies were simply transferred to private individuals at the discretion of senior government officials.

The General Investment Authority is the government entity responsible for licensing procedures, direct investment projects, and foreign investment. The Privatization Law of 1999 called for the creation of a High Commission and a Technical Privatization Office (established in 1996 and formally reestablished by ministerial decree in March 2000) to guarantee standardized, unbiased, and transparent privatization. In 2000, the government announced a privatization program that would include privatization of 47 companies including five large state enterprises: the Aden Refinery, the Airport Ground-Handling Services, the General Land Transport Company, the Yemen Cement Company, and the Yemen Drug Company. In mid-June 2001, however, the Yemeni government decided against privatization of the refinery, transport, and cement companies. The UNDP Program on Governance in the Arab Region (POGAR) report on financial management in Yemen explains:

In June 2001 the relevant parliamentary committee recommended that the government should not proceed with the planned sale of the Aden Refinery, the Public Cement Company or the Public Transport Company. It also recommended that a US \$11 million World Bank loan intended for privatization support should be used instead for development programs, throwing serious doubt on the legislature's commitment to state asset sales and raising questions about the level of transparency that can be expected. Privatization of Yemen's most important state enterprises, due to start with the National Bank of Yemen (NBY), followed by the Aden refinery, Yemenia (the state airline), the Yemen Cement Company and the Public Telecommunications Company, has made minimal progress.²⁷

The 2004 *Yemen Country at the Crossroads* report notes that “privatization has been one of the slowest components of the economic reform program, in part because of lack of proper laws and rules governing the privatization process.” The *Country at the Crossroads* report details a case from September 2003, when the President of Yemen offered a monopoly on all IT-related services, machinery and training for 25 years to a particular state-owned company. Forty private IT companies jointly wrote an open letter of protest, but this example illustrates, according to *Country at the Crossroads*, “that the government is slow to privatize and open Yemen's economy to more competition.”²⁸

The World Bank has a privatization project in place in Yemen, but according to the World Bank's Country Assistance Evaluation for Yemen dated August 9, 2006, “The privatization project was approved but never

²⁷ UNDP-POGAR. *Report on Financial Management (Yemen)* (2006) p. 4-5:
<http://www.pogar.org/countries/finances.asp?cid=22>.

²⁸ UNPAN. *Countries at the Crossroads. Yemen Country Profile.* (2004) p. 8-9:
<http://unpan1.un.org/intradoc/groups/public/documents/nispacee/unpan016212.pdf#search=%22Yemen%20Country%20at%20the%20Crossroads%20%22>

became effective because of parliamentary opposition.”²⁹ The Bank goes on to write that “The Bank’s potential contribution to privatization was reduced by the collapse of the privatization project. Although the Bank has continued to work informally with the government to provide advice on privatization issues, the resources it can devote and the influence it can bring to bear are limited.”³⁰ The Technical Privatization Office, established at the Bank’s advice, has sold or liquidated small-scale enterprises, but not large ones.³¹

3.3.2 Recommendations

- Build capacity of Technical Privatization Agency to act as an informed advocate for large-enterprise privatization.
- Review privatization legislation and propose revisions to laws and rules governing privatization.
- Develop privatization policies and procedures manuals.
- Support the privatization of a select number of large state-owned enterprises.
- Provide training to Technical Privatization Agency and General Investment Authority on integrity, transparency and accountability.
- Ensure that nongovernmental oversight and publicity is built in to the privatization process of state enterprises on case-by-case basis.

²⁹ World Bank. *Country Assistance Evaluation for Yemen* (August 9, 2006). p. 20: [http://Inweb18.worldbank.org/oed/oeddoelib.nsf/DocUNIDViewForJavaSearch/9CAC304CE6523E6C852571690067E96C/\\$file/yemen_cae.pdf](http://Inweb18.worldbank.org/oed/oeddoelib.nsf/DocUNIDViewForJavaSearch/9CAC304CE6523E6C852571690067E96C/$file/yemen_cae.pdf).

³⁰ *ibid.*, p. 24.

³¹ *ibid.*, p. 25.

4.0 CORRUPTION, ANTICORRUPTION, AND NON-STATE ACTORS

4.1 MEDIA

4.1.1 Corruption Reporting in Nongovernmental Media

Since 2004, explicit media coverage of corruption has become increasingly common in nongovernmental Yemeni newspapers. Reporting has ranged from the revelation of leaks of secret reports from COCA, the supreme audit authority, to the detailing of how, in one instance, education scholarships from the Ministry of Oil reportedly only went to the children of very high-ranking officials. It is asserted that nongovernmental print media stories are usually based on rumors and allegations and reflect a lack of basic investigative reporting approaches, including supporting evidence and corroboration of facts. However, there are cases of documented and substantiated articles. An August 2006 article published in the online version of *al-Shoura*, for example, interviewed a number of local residents in the Marib Governorate regarding pervasive, apparently corruption-related problems in health service delivery in the governorate.

The lack of quality in corruption reporting is a result of low capacity, a low ceiling of media freedom and the fact that many nongovernmental newspapers are partisan, ideologically tinged, or representative of particular interests. The author of the aforementioned article on the misuse of RoYG scholarship funds was reportedly kidnapped and beaten up by security personnel. The general GPC-opposition dynamic of political accusation and counter-accusation, especially in the run-up to the last local and presidential elections, seemed to further foster the incentive for the partisan press to criticize the government, thus further lowering existing levels of professionalism.

4.1.2 Official Media: Red-Carpet Anticorruption

Pro-government newspapers tend to deal with corruption issues from the typical “red carpet” perspective of official or semi-official media in authoritarian and semi-authoritarian political systems. Articles frequently highlight the president’s anticorruption discourse or the actions of specific ministers who appear to be taking steps to combat corruption. Official and ruling party media have also used politicized corruption rhetoric against the opposition in recent campaign speeches. However, reflecting the ruling party’s broad diversity of interests and its relative berth for internal dissent, a few columnists have also criticized the current government-led anticorruption public awareness campaign.

Because of their broader public reach, state television and radio devote much less attention to corruption. The major exceptions, of course, are extensive coverage of presidential speeches, events and actions, which may address or touch on these issues.

