SANA'A CENTER

Customary Law and Transitional Justice Pathways in Yemen

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The Sunday livestock market for Eid al-Adha sacrificial animals in the Wadi Al-Dabab area of Taiz city, May 24, 2026//Sana'a Center photo

By: Ibrahim Jalal & Mohammed Al-Shuwaiter



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Executive Summary

Customary norms or laws, known as *A'araf*, continue to play an instrumental role in delivering justice, providing security, and resolving disputes in Yemen, where more than a decade of overlapping conflicts since the 2011 Arab Spring uprising have weakened trust in state institutions.[1] Historically, customary law has been effective in containing local feuds, restoring relationships, and helping maintain social order. Although many Yemeni tribes employ mechanisms such as *Sulh* (reconciliation), *Tahkim* (arbitration), *Aman* (protection and guarantees), and *Diya* and *Arash* (forms of compensatory redress), the application of customary laws is not uniform across Yemen. Socially embedded pathways for conflict resolution, justice, and reconciliation vary according to the lived experiences and community perceptions of how accessible, inclusive, legitimate, timely, and fair these processes are. Furthermore, the outcomes of customary processes are often shaped by factors such as social hierarchy, coercion, and war-related polarization.

This study examines how customary law mechanisms operate across five governorates – Hadramawt, Shabwa, Marib, Sana'a, and Hudaydah – and explores their compatibility with Transitional Justice (TJ) principles, their impact on local communities, and their implications for locally informed, victim-centric, and rights-based TJ programming in Yemen.[2] Using a mixed-methods, qualitative-led approach, the study combines key informant interviews (KIIs) and focus group discussions (FGDs) with desk research and the review of relevant documents, rulings, settlements, and agreements. The five governorates were selected to capture Yemen's diverse social, regional, and political landscapes, including variations between north and south, east and west, the highlands and the coast, and tribal and urban areas. The report assesses the opportunities and limitations of incorporating customary law mechanisms into TJ processes, examining who benefits, who is excluded, and under what conditions these mechanisms can support localized TJ programs without undermining victims' rights or reproducing structural hierarchies and grievances.

The findings are consistent with broader literature on legal pluralism in conflict-affected, tribally structured societies, showing both the strengths and limitations of customary justice:

[1] Mohammed Al-Shuwaiter, "The Role of the Judiciary in Achieving Transitional Justice and Reconciliation in Yemen," Sana'a Center, May 15, 2024, https://sanaacenter.org/publications/22598; Ibrahim Jalal et al., "Tribal–State Relations in Wartime Yemen: Security, Justice and Reconciliation in Marib and Hadramawt," Internal Report, Yemen Support Fund, Chemonics International, 2025.

[2] "The Yemen Declaration for Justice and Reconciliation," Yemen Justice Network, 2023, https://yemenjustice.org/en/declaration

Core Strengths: Customary mechanisms are strong tools for rapidly containing conflict, revenge, and blood feuds, as well as for resolving tribal, land, and natural resource disputes. Where power asymmetries are minimal, these norms provide restorative redress, facilitate humanitarian measures (such as prisoner and casualty exchanges), and enable symbolic apologies and public acknowledgments of wrongdoing.

Weaknesses and Vulnerabilities: Customary mechanisms tend to be less effective in contexts where tribal cohesion is weak, state institutions lack the capacity to support or enforce decisions, and rival power structures, such as armed groups or competing political authorities, undermine the legitimacy and authority of traditional leaders. More importantly, they are generally ill-equipped to address grave violations like torture, sexual violence, and mass arbitrary seizure of assets. They also lack the capacity to undertake comprehensive fact-finding, truth-telling, documentation, and accountability processes that form the bedrock of transitional justice.

Principal Constraint: Inclusion remains the principal challenge. Women, the displaced, marginalized communities, and religious minorities face structural challenges in customary justice, including uneven access and treatment. They also sometimes face weaker bargaining power and disproportionate outcomes due to entrenched social hierarchies in Yemen and unequal power in decision-making processes.