4.1.3 Recommendations

- Use diplomatic leverage to create more a permissive environment for journalists reporting on corruption-related issues. This would be especially useful with respect to (1) official rhetorical attacks on particular journalists and outlets, (2) instances of harassment of journalists, and (3) official support for newspapers as a method to “divide and conquer” print media actors.
- Support legal reforms (e.g., FoIA, amendments to existing press law and penal code) that will raise the ceiling for press freedom and anticorruption reporting.
- Train reporters and editors in investigative journalism techniques—with an emphasis on how to obtain and verify information, document or corroborate claims and conduct interviews.
- Increase government transparency. This could be accomplished by training government officials in how to answer media inquiries and take questions at press conferences. Journalists could also be trained in how to better pose questions and ask follow-up questions. It could also involve developing a strategic plan and process, in a willing and promising pilot ministry (e.g., Oil), for creating and disseminating information to the public.

4.2 CIVIL SOCIETY

4.2.1 Background: Civil Society Resurgent, Not Ascendant

Contemporary civil society in Yemen emerged as a legacy of local development associations in North Yemen from the 1980s and as a by-product of unified Yemen’s political liberalization starting in the early 1990s. NGOs are fairly numerous and quite pluralistic. Their numbers are estimated to have increased from several hundred in the late 1990s to several thousand by the middle of this decade. They cover a relatively broad range of social welfare, charitable, economic productivity, culture, women’s rights and democracy and general rights issues. Not surprisingly, most NGOs are oriented toward social service delivery and economic productivity (principally in the form of cooperatives). By comparison, the number of democracy and rights NGOs is relatively small but noteworthy—numbering in the dozens.

Yemeni NGOs are generally quite weak in terms of financial resources, organization, management and basic skills. Thanks in large part to donor support, a growing subset of primarily advocacy-oriented democracy, rights and women’s CSOs are relatively better developed, have higher levels of capacity and comprise a growing body of experience. However, these same CSOs are generally elitist in their social profile, urban based and removed from “the simple person,” in one civil society representative’s words. Sometimes, they are personality centered and driven by ideological, political and personal agendas and rivalries. Most lack grassroots name recognition and support. In contrast, many service delivery and economic productivity NGOs have a grassroots mandates and locations, if not always memberships.

The government and/or ruling party do not as of yet have a clear strategy with respect to CSOs in Yemen. At best, state players do not include specialized CSOs when deliberating public policy; at worst, the security apparatus infiltrates and tries to control and contain aspiring CSOs. The syndicates representing doctors—there is the Yemeni Doctors Syndicate, accredited by the Ministry of Social Affairs and Labor, and the Yemeni Doctors and Pharmacists Syndicate, a union of other doctors with pharmacists—were allegedly divided as a result of government interference.

4.2.2 Civil Society and Anticorruption: *Terra Incognita?*

For Yemen’s better equipped CSOs, democracy, rights and women’s issues have become quite well-trod areas of study and activism. Anticorruption (*mukafabat al-fasad*), and as it is often cast more broadly, good governance (*al-hukm al-rasheed*), appear to be newer territory. This is not because corruption is a recent issue in

Yemen or because Yemenis do not understand corruption; indeed, because so many seem to experience petty corruption daily and see the increasingly ostentatious wealth of some very high-ranking officials and political notables among growing and grinding poverty, Yemenis appear acutely aware of corruption's pervasiveness. Rather, within the last year, the political discourse on, and space for, anticorruption has expanded.

To date, CSO anticorruption activities appear to be small-scale, *ad hoc* and one-off. In 2005, for instance, the Forum for Civil Society, Yemen's Transparency International affiliate, held a press conference and conducted other activities to promote support for the UN Anticorruption Convention approved by Yemen's Parliament in that same year. The head of one NGO took several "good governance" courses via the Arab "Good Governance" Network based in Cairo, and then wrote a recent report critiquing the RoYG's general performance. Among others, he identified the following corruption-enabling factors in the government's way of doing (or not doing) business: (1) lack of strategic vision, (2) lack of transparency in planning and implementation, (3) poor or no evaluation of implementation or results, and (4) marginalization of gender considerations. More notably, the Yemen Polling Center, the first public opinion research group in Yemen, recently completed and released a study on bribery.

4.2.3 CSOs and Donors: Key Anticorruption Challenges

One of the key challenges for CSOs interested in anticorruption issues is the significant dearth of information. Compounded by a general lack of government transparency, reliable data in Yemen is quite lacking, incomplete and usually inconsistent and contradictory. This obviously makes credible and constructive research and policy-related advocacy quite difficult. How to interpret, compensate for and deploy existing data are related capacity challenges for activists.

Another constellation of CSO challenges in Yemen center on public relations. While generic to advocacy NGOs, these issues are of particular relevance to anticorruption programming via civil society. These include the following:

1. **Political labeling.** A few CSOs have apparently issued what they call "shadow" reports to government-issued reports on certain issues. However, according to civil society representatives the team interviewed, shadow reports tend to lead to the government and/or ruling party calling these civil society actors "traitors" and "agents" of the West.
2. **Grassroots linkages.** Advocacy CSOs need a strong and appealing message to appeal to the grassroots generally and to grassroots NGOs in particular. This is difficult because of Yemen's high illiteracy rates, extremely limited print media market and the government's monopolization of state media. "Globalization," as one CSO leader put it, does not resonate with ordinary Yemenis.
3. **Government identification with corruption.** A related public relations issue is the popular identification of the government as the source of corruption. For CSOs, this means that supporting the government in anticorruption could appear contradictory.

One civil society leader suggested to the assessment team that educating civil society actors was the best starting point for activating its role in good governance and anticorruption issues. To this end, the British Council has reportedly been approached about funding a workshop for civil society, unions and political parties based on an existing manual and perhaps other materials. This activity might provide a fortuitous opportunity for donors to coordinate further follow-on civil society anticorruption activities.

4.2.4 Conclusion

The importance of coordinating and sustaining donor-funded civil society anticorruption activities cannot be overemphasized. This is not only to avoid fragmentation of efforts and impact but also to help address what appear to be Yemeni civil society critiques of perceived trends in past donor efforts. Remarking on past civil society support, the assessment team's civil society interlocutors noted: "Most of the funding comes, and then

they [the implementers] go.” They added: “they [CSOs] need the expertise and help to go through the steps.” These comments echo those heard by assessment team members on missions in other Arab countries, and suggest that theoretical training needs to be cumulative and accompanied by a facilitated “learning by doing” process, where civil society activists are supported in implementing the skills they may acquire in a training.