Customary law is neither a complete substitute for formal accountability pathways nor a relic to be ignored. Instead, customary governance is a variable practice whose merits and constraints should be empirically explored, assessed, and understood before selective and conditional integration into transitional justice processes. Victim participation, credible documentation, truth-telling, and adequate safeguards remain enduring preconditions for any meaningful linkages between customary practices and transitional justice programming in Yemen.[3] This study therefore advocates for a selectively integrated, complementary approach that neither romanticizes nor dismisses or demonizes customary law, arguing for the selective integration and application of credible instruments in TJ programming.

[3] Marta Mendes and Yazeed Al-Jeddawy, "Engaging Victims in Peace-Making and Transitional Justice in Yemen," Sana'a Center, March 24, 2024, https://sanaacenter.org/publications/policy-research/22094; "New ICTJ Report Explores Pathways for Transitional Justice in Yemen," ICTJ, March 17, 2025, https://www.ictj.org/latest-news/new-ictj-report-explores-pathways-transitional-justice-yemen.

Select Recommendations:

1. Selectively integrate customary law in TJ programming, using local *A'araf* for restorative justice and local dispute resolution, while clearly limiting its application in grave violations.
2. Define clear boundaries and referral pathways for cases involving sexual and gender-based violence, child recruitment, and significant political or intergroup crimes, which should be addressed through formal justice systems.
3. Ensure effective safeguards against coerced settlements in customary resolution processes, such as conducting private consultations with victims before settlement, implementing checks to ensure voluntary participation, allowing cooling-off periods to reconsider settlements, and incorporating no-reprisal clauses in agreements.
4. Establish minimum documentation standards for customary processes to ensure basic records of harm, consent, and risk of coercion, while protecting identities.
5. Prioritize inclusion as a key metric, monitoring access and outcomes for women, internally displaced persons (IDPs), the *Muhammasheen*, and other marginalized groups.
6. Improve coordination between customary and formal justice actors, including national commissions, courts, and civil society.
7. Support adequate programming specific to each governorate and gradual integration, backed by international funding focused on long-term victim-centered justice and capacity building.



Children play football beside war-damaged homes in the Al-Jahmaliyah neighborhood of Taiz City, May 19, 2026 // Sana'a Center photo

1. Introduction

Transitional justice (TJ) varies across contexts, making it difficult to establish a single, precise definition. The United Nations defines transitional justice as "an integrated set of measures and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past violations, in order to ensure accountability, serve justice, and achieve reconciliation."[4] This framework also recognizes the role of non-judicial mechanisms and local practices.

In Yemen, customary law is part of the justice system. It comprises a set of locally embedded principles, norms, practices, and mechanisms that regulate social behavior, deliver justice, provide security, and resolve disputes. These socially embedded pathways for conflict resolution vary across Yemen and have changed in many ways since the 2011 uprising and subsequent multi-layered conflicts. Against this backdrop, this study sought to do the following:

- Map key customary practices of conflict resolution and justice delivery across the five governorates.
- Explore how customary and socio-tribal practices are operating during Yemen's multilayered conflict.
- Examine how different social groups, including women, displaced people, and vulnerable communities, perceive customary mechanisms in terms of legitimacy, access, fairness, and inclusivity.
- Assess the extent to which customary norms or laws (*A'araf*) align with broader TJ principles such as truth-telling, accountability, inclusivity, non-discrimination, and redress.
- Identify the opportunities and limits of customary laws, as well as the enabling and constraining conditions that shape access to justice, redress, reparation, and healing.
- Evaluate how customary laws could inform transitional justice through adaptation pathways.

[4] "Report of the Secretary-General on the rule of law and transitional justice in conflict and post-conflict societies (S/2004/616)," United Nations Security Council, August 23, 2004, para. 8, https://www.refworld.org/reference/themreport/unsc/2004/42867

This study makes two principal contributions. First, at the policy level, the report maps opportunities and limits of integrating customary practices into transitional justice programming. Second, it contributes to scholarship on the subject by generating new comparative evidence on how customary laws function in the delivery of justice and conflict resolution under wartime conditions across five Yemeni governorates. The outputs aim to equip organizations and entities working on advancing TJ in Yemen with grounded evidence on how customary justice and reconciliation mechanisms can be better understood, leveraged, and integrated into future TJ processes to promote durable justice, peace, stability, and security.

The paper is organized into eight sections. Section two sets the background of the conflict and its impact on the state, justice system, customary laws, and society. Section three maps the primary customary mechanisms and their operation in wartime Yemen. Section four then compares the findings with TJ principles, while sections five and six articulate the drivers of variation across governorates. Section seven provides a conclusion and articulates the implications for TJ programming. The final section presents the paper's recommendations.

1.1 Methodology

This study employed qualitative methods, including key informant interviews (KIIs) and four focus group discussions (FGDs), alongside desk research, document review, and analyses of rulings, settlements, and agreements. The authors drew on approximately 50 KIIs and four FGDs completed between November 2025 and February 2026 in five governorates: Hadramawt, Shabwa, Marib, Sana'a, and Hudaydah. The governorates were selected to capture Yemen's diverse social, regional, and political landscapes, including variations between north and south, east and west, the highlands and the coast, and tribal and urban areas.

Data collection followed a strict do-no-harm and conflict-gender-and-trauma-sensitive approach, seeking to amplify diverse community perspectives — particularly women, displaced people, and the *Muhammasheen*, a term referring to a specific marginalized and vulnerable community in Yemen.[5] Interviewees included nine civil society representatives, eight victims subjected to harm (including displacement, discrimination, and property confiscation), 12 legal practitioners, and 15 mediators/arbitrators. To facilitate deeper conversations in a safe space, focus group discussions were conducted with vulnerable communities and victims, arbitrators, and members of civil society. Eight of the KIIs were women and/or victims of injustice. The fieldwork was supported by five local researchers,

[5] The term muhamasheen is a contemporary term referring to a specific marginalized group within Yemeni society, particularly people with darker skin. They are locally known as Al-Akhdam (the servants) or Al-Abeed (the slaves). For more information see: Aisha Al-Warraq, "The *Muhammasheen*: Mobilization Among Yemen's Most Marginalized Community," Arab Reform Initiative, April 18, 2024, https://www.arab-reform.net/publication/the-muhammasheen-mobilization-among-yemens-most-marginalized-community/

two of whom were women, who received training and mentoring to ensure adherence to safeguarding protocols and ethical research practices in recognition of the conflict setting and sensitive topics, including gender-based violence and enforced disappearance. An internal debrief and a validation session with the Sana'a Center staff were held in January 2026.

Data analysis followed an inductive thematic approach. Transcripts and FGD notes were coded against the study's TJ criteria (i.e., legitimacy, inclusion, victim-centeredness, truth, acknowledgment, redress, and accountability), as well as emergent themes, and then cross-referenced across the five governorates to capture convergent and divergent patterns, where applicable. Findings were systematically triangulated across the desk review, KIIs, and FGDs. All participants have been anonymized and identified by role and governorate only (e.g., a civil society representative in Shabwa), consistent with the study's do-no-harm policy and safeguarding commitments. Named attribution applies solely to senior tribal figures or other interviewees who granted explicit consent. Before any interview commenced, all participants were informed of the study's scope and purpose, the voluntary nature of participation, their right to withdraw, and data management and anonymization procedures.



A convoy of STC-affiliated forces headed to Hadramawt on December 15, 2025 // Sana'a Center photo

2. Country Background: Conflict, State Fragmentation, and Customary Laws

Yemen has been in a state of armed conflict for more than a decade, which has gradually fragmented the government's authority, weakened state institutions, and deepened grievances. Armed conflict intensified in September 2014, when the Iran-backed Houthi group (*Ansar Allah*) stormed the capital, Sana'a. In March 2015, Saudi Arabia led a coalition of Arab countries in a military intervention to counter the Houthis.[6] Although distribution of power and territorial control has shifted in many ways over the past decade, the fluidity and fragmentation characterizing the conflict have endured.[7]