4.2.5 Recommendations

- Require civil society participation as part of all donor bilateral and multilateral development initiatives within Yemen; condition direct grants or loans to RoYG on civil society-government consultations and partnership. To be most effective, civil society engagement would be consistent and focus in particular on monitoring, reporting and evaluation. As an incentive, donors could guarantee support for relevant capacity-building training for both RoYG and NGO personnel.
- Use diplomatic leverage to promote a more permissive enabling environment for CSOs engaged in anticorruption activities. Diplomatic messaging could be especially helpful with respect to (1) official, semi-official or ruling party “attack journalism” on anticorruption CSOs; and (2) public-private partnerships.
- Advocate for civil society participation in specific government-sponsored anticorruption initiatives.
- Increase civil society access to, and uses of, government information for anticorruption advocacy purposes. This could be accomplished through (1) technical assistance in drafting a Yemeni “Freedom of Information Act” (FoIA); (2) support for piloting a FoIA claims process; (3) training for relevant RoYG personnel from a ministry with reformist leadership (e.g., Ministry of Oil) in responding to information requests, holding press conferences and granting interviews; and (4) discrete IT support for a small anticorruption information clearinghouse that activists could access.
- Build an anticorruption coalition among relevant CSOs. To be most effective, this could include training for strategy development to promote a division of labor, avoid unnecessary duplication, promote trans-CSO cooperation and minimize inter-CSO competition. It would also include developing and disseminating an outreach strategy.
- Support civil society participation in government strategy development, planning, implementation, monitoring and evaluation efforts in a pilot issue area or sector—e.g., health, education, agriculture. The advantage of these sectors is that they would (1) allow advocacy CSOs to more easily network and partner with grassroots groups like charities, cooperatives, etc; and thus (2) allow them greater access to swaths of the general public.
- Assist CSOs to develop their own “public diplomacy” strategies as a way to counter government and/or ruling discourses. This could take the form of not just training but technical assistance to develop a “rapid response” unit in the coalition to respond to specific charges as they appear in media organs.
- Encourage CSOs to institute and publicize transparency measures similar to those they would expect from government institutions.
- Draw on local lessons learned and best practices in future programming. For example, Arab Sisters has formed an advisory board of representatives from other CSOs. There is also apparently a national poverty alleviation coalition of around 11 NGOs, which includes charities and cooperatives. It was not clear to the assessment team whether these experiences constitute sources of best practices, or could somehow serve as models in an anticorruption coalition. However, they bear scrutiny and consideration as donors think about and plan future interventions.

5.0 PRIORITIZING RECOMMENDATIONS AND PROGRAMMING OPTIONS

Clearly, it will not be possible for the Mission, even with the assistance of the larger donor community, to implement all the recommendations found in this assessment, and certainly not in a timely manner. Therefore, recommendations should be prioritized with a focus on how they would best be incorporated programmatically. We make two overarching recommendations in this regard. First, we recommend that the Mission give priority to implementing recommendations in those sectors in which there are extant USAID programs. Such anticorruption recommendations could be relatively easily integrated into these existing programs. Second, we recommend that the Mission create a standalone program designed to strengthen public financial management and accountability. A standalone project of this magnitude and complexity is more difficult to implement, but its need is the most significant. Most of our comments below, therefore, focus on how such a program may be constructed.

5.1 INTEGRATING ANTICORRUPTION ELEMENTS INTO EXISTING PROGRAMS

A number of the sectors covered in Section 2 represent areas of ongoing programming for USAID, the USG and other donors. If donors seek to act on any of this assessment's recommendations in these sectors, it likely means integrating anticorruption interventions into ongoing programs. In some cases, donors may already be implementing similar activities. Following are examples of current programs, and integrative approaches, familiar to the team that could be modified to better address anticorruption:

5.1.1 Judiciary

Currently, the USG's Middle East Partnership Initiative (MEPI) funds a small American Bar Association (ABA) program centered in part on promoting judicial independence. Given the centrality of this problem to overall judicial transparency and accountability, the program could be restructured so that all resources are dedicated to supporting the further restructuring of the Supreme Judicial Council. Any planned administration of justice programming by other donors might similarly focus on supporting the introduction of transparent processes and procedures in a limited number of pilot courts, rather than broader training or capacity building.

5.1.2 Parliament

USAID's Parliament program being implemented by NDI is already supporting the Yemeni Chapter of Parliamentarians against Corruption (YPAC). It also has strengthening committees as one of its two key objectives. In future programming, NDI could focus its work more squarely on key oversight committees that jibe with key public finance issues; this would involve particular work with the Finance Committee.

Other donors who are not engaged in parliamentary work could informally engage, or include in some activities, reform-minded members of the parliamentary committees corresponding to their work in other sectors.

5.1.3 Local Governance/Decentralization

Several of the assessment's recommendations dealing with local-level interventions are already being planned for implementation by the UNDP. Since the UNDP's local governance program is the focal point for donor support in this subsector, the program might be expanded to implement other, national-level recommendations. As the UNDP works to implement greater local oversight and transparency within the current system, groundwork will need to be laid if future RoYG decentralization reforms are to be sound and minimize the decentralization of corruption.

5.1.4 Health

USAID's health programs in Yemen's five more remote governorates could more systematically incorporate community participation and oversight. In some areas (e.g., al-Jawf, parts of Marib), this has and may continue to be difficult; other areas (e.g., Amran) have proven more conducive. This integration could happen more informally (e.g., local council members are invited to trainings and other activities) or in more structured ways (e.g., health facility boards are established and supported whenever new health facilities are planned). Other donors might consider adopting the procurement steps implemented by USAID's health and education contractors in their own health procurements. Finally, the European Union's current administration program with the Ministry of Health might provide a focal point for donors to address the health sector's systemic weaknesses that indirectly facilitate corruption. (Time constraints did not allow the assessment team to meet with EU representatives.)

5.2 CREATING A STANDALONE ANTICORRUPTION PROGRAM: STRENGTHENING PUBLIC FINANCIAL MANAGEMENT AND GOVERNMENT ACCOUNTABILITY

We recommend the design and implementation of a standalone anticorruption program supporting ongoing RoYG efforts at improved accountability and transparency in public financial management. Activities under this program will focus on strengthening tax, customs, procurement, budget, financial management systems and the government's supreme audit agency (COCA).