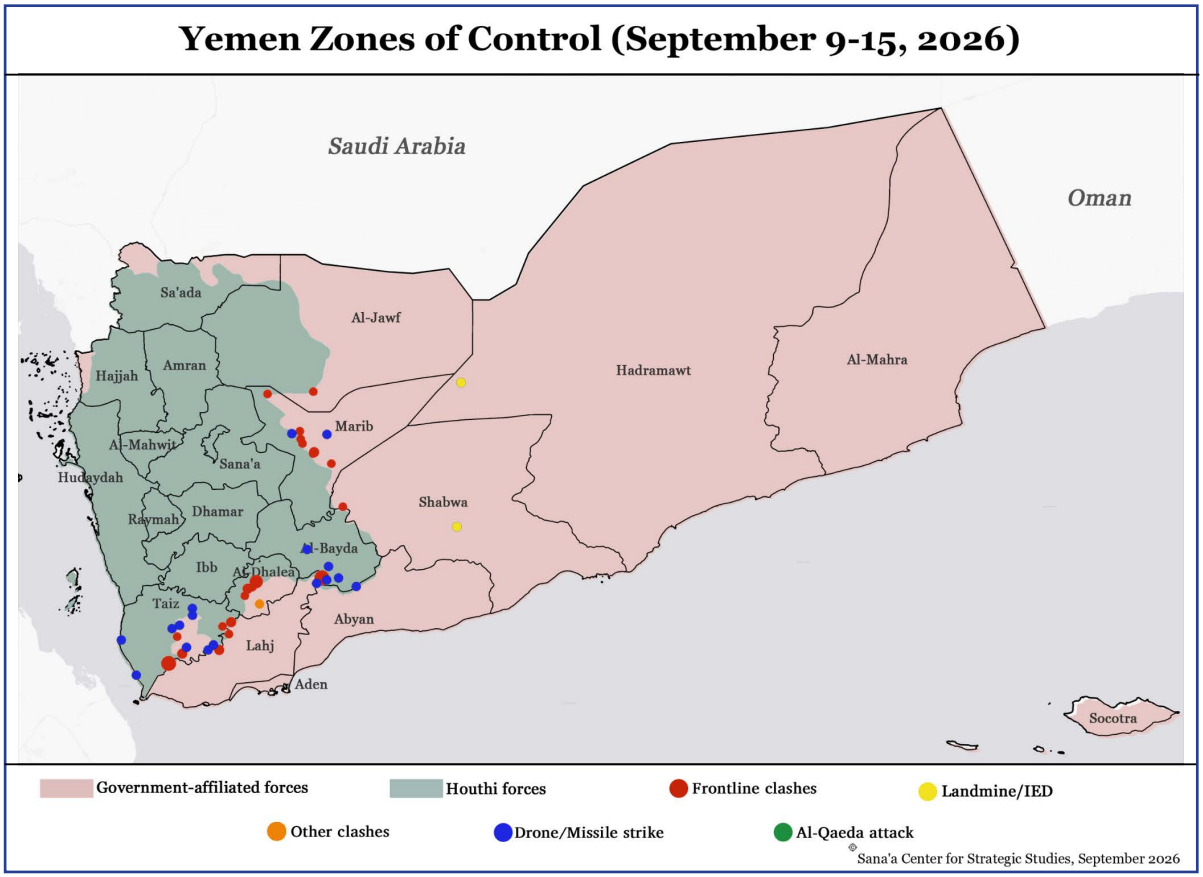
Today, state authority is contested and dispersed between Yemen's internationally recognized government and a plethora of armed groups, most notably the Houthis in northwestern Yemen. Control over violence, security provision, and governance is divided along the conflict's internal de facto borders. Many Yemenis today must interact with multiple de jure and de facto authorities in their everyday lives.[8] Good governance, service delivery, and the provision of justice have been severely affected, and public trust in state institutions has significantly eroded over the past decade.

[6] Ibrahim Jalal, "The war next door: Omani foreign policy toward Yemen," Middle East Institute, September 21, 2023, https://mei.edu/publication/war-next-door-omani-foreign-policy-toward-yemen/

[7] Ahmed Nagi, "Divided, Yemen is Falling," Carnegie Endowment for International Peace, Februay 10, 2020, https://carnegieendowment.org/middle-east/diwan/2020/02/divided-yemen-is-falling

[8] Casey Coombs and Salah Ali Salah,"The War on Yemen's Roads," Sana'a Center, January 16, 2023 https://sanaacenter.org/publications/mai„n-publications/19304

Figure 1: Territorial Control in Yemen



Long before the conflict, Yemen's judiciary was characterized by lengthy timelines and high administrative costs.[9] But since the outbreak of war, both the judiciary and the rule of law have suffered significant deterioration. Yemen's complex and prolonged conflict has weakened the judiciary both in government-held and Houthi-held areas, causing a fragmentation along the lines of the rival armed groups. This division has undermined the independence, consistency, and accessibility of legal processes.[10]

While the judiciary in Houthi-held areas is increasingly perceived as captured by the dominant authority, the judiciary in government-held areas is perceived as less active and subject to political interference, including, until January 2026, the influence of the Southern Transitional Council (STC). Growing corruption and politicization have undermined public trust in the judiciary's efficiency and effectiveness. As a result, communities are more likely to rely on alternative mechanisms to resolve disputes, minimize harm, and secure justice, especially through customary laws.[11] The uptick in individual and communal disputes during this protracted war has further increased relative reliance on customary law.

[9] Erwin van Veen, "From the struggle for citizenship to the fragmentation of justice Yemen from 1990 to 2013," Clingendael Institute, February, 2014, https://www.clingendael.org/sites/default/files/pdfs/Yemen%20-%20Fragmentation%20of%20Justice%20-%202014%20-%20Erwin%20van%20Veen_0.pdf

[10] Mohammed Al-Shuwaiter, "The Impact of the War on Yemen's Justice System," International Legal Assistance Consortium (ILAC), November, 2021, https://ilac.se/assets/resources/ilac_yemen_report_2021-english.pdf

[11] Nadwa Al-Dawsari, "Tribal Mediation and Community Safety: Essential Foundations for Long-Lasting Peace," Yemen Policy Center, October 2020, https://www.yemenpolicy.org/tribal-mediation-and-community-safety-essential-foundations-for-long-lasting-peace

State fragmentation has caused economic, administrative, and security disarray, deepening hybrid governance, and complicating accountability and transparency nationwide. In parallel, a mix of security providers tied to the various armed groups have interfered with localized enforcement practices, including instances of intimidating, threatening, and co-opting the judiciary and prosecutors.[12] This has made it more dangerous to participate in highly sensitive cases, thereby reducing reporting of violations due to fear of arbitrary detention.

In this context, in Yemen, customary norms have served as a functional infrastructure for the provision of justice, dispute resolution, community mobilization, and the maintenance of social order. Many Yemenis depend on customary law mechanisms because of their speed, social enforceability, relative legitimacy, and access, especially where state presence has been mistrusted or weak.[13] Ironically, in urban areas like Aden, where customary settlements were relatively few because of formal law and a diverse social composition, the use of customary law actually increased after the Houthi incursion in 2014. This increase was mainly due to prolonged armed conflict and disrupted court systems. Meanwhile, tribal strongholds like Marib, where people use customary law as a first resource, recorded an uptick in referring cases to courts, chiefly due to strengthened state presence, the activation of court roles, population growth, displacement waves, and increasing social diversity.[14] Yet a growing body of literature on Yemen cautions that both customary and state systems are under strain, requiring not substitution, but complementarity to improve justice provision in conflict-affected and fragile settings.[15]

Yemen's multifaceted war has also impacted the quality of customary governance. Conflict has polarized participants, and as regionally backed armed actors have proliferated, the neutrality of local mediation has become more contested. This has reshaped which disputes can be managed safely and whose claims or voices can be heard. The politicization of local mediation, including the co-option of sheikhs by political, military, or other influential actors, can undermine the neutrality of customary resolution and compromise the perceived impartiality of tribal leaders. This situation can normalize impunity when powerful people, such as sheikhs, protect perpetrators. Such dynamics particularly affect women, displaced and marginalized communities, and religious minorities. Their vulnerability is compounded by reliance on intermediaries, restrictive social norms, and stigma, particularly in sensitive cases involving sexual and gender-based violence.

[12] Ibid.