As noted previously in this report, a multi-donor group has developed a Public Financial Management Reform Action Plan that supports the RoYG's own Strategy of Public Finance Management. Given that other donors have expressed interest in working in this field, and have begun technical programs in relevant government agencies, it will be important for USAID to coordinate planned activities rather than duplicate ongoing efforts. However, the World Bank *Country Assistance Evaluation* for Yemen in 2006 demonstrates that many donor efforts in the area of public financial management have stalled, primarily due to lack of political will or other implementation problems. However, recent RoYG legal reforms give some reason for optimism.

Given the apparent shift in high-level political support for reform, combined with the real incentive effect of the Millennium Challenge Account, USAID is well placed to launch an integrated, coordinated public financial management and government accountability program.

5.2.1 Tax

Corruption in tax administration is reportedly widespread in Yemen although donors have done very little work with the Tax Authority to date. As noted in an earlier section of this document, the private sector reports that corrupt tax administration is a major constraint on business. Since little work has been done with the Tax Authority, it is possible that a USAID technical assistance project could have a significant developmental impact. On the other hand, the "political will" for reform in the Tax Authority is largely

untested. Therefore, we categorize work in tax administration as a top priority because of the potential high impact, particularly for the private sector, but also acknowledge that project implementation would be “high-risk, high-reward.”

5.2.2 Customs

The Customs Administration, in contrast to the Tax Authority, has implemented extensive reforms in the past two years. However, while reforms have begun, there are many areas of reform that require additional technical assistance, notably in the full implementation of an automated customs clearance system at all borders, integrity training and assistance in improving the valuation process. These are critical reforms that will significantly minimize opportunities for corruption and promote a more efficient and effective customs administration, while at the same time closing security gaps at borders that are clearly relevant for national stability and impact the broader international effort to combat extremist transnational movements.

5.2.3 Procurement

Government procurement is big business in Yemen and appears to be a major tool of the patronage system discussed in Section 1 of this report. While crucial reforms are moving forward in public procurement, albeit slowly, USAID can have a major impact in this area by introducing automated systems and providing support to a new oversight entity that will be formed as the result of new legislation.

5.2.4 Audit

The Central Organization for Control and Audit (COCA) serves as Yemen’s supreme audit institution and is generally regarded as a competent organization able to carry out its audit mandate with a relative degree of effectiveness. However, COCA is not sufficiently independent from the executive branch, and allegedly receives direction regarding which cases to prosecute and which to drop. COCA has expressed interest in improving its working relationship with Parliament and the Public Funds Court. The recommendations below call for strengthening audit capacity, which is only a portion of the assessment team’s overall recommendations for the supreme audit institution included in the body of this Assessment Report. The more discrete recommendations presented here are based on their consistency with other aspects of this standalone anticorruption program.

5.2.5 Budget

The budgetary oversight process is another area for potential high-impact USAID intervention. The budget-setting process, as discussed above, could be described as a “black box process.” Parliamentarians vote for or against the budget as it is without the ability to dispute line items. Many parliamentarians lack the appropriate technical training and support to make informed decisions about the government budget. Related to this, the budget execution process does not seem to be guided by clear policies and procedures, leading to widespread opportunities for corruption.

5.2.6 Government Financial Management System

USAID intervention in this area to establish clear policies and procedures, as well as implement an appropriate automated financial management system, could potentially revolutionize the way government funds are spent and accounted for. Similar systems implementations in other developing environments have successfully curtailed unbudgeted expenditures, drastically reduced corruption in PFM, and introduced a greater degree of accountability.

5.2.7 Recommendations for an Integrated Public Financial Management and Government Accountability Program

Our recommendations for an integrated Public Financial Management and Government Accountability Program would include the following components:

1. Tax Reform
 - a. Review and draft revised tax legislation as required.
 - b. Introduce complaint mechanism.
 - c. Strengthen internal investigation function.
 - d. Build capacity of training function; establish induction training in professional ethics and integrity in tax administration; and foster “continuous learning environment” in same topics.
 - e. Strengthen human resources, working in concert with the RoYG Civil Service Agency; revise bonus structure to eliminate incentives for corrupt behavior; and shift toward performance-based incentives.
2. Customs Modernization
 - a. Review and draft revised customs legislation as required.
 - b. Introduce complaint mechanism.
 - c. Strengthen internal investigation function.
 - d. Build capacity of training function; establish induction training in professional ethics and integrity in customs administration (the WCO’s “Arusha Declaration”); and foster “continuous learning environment” in same topics.
 - e. Provide training and technical assistance on valuation, risk-based post-audit procedures.
 - f. Support full implementation of ASYCUDA++ IT clearance system at 100% of points of entry.
 - g. Strengthen human resources, working in concert with the RoYG Civil Service Agency; revise bonus structure to eliminate incentives for corrupt behavior; and shift toward performance-based incentives.
3. Support to the Public Procurement Process
 - a. Assess feasibility of introducing Procurement Management Information System, and implement upgraded system.
 - b. Conduct feasibility of introducing an e-procurement function.
 - c. Support the dissemination of National Procurement Manual and Standard Bidding Documents and strengthen training capacity of the High Tender Board.
 - d. Provide capacity-building support to restructured and autonomous High Tender Board.
 - e. Provide capacity-building and implementation support to new independent oversight board, including building capacity for complaint and investigation functions.
4. Audit Capacity Building
 - a. Build capacity of internal audit/internal control functions within MOF and line ministries.
 - b. Capacity support for COCA: training on audit techniques, follow-up, and monitoring capabilities.
5. Strengthening the Budget Process and the Legislative Overview Process
 - a. Coordinate with multi-donor initiative on Public Financial Management.
 - b. Provide specific support to the MOF and line ministries on budget execution process.
 - c. Clearly define role of and revise incentive system for MOF officials deployed to line ministries who “monitor the budget execution process.”
 - d. Support program of legislative reform mandating Parliament’s review of line items in the budget and parliamentary oversight of supplementary budgets.
 - e. Conduct capacity building for Parliament budget oversight committee members.
 - f. Support legal reform to give line ministries more autonomy in making spending decisions.
6. Implementation of a Government Financial Management Information System (GFMIS)
 - a. In coordination with multi-donor PFM Reform Action Plan, conduct assessment of current financial management system and extent of automation.

- b. Consolidate RoYG accounts into a single Treasury Account.
- c. Design a comprehensive integrated GFMIS or upgrade existing automated system.
- d. Implement new GFMIS in Ministry of Finance and pilot line ministries.
- e. Roll out pilot GFMIS to other line ministries.
- f. Provide all necessary training and technical assistance during the transition to the fully automated GFMIS.

7. Crosscutting themes:

- a. **Gender and public financial management.** Provide training on how corruption in the public financial management system affects men and women differently; and using participatory methods, lead RoYG officials in the development of draft laws, policies and procedures that control corruption and establish a more equitable enabling environment for both women and men.
- b. **Public-private partnerships.** Provide technical assistance to RoYG and organize workshops between representatives of the private sector—including Chambers of Commerce and the Federation of Chambers of Commerce, to improve communication, and strengthen participatory mechanisms for changing laws, policies and procedures.
- c. **Media campaign and public outreach.** launch media campaign to inform the public of key reforms within the respective RoYG agencies. Provide technical assistance to the RoYG to strengthen their public outreach capabilities, particularly as relates to the public financial management system and government accountability.
- d. **Surveys and corruption measurement.** Launch polling and other survey instruments on public perception of corruption and government perception of corruption within the public financial management system. Establish baseline survey results. Integrate regular survey and corruption measurement into the performance monitoring and evaluation program.
- e. **Performance Monitoring and Evaluation.** Provide technical assistance to targeted RoYG ministries, departments and agencies and organize workshops between representatives of civil society, media and the private sector—including Chambers of Commerce and the Federation of Chambers of Commerce—to identify and develop methodologies for data collection, analysis and reporting mechanisms on key anticorruption indicators. Establish participatory assessment and appraisal mechanisms, which will engage stakeholders from all sectors to produce baseline data as well as target milestones. Integrate regular corruption measurement into the performance monitoring and evaluation program of not only USAID-funded activities but also RoYG reforms.

APPENDIX 1. COMMENTS ON THE DRAFT USAID METHODOLOGY ON CORRUPTION

Given the newness of the corruption assessment methodology, our team was tasked to provide critical comments and suggestions for improvements. In general, we found the methodology quite good. The sector breakdown and avenues of inquiry by sector were appropriate and helpful in unmasking the forms and expressions of corruption in Yemen. We offer three suggestions for improvements to this methodology, two rather minor and one substantive.

First, during our fieldwork in Yemen, we found it critical to include a discussion of non-state actors who play a significant government oversight role. In Yemen, and we believe in other countries, both the media and civil society can play an essential role in exposing government corruption. Ensuring legal protections for these non-state actors and enhancing their capacities to play a public oversight role and build public awareness are fundamental to the challenge of diminishing corruption in Yemen and elsewhere. Thus, we recommend future methodologies include analyses and recommendations for non-state actors, especially media and civil society.

Second, we believe the use of the term “syndrome” when describing various types of corruption is unhelpful as it implies a certain mental or physiological impairment. We believe the methodology is correct when it assumes that the forms of corruption that are practiced in every country depend on the structural circumstances that are found in that country, so affixing a normative label is inconsistent with the overall methodology. Instead, we recommend the use of the term corruption “clusters”, in so far as there are clusters of corrupt practices that tend to go together depending on the structural circumstances of that country. Thus, the current 2x2 matrix will generate four clusters of corruption.

On a more substantive note, we felt the y-axis variable for corruption, ‘political/economic participation’ was not particularly useful in generating hypotheses about Yemen’s corruption. The description of the various corruption clusters, or syndromes, was generally quite accurate and helpful, but not because of variation in rates of participation. Thus, we could recognize Yemen in the description of the attributes of a “mogul state,” unfortunately renamed blandly ‘weak undemocratic states corruption’ in this last iteration of the methodology, but not for the reasons given. While we concur with the x-axis variable of strength of state institutions, the other key variable for Yemen (and elsewhere as we look around) is the strength or weakness of *elite cohesion*. Because of the fragmented nature of Yemen’s elites, a system of corruption has been constructed that pays off various elites in exchange for political quiescence, thus assuring political stability so long as the availability of political rents remains high.

In addition, the ‘political/economic participation’ conflates two variables—political democracy and market economies—that ought to be seen as autonomous independent variables. There are many examples of mature market economies that have not been democratic (many East Asian countries, for example), and there are

examples of fairly mature democracies that did not have mature market economies (for example, India until about 1995).

As we take a cursory look at the political economies of corruption in other countries, the variable of elite cohesion appears to be of central importance. Thus, an amendment to the current assessment of corruption clusters may look something like this:

GRAND CORRUPTION CLUSTERS			
		Strength of State Institutions	
		High	Low
Elite Cohesion	High	The Cash Registrar State Ex: Europe, US, Japan	The Kleptocratic State “L’Etat, c’est moi” Ex: Classic form of early European state building
	Low	The Iron Hand State Ex: Iraq under Saddam, Yugoslavia under Tito, China	Balancing Bandits Ex: Lebanon, Yemen

1. **The Cash Registrar State.** Strong state institutions that generate social control with minimal overt coercion. Elites are not fragmented. Cushy relationship exists between political and economic elites that allows the latter to buy access to the former. Corruption comes in the Tom Delay mold.
2. **The Kleptocratic State.** State institutions are weak; but state not particularly concerned with enabling social control through institutions. Elites in and around the state are cohesive, and they view the state and its resources as theirs to pilfer. State treasury seen by these elites as the private domain of the ruler and his coterie. Little public/private distinction. Classic European state building until 19th century was kleptocratic. Mobuto’s Zaire constitutes a modern example.
3. **The Iron Hand State.** State oversees a fragmented society but potential counter-elites from various social forces are kept in check by a state with relatively strong institutions, especially with well-developed security forces. Typically ‘modernizing’ states with a strong public ethos against corruption, periodically makes “example” out of some hapless politician or bureaucrat. China is best contemporary example of the Iron Hand State, although Yugoslavia under Tito and Iraq under Saddam also qualify.
4. **Balancing Bandits.** Countries with weak state institutions that have little leverage to compel social control. Persistent and important fragmentation along various lines (religious, ethnic, tribal, etc.) that allows potential counter-elites to emerge, but without the state institutions to keep them in check. State can only provide stability by buying off the various elites and giving them a cut of state resources. Corruption is systemic as it buys political control. No incentive to end this high corruption as state may fall apart, so reform flounders.