[13] Erica Gaston and Nadwa al-Dawsari, "Dispute Resolution and Justice Provision in Yemen's Transition," USIP Special Report 345, April 1, 2014, https://www.jstor.org/stable/resrep12230; Nadwa Al-Dawsari,"Tribal Mediation and Community Safety: Essential Foundations for Long-Lasting Peace," Yemen Policy Center, October, 2020, https://www.yemenpolicy.org/tribal-mediation-and-community-safety-essential-foundations-for-long-lasting-peace

[14] Mohammed Al-Shuwaiter, "The Impact of the War on Yemen's Justice System," November 2021, https://ilac.se/assets/resources/ilac_yemen_report_2021-english.pdf

[15] Ibid; Nadwa al-Dawsari, "Tribal Mediation in Yemen and Its Implications for Justice," Yemen Policy Center, October 2020, https://www.yemenpolicy.org/tribal-mediation-and-community-safety-essential-foundations-for-long-lasting-peace; Adel Dashela, "Navigating the Crisis of Transitional Justice in Post-Conflict Arab Regions: Challenges and Pathways to Reconciliation," BJSTR 60(1), December 26, 2024,https://biomedres.us/fulltexts/BJSTR.MS.ID.009395.php; Elham Manea, "Yemen's Contentious Transitional Justice and Fragile Peace," Middle East Institute, February 14, 2014, https://mei.edu/publication/yemens-contentious-transitional-justice-and-fragile-peace/



A tribal gathering in Maghreb Ans district, Dhamar Governorate, where tribal leaders and local officials convened to resolve a revenge case. Such gatherings highlight the continued role of tribal structures in local conflict mediation, December 21, 2019 // Sana'a Center photo

3. Customary Law Practices in Yemen: Core Mechanisms

Across Yemen, customary law functions as an operational system of justice and conflict resolution, particularly when courts are slow, costly, intermittent, or politicized. These *A'araf* offer socially recognized procedures for de-escalation, mediation, arbitration, compensation, redress, and negotiated settlement. While their application varies across governorates, tribes, localities, the parties involved, and the scope of dispute, they generally follow a recognizable procedural framework. First comes de-escalation, second, settlement, and third, enforcement through socially accountable guarantees accompanied by reputational sanctions within the community. Available scholarship on justice provision in Yemen[16] consistently highlights the indispensability of socio-tribal mechanisms for daily local disputes.[17] To clarify how customary law functions in practice, the table below summarizes its overarching architecture.

[16] Ibid; Nadwa al-Dawsari, "Tribal Mediation in Yemen and Its Implications for Justice," Yemen Policy Center, October 2020, https://www.yemenpolicy.org/tribal-mediation-and-community-safety-essential-foundations-for-long-lasting-peace; Mohammed Al-Shuwaiter, "The Impact of the War on Yemen's Justice System," ILAC, November 2021, https://ilac.se/assets/resources/ilac_yemen_report_2021-english.pdf

[17] Erica Gaston and Nadwa al-Dawsari, "Dispute Resolution and Justice Provision in Yemen's Transition," USIP, April 1, 2014, https://www.jstor.org/stable/resrep12230 ; Nadwa Al-Dawsari, "Tribal Mediation and Community Safety: Essential Foundations for Long-Lasting Peace," Yemen Policy Center, October 2020, https://www.yemenpolicy.org/tribal-mediation-and-community-safety-essential-foundations-for-long-lasting-peace

Table 1: Core Customary Justice Mechanisms in Yemen

Process	Mechanism	Function	Outputs	Enforcement
Normative reference	*U'yub wa 'U'tub* (customary offenses & social penalties)	Moral-legal classification of violations and penalties	Defines the gravity of harm; guides remedy and penalties	Social legitimacy; shared recognition across tribe and community
De-escalation	*Aman* (protection and guarantee)	Temporary halt to retaliation	Safe negotiation space	Guarantors; pledged commitments; reputational pressure
Negotiation	*Wasata* (mediation)	Brokered settlement	Agreed terms; dispute containment	Community monitoring; social pressure; guarantors
Ruling	*Tahkim* (arbitration)	Arbiters hear the conflicting sides and issue rulings	Binding decision	Prior consent by the disputing parties to submit to arbitration; arbitrator legitimacy; guarantor enforcement
Closure	*Sulh* (reconciliation)	Structured settlement to "close the file"	*Sulh* agreement (verbal or written)	Witnessed commitments, collective pressure, and penalities
Redress	*Diya* (blood money), *Arsh* (financial compensation for bodily injury), *Ghurm* (tribal financial obligation), *Hajr* (broader restitution framework restoring honor and dignity).[18]	Material and symbolic compensation	Monetary compensation; restitution; acknowledgment	Arbitrators and guarantors; agreed redress; penalties for breach
Compliance architecture	*A'adal* (compensation) *Dumana'a* (guarantors)	Enforcement without formal police	Compliance assurance; penalties	Deposits/pledges; guarantor liability; ostracism/fines