Given these corruption clusters, Yemen would fall under the fourth cluster, that of “Balancing Bandits.”

Even within each category there will be some room for variation. For example, the Balancing Bandits states may be more or less personalized or institutionalized. For example, Lebanon would also fall into the

Balancing Bandits categories, but the systemic distribution of patronage to fragmented elites there relies less on the centrality of one leader. Instead, diverse elites are awarded ministries and institutions with central government funding as their more institutionalized payoffs. This is why Lebanon has one of the highest rates of government debt in the world.

APPENDIX 2. COMPLETE COMPILATION OF RECOMMENDATIONS

JUDICIARY AND LAW ENFORCEMENT

- Support greater independence of the Supreme Judicial Council from the Ministry of Justice. It should be noted that granting the Supreme Judicial Council greater independence and authorities will entail institutional restructuring at lower levels to provide it the technical, administrative and financial support it will need to play its newly expanded role.
- Encourage the MoJ's gradual conversion to a Ministry of State for Judicial Affairs that would play a more discrete bureaucratic role.
- The current system for the appointment of judges and the hiring of support personnel must be reformed. Criteria, based on regional and international best practices should be adopted. The judicial selection process should be made public and the RoYG should consider institutionalizing a national judicial exam and include members of the private sector and civil society in the judicial selection process to bolster public confidence.
- Promote the merger of the Judicial Inspection Board within the Ministry of Justice and its counterpart in the Public Prosecution into an independent entity under a restructured and more autonomous Higher Judicial Council.
- Support the review, clear articulation and codification (as necessary) of the processes, procedures and standards of JIB oversight and its exact responsibilities. This should be complemented by (1) their publication and (2) the dissemination of the JIB's decisions.
- Facilitate greater COCA-Public Funds Prosecution-Public Funds Courts coordination. Currently, these interrelated actors have annual meetings, but given the interlocking and mutually dependent relationships between them, more could be done. At the same time, if this avenue of programming is pursued, careful attention should be paid to maintaining each actor's integrity. As one of the team's interlocutors implied, "coordination implies discretion."

PARLIAMENT

- Support amendments to parliamentary by-laws to (1) allow MPs and committees greater autonomy to conduct oversight; (2) establish clear and regular session schedules for Parliament; and (3) require committees to keep accurate and complete written records of proceedings.
- Communicate session scheduling and agendas to MPs in advance. Subsidizing cell phone text messages to MPs regarding the schedule might be one effective way to reach more MPs and thus increase relative levels of attendance.

- Support a Yemeni “Freedom of Information” Act (FoIA) and support a ministry pilot project on processes and procedures for addressing parliamentary information requests.
- Promote changes in the executive’s budgetary submissions process to Parliament. These should focus primarily on changing the scheduling of the delivery dates of closing accounts for the last fiscal year and the draft budget for the coming fiscal year. Also helpful would be changes to the formats of closing statements to make them more understandable to MPs.
- Support a willing ministry in the development of a detailed, reasonably itemized pilot or “model” budget to Parliament.
- Assist active and independent-minded committees in oversight. Areas of possible oversight include monitoring government performance and service delivery, evaluating a particular program and tracking a ministry’s budget expenditures and/or compliance in a particular area.
- Regularize committee consultations with outside experts, civil society and other relevant stakeholders (e.g., the private sector). This could be piloted with committees that have some track record and then somehow institutionalized (e.g., through the creation of a simple database of experts and contact information) for replication to all committees.
- Strengthen the Finance Committee in oversight and legislative review/amendment through provision of experts and technical assistance on key legislative issue areas where corruption features prominently (e.g., in tax, customs, banking reform, etc.). A particular focus might be paid to supporting the committee’s input on the financial law governing the MoF (i.e., loosening its stranglehold on line ministry discretionary spending) and on legislations dealing with greater fiscal decentralization.
- Systematically engage MPs and committees as partners and monitors in donor interventions. Because committees are inherently sector or issue specific, parliamentary oversight lends itself well to incorporation in programming that might otherwise have nothing to do with parliamentary strengthening.
- Encourage creation of internal accountability unit in Parliament to monitor the institution’s internal budget and to promote implementation of and adherence to institutional standards (e.g., MP attendance).
- Draft an MP code of conduct—including mandatory attendance at a minimum number of parliamentary sessions and relevant committee meetings.

CIVIL SERVICE

- Strengthen training capacity of civil service; develop induction training program for all public sector employees that includes training on professional ethics and corruption awareness; and foster continuous learning environment in civil service with ongoing training programs in professional skills, professional ethics.
- Provide technical and financial support to the Civil Service Fund; and support trainers who help prepare public sector employees for a transition to the private sector.
- Support drafting of position descriptions for all civil service employees, including performance-based evaluation criteria.
- Strengthen capacity of human resources and introduce modern system of performance-based employee evaluations and promotions; rationalize and harmonize incentive programs.

SUPREME AUDIT INSTITUTION (COCA)

- Support those divisions within the Administrative Department which are responsible for the audit of (1) more corruption-prone ministries; and/or (2) ministries with relatively larger budgets; and/or (3) ministries engaged in economic development and productivity. In some cases, the same ministry may meet all three criteria (e.g., Ministry of Agriculture); in other cases, ministries may meet only the first two criteria (e.g., Ministries of Health and Public Works).
- Provide tailored training and technical assistance to the Administrative Department in its audit of the Ministry of Oil and complementary support for the Economic Department's oil unit in its audit of companies. *Oil, of course, accounts for an estimated 80-90% of RoYG revenues.*
- Build and institutionalize the Economic Department's role as a trainer and technical assistance provider to the internal financial audit departments of parastatals.
- Expand COCA's abilities *and* authority to follow up, monitor and enforce compliance with findings and recommendations. This would probably require changes to COCA's laws and perhaps by-laws when it comes to enforcement; when it comes to processes and procedures for enhanced monitoring and follow up, this implies changes in COCA by-laws and regulations.
- The former might be accompanied by supporting a pilot ministry as it develops discrete modalities and other capacity to respond to and implement COCA recommendations. These could be institutionalized and replicated as "model" procedures for other ministries. Legal departments within line ministries and ministerial inspectorates/inspectors are likely partners for programming of this type.
- Encourage greater COCA-Parliament interaction by creating a parliamentary unit in COCA that could work on developing more meaningful, substantive and understandable reports to MPs, whether the annual report or select reports.
- Further institutionalize existing COCA consultations with Public Funds Prosecutors and Courts.

ANTICORRUPTION AGENCIES

- Support legal and institutional harmonization of Anticorruption Authority Law with those of Parliament, COCA, the PFCs and related bodies. The first step is to fund harmonization study.
- Monitor the NAFC, and in particular, its progress toward full independence from executive power. If warranted, support enhancement of institutional capacity of Authority so it has the means to fight corruption.
- Continue USG support of media campaign while developing metrics to gauge its impacts.

REGIONAL AND LOCAL GOVERNMENT

- Train local councils in their rights and responsibilities according to the Law on Local Authorities and in how to conduct their basic business (from holding meetings, to keeping minutes, etc.).
- Support an activation of governorate councils in playing their roles, especially with respect to district budget review.
- Facilitate greater district and governorate council interaction and coordination with respect to the links between district budget and investment plan development and governorate planning.

- Promote interaction and coordination between district councils and line ministry personnel, and governorate councils and line ministry officials, in planning and budgeting.
- Encourage greater organization, advocacy and coalition building among NGOs within and across districts in a governorate; link these civil society activities to local needs identification and consultations with local authorities over appropriate budget priorities (i.e., recognizing that current scope is limited for spending).
- Increase efficiency, transparency and accountability of existing district revenue collection; support study of ways to diversify own-source revenue options
- Introduce MoLA, leading local authority conference representatives and relevant parliamentary committee members to comparative models of fiscal transfers with successful transparency mechanisms at different levels of government.
- Support a review of existing laws that may conflict with Law on Local Authorities and make recommendations for changes that might increase autonomy and transparency of local authorities; provide Parliament and Shura Council committees with specialized technical assistance to support debate over possible amendments.
- Build MoLA's capacity to train local council members, district administration and service delivery personnel.

ELECTIONS

- Support creation of a SCER investigatory unit to receive, investigate and make recommendations on complaints and reports of violations of the Election Law.
- Provide training to public prosecutors and judges at all court levels on the Election Law and related legal issues. This training could be expanded to support the creation and pilot teaching of a module on the Election Law for use in law faculties and the Higher Judicial Institute, where judges are trained.
- Support Election Law amendments and related legal and regulatory changes that facilitate its enforcement—with particular respect to investigation and adjudication authorities and procedures.
- Assist the institutionalization of the SCER's leadership role over the security forces with respect to elections administration.
- Support consolidation of initial gains made in relative liberalization of official media coverage during the presidential elections through (1) establishing a modest but effective monitoring and reporting capacity of the media during campaign times—perhaps outside of but coordinated with the SCER; (2) reformulating the SCER's media regulatory role and possibly reforming/restructuring its Media and Electoral Awareness Center; and (3) amending the Election Law to provide a more expansive legal framework for multi-party access to and use of state media than currently exists.

POLITICAL PARTIES

The team does not see clear opportunities for USAID/USG or other donor programming in anticorruption areas of political party development. It is possible that future elections-related programming, as detailed in the previous subsection, could tackle this issue as it pertains to allegations of the ruling party or opposition using state or public resources for party gain. Also, supporting civil society organizations as informal monitors of and advocates for greater transparency and accountability in political party finance provides a very modest, relatively low-cost approach to this issue. This could at least raise awareness of, and start to build some limited pressure for, the need for reforms in this area. The team does not recommend this as a place for immediate or priority donor investment.

TAXATION SYSTEM

- Introduce effective complaint mechanisms, such as hotlines, email address, or suggestion boxes. Ensure complaint mechanism appropriately staffed with tax officials specifically trained in complaint and investigation.
- Strengthen internal investigation function to follow up on complaints. Support the ability of the Tax Authority to conduct internal investigations through use of modern investigative tools and techniques, such as computer forensics and dactylography.
- Provide comprehensive induction training in tax integrity. Establish continuous learning environment that emphasizes a regular course of study in integrity and anticorruption.
- Launch outreach program to taxpayers on rights and responsibilities; launch public relations campaign publicizing key reforms within the Tax Authority, thus improving the public image of the Authority.
- Address human resources issues, including restructuring the current incentive structure.

CUSTOMS

- Support the implementation of Arusha Declaration on good governance and integrity in customs.
- Support full implementation of the ASYCUDA++ IT clearance system in 100% of customs points.
- Launch training program on risk-based, post-audit procedures. Post-audit clearance allows for the speedy clearance of goods at entry points through risk-based targeting. The objective of post-audit clearance is to verify the accuracy of the information provided at the time of clearance and whether they were cleared within the framework of the laws, regulations and division's operating procedures.
- Provide capacity building in valuation and support revisions to Customs Law to fully implement Article VII of the General Agreement on Tariffs and Trade 1994, and related ministerial decisions: "Decision Regarding Cases Where Customs Administrations Have Reasons to Doubt the Truth or Accuracy of the Declared Value" and "Decisions on Texts Relating to Minimum Values and Imports by Sole Agents, Sole Distributors and Sole Concessionaires." Support revision to law or by-laws to fully accept the WTO agreement on customs valuation. This agreement on valuation aims for a fair, uniform and neutral system for the valuation of goods for customs purposes and outlaws the use of arbitrary or fictitious customs values. The agreement provides a set of valuation rules, expanding and giving greater precision to the provisions on customs valuation in the original GATT.

HEALTH

- Support the creation of pilot health facility community boards and train members in how to conduct basic oversight. Their creation and activation would ideally come before the beginning of operation, or even construction, of the facility and could involve input into decisions on key personnel.
- Promote the use of USAID/Yemen supply and distribution transparency measures in a promising pilot non-USAID governorate.
- Work with local authorities in a district/governorate to use USAID/Yemen's education-related procurement practices in a future health procurement.
- Combine health systems strengthening work with targeted MoH capacity building in inspection and investigation—including mechanisms to receive, follow up and publicly report back on public complaints.