Source: Author's work (2026) based on literature and fieldwork.[19]

[18] *Tahjeer* or *Hajr* is a public apology offered by the wrongdoer to the aggrieved party as an expression of remorse to restore honor and seek reconciliation. It may take several forms, including but not limited to prominent members of society, presenting daggers, or offering bulls.

[19] See also Mohammed Sayyad, "A Document of the Customary Rules of Reference for All Yemeni Tribes [AR]," Khaled bin Alwaleed, Sana'a, 2014; Rashad Al-Alimi, "Tribal Judiciary in Yemeni Society [AR]," Dar Al-Wadi for Publishing and Distribution, n.d; Marib Dam Foundation for Social Development, "Guide to Tribal Customs in Peacebuilding," MDF Yemen, 2024, https://mdf-ye.org/tribal-customs-guide/

Customary mechanisms in Yemen may be organized in three parts:

The first focuses on mediation and arbitration. Disputes often begin with Wasata (mediation) to halt escalation, followed by *Tahkim* (arbitration),[20] in which disputants choose an arbitrator who hears differing accounts and testimonies before issuing a ruling. Such "quasi-judicial" logic is often anchored by the parties' pre-agreed commitments, including the consequences of any non-compliance (reputation, sanctions, money). The aim of this process is a socially enforceable settlement that contains cycles of retaliation. Interviewees repeatedly described this sequence as a practical path to "closing the file" quickly, especially in disputes over debts, land, local assaults, inter-communal frictions, and familial disputes. Interviewees emphasized that process credibility simultaneously hinges on 1) who mediates, 2) who guarantees, and 3) whether the dispute is within the arbitrator's capability to resolve safely, particularly when politicized war-related dynamics may exceed the reach of customary mechanisms. Hence, customary law defines the tribe's responsibility to protect individuals who seek refuge and are granted protection within the tribe. The terms Al-Dakheel (the protected outsider or refugee) and *al-Raba'a* are closely related and may be used interchangeably depending on the region. Both refer to a person who comes under the hospitality or protection of a tribe, whether permanently or temporarily. More broadly, Raba'a refers to an ally, companion, or settled neighbor whose relationship with the tribe is based on mutual protection, whether ongoing or temporary. Al-Dakheel, by contrast, refers more specifically to a person seeking safety who is placed under the protection of the tribe or an individual member. Under customary law, the tribe is obligated to defend such a person as part of its moral duty to protect neighbors and support the oppressed, with severe penalties imposed for any aggression against them. The concept of Al-Dakheel also extends to marginalized and displaced persons.[21]

The second part focuses on classifying wrongdoings and the forms of redress or corrective actions required. Customary laws often draw clear lines between routine disputes and acts regarded as serious moral and social violations such as assaults on women, rape, treacherous killing, violation of truce, kidnapping, and seizure of assets. Local taxonomies may operate as a customary "penal register" along with public clemency proceedings governed by custom mandates, including *Tahjeer* or *Hajr* (a restitution framework restoring honor and dignity), Al-U'yub Wa Al-U'tub (violations of tribal ethical order, naturally mirroring corresponding penalties), and formal arbitration ruling by the Muhakkam (the arbitrator).[22] In most tribes, this customary penal register is restorative in purpose, expecting an acknowledgment

[20] According to the Yemeni Arbitration Act of 1997, a notarized arbitration award has the same legal status as a court of first instance if it is made in accordance with the conditions stipulated in the law. See: Mohammed Al-Shuwaiter, "The Impact of the War on Yemen's Justice System," ILAC, November 2021, https://ilac.se/assets/resources/ilac_yemen_report_2021-english.pdf

[21] Key informant interview with an arbitrator, Shabwa, December 2025; Key informant interview with a senior tribal sheikh, Al-Jawf, January 2026.