EDUCATION

- Train promising parent councils, district councils and MoE personnel on community rights and responsibilities according to law, by-law and regulations and basic internal governance (e.g., how to conduct meetings).
- Support role for promising parent councils in relevant aspects of planning from needs identification; to participatory strategic planning; to conceptualization, design, procurement, implementation, monitoring and evaluation of specific projects. This would be best done in coordination with district councils and MoE personnel.
- If such local pilots get traction, develop training modules and conduct trainings for central MoE personnel to replicate practices to other districts/governorates.
- Promote use of EQUIP I procurement practices in a future district, governorate or central-level MoE-run tender/procurement. Media coverage of and community participation in the particular tender/procurement would prove complementary.

PRIVATE SECTOR

- Involve private sector in all aspects of tax and customs reform discussed above.
- Revise commercial laws to strengthen legal rights of businesses, simplify business registration procedures, and eliminate paid-in minimum capital requirement for business registration. Strengthen property rights legislation.
- Launch judicial reform program focused on commercial law.
- Support the government's internal investigative capabilities and ability to effectively collect and process allegations of corruption.
- Pilot a project—facilitate the detection, investigation, and imprisonment of mid- to senior-level government officials engaged in meaningful corruption.

BUDGET AND FINANCIAL MANAGEMENT (SEE ALSO SECTION 5 THAT OUTLINES STANDALONE PROGRAM)

- Coordinate with existing multi-donor technical assistance program to support RoYG initiatives. Continue to support budget formulation process including priority setting. Strengthen budget execution process and revise MOF incentives.
- Support program of legislative reform to require Parliament's review of line items in the budget and supplementary budgets.
- Conduct capacity building for parliamentary budget oversight committees.
- At the local level, improve the local authorities' budget execution.

PUBLIC PROCUREMENT

- Conduct a feasibility assessment for the implementation of a Procurement Management Information System (PMIS).

- Implement a PMIS to manage information for monitoring procurement compliance and collecting information about contractors, suppliers, and consultants, scale of works, supplies or services and performance.
- Conduct feasibility study for e-procurement function.
- Support the dissemination of the National Procurement Manual and Standard Bidding Documents and strengthen training capacity of the High Tender Board.
- At the local level, strengthen local procurement, including revision of the legal framework, development of guidelines and capacity development support.
- Provide capacity-building support to restructured and autonomous High Tender Board.
- Provide capacity-building support to new independent oversight board, including building capacity of complaint and investigation functions.
- Promote requirement of public disclosure of procurement decisions and financial disclosure by procurement officials.

PRIVATIZATION

- Build capacity of Technical Privatization Agency to act as an informed advocate for large-enterprise privatization.
- Review privatization legislation and propose revisions to laws and rules governing privatization.
- Develop privatization policies and procedures manuals.
- Support the privatization of a select number of large state-owned enterprises.
- Provide training to Technical Privatization Agency and General Investment Authority on integrity, transparency and accountability.
- Ensure that nongovernmental oversight and publicity is built in to the privatization process of state enterprises on case-by-case basis.

MEDIA

- Use diplomatic leverage to create more permissive environment for journalists reporting on corruption-related issues. This would be especially useful with respect to (1) official rhetorical attacks on particular journalists and outlets, (2) instances of harassment of journalists, and (3) official support for newspapers as a method to “divide and conquer” print media actors.
- Support legal reforms (e.g., FoIA, amendments to existing press law and penal code) that will raise the ceiling for press freedom and anticorruption reporting.
- Train reporters and editors in investigative journalism techniques—with an emphasis on how to obtain and verify information, document or corroborate claims and conduct interviews.
- Increase government transparency. This could be accomplished by training government officials in how to answer media inquiries and take questions at press conferences. Journalists could also be trained in how to better pose questions and ask follow-up questions. It could also involve developing a strategic plan and process, in a willing and promising pilot ministry (e.g., Oil), for creating and disseminating information to the public.

CIVIL SOCIETY

- Require civil society participation as part of all donor bilateral and multilateral development initiatives within Yemen; condition direct grants or loans to RoYG on civil society-government consultations and partnership. To be most effective, civil society engagement would be consistent and focus in particular on monitoring, reporting and evaluation. As an incentive, donors could guarantee support for relevant capacity building training for both RoYG and NGO personnel.
- Use diplomatic leverage to promote a more permissive enabling environment for CSOs engaged in anticorruption activities. Diplomatic messaging could be especially helpful with respect to (1) official, semi-official or ruling party “attack journalism” on anticorruption CSOs, and (2) public-private partnerships.
- Advocate for civil society participation in specific government-sponsored anticorruption initiatives.
- Increase civil society access to, and uses of, government information for anticorruption advocacy purposes. This could be accomplished through (1) technical assistance in drafting a Yemeni “Freedom of Information Act” (FoIA); (2) support for piloting a FoIA claims process; (3) training for relevant RoYG personnel from a ministry with reformist leadership (e.g., Ministry of Oil) in responding to information requests, holding press conferences and granting interviews; and (4) discrete IT support for a small anticorruption information clearinghouse that activists could access.
- Build an anticorruption coalition among relevant civil society organizations. To be most effective, this could include training for strategy development to promote a division of labor, avoid unnecessary duplication, promote trans-CSO cooperation and minimize inter-CSO competition. It would also include developing and disseminating an outreach strategy.
- Support civil society participation in government strategy development, planning, implementation, monitoring and evaluation efforts in a pilot issue area or sector—e.g., health, education, agriculture. The advantage of these sectors is that they would (1) allow advocacy CSOs to more easily network and partner with grassroots groups like charities, cooperatives, etc.; and thus (2) allow them greater access to swaths of the general public.
- Assist CSOs to develop their own “public diplomacy” strategies as a way to counter government and/or ruling discourses. This could take the form of not just training but technical assistance to develop a “rapid response” unit in the coalition to respond to specific charges as they appear in media organs.
- Encourage CSOs to institute and publicize transparency measures similar to those they would expect from government institutions.
- Draw on local lessons learned and best practices in future programming. For example, Arab Sisters has formed an advisory board of representatives from other CSOs. There is also apparently a national poverty alleviation coalition of around 11 NGOs, which includes charities and cooperatives. It was not clear to the assessment team whether these experiences constitute sources of best practices, or could somehow serve as models in an anticorruption coalition. However, they bear scrutiny and consideration as donors think about and plan future interventions.

APPENDIX 3. SCOPE OF WORK

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