[22] Key informant interview with an arbitrator, Marib, December 2025.

of harm, restoration of social standing, prevention of retaliation, and identification of an agreed resolution. Acts of public remedies include material compensation (e.g., *Diya* or blood money, bulls, guns, etc.), guarantees against recurrence, return of seized assets (e.g., property, vehicles, land), and symbolic acts of acknowledgment[23] or an apology.[24]

Tahjeer or Hajr through *Diya* (compensation) and symbolic Banadiq al-'Adal (guns), as well as costs of medical care and compensation, depending on the case, are among the common forms of redress, with these institutions carrying binding social authority.[25] In major criminal cases, such as homicide and honor (i.e., defamation, sexual assault and rape), it is customary for members of the perpetrator's tribe, family, relatives, and/or friends to stage a big gathering outside the victim's family home, or sometimes in public spaces, reciting poetry that preaches forgiveness and clemency appeals.[26] In one instance attracting widespread media attention, Abdullah al-Qahati, a tribal leader from Marib, pardoned his 16-year-old son's killer, thus overriding a court-issued death sentence, in recognition of a social dignitary's forgiveness and the perpetrator's father's appearance before those assembled at the execution venue as an act of unconditional submission. Customary justice here did not merely complement state courts, but instead superseded them.[27] These codes are thus often enacted through ritualized gestures that are socially meaningful, depending on the victim's and their family's desires.

The third part deals with enforcement, guarantees, and trust. Because customary laws may lack formal bureaucracies and protocols, compliance is secured through guarantees, social accountability, and buy-in. These include pledged monetary deposits and/or hostages (*A'adal*), identified guarantors (*Dhumana'a*) who accept responsibility for implementation or lack thereof, and broader social pressure that can translate into collective sanction vis-à-vis a defaulter from Al-Dafara (one's tribe and/or community) to teach the wrongdoer a lesson.[28] *Al-Gharamah* (members of the tribe who are obliged to contribute financially to cover financial liabilities arising from an offense) may also collectively contribute to the monetary compensation, voluntarily or forcibly.

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[23] Such practices included social figures and dignitaries approaching the victims to seek mediation or forgiveness, bringing bulls to slaughter, and feeding the community as an admission of wrongdoing.

[24] Mohammed Sayyad, "A Document of the Customary Rules of Reference for All Yemeni Tribes," Khaled bin Alwaleed, Sana'a, 2014; Mohammed Al-Hetar, "The Use of Tribal Custom within the Framework of Transitional Justice in Yemen [AR]," The Moroccan Center for Transitional Justice and Study of International Reports, April 18, 2025, www.cmjteri.org.ma/-مقال-حول-توظيف-العُرف-القَ-لي-ضمن-مسا/

[25] Key informant interview with an arbitrator, Hadramawt, December 2025.

[26] Mutahar Al-Iryani, "Yemeni Dictionary of Language and Heritage [AR]," Damascus, Dar al-Fikr for Printing, Publishing and Distribution,1996, p. 925.

[27] "Tribal law in Yemen – how customary law became more effective during wartime [AR]," Deutsche Welle Arabic, March 2023, https://almasdaronline.com/articles/270113#

[28] Ibid.

Taken together, these socially monitored tools are central to grasping why a sizable section of Yemenis regard outcomes of customary processes as more enforceable than court rulings, especially in settings of weak or non-existent state reach. At the same time, similar enforcement logics may become coercive in asymmetrical settings, particularly when power dynamics and social hierarchies are present, vulnerable claimants depend on third-party intermediaries, and gatekeepers – often tribal leaders – may at times show signs of politicization or bias by leaning towards the more powerful party.

Crucially, in Yemen, customary justice interacts with formal justice and prosecution rather than operating in isolation. Local communities often choose to move strategically between customary and formal judicial processes. An individual may start with customary mediation for speed, accessibility, cost, and social enforceability, before shifting toward formal courts when formal legality, including documentation, is required. While a section of the population in urban centers may prefer formal courts due to more trust in the formal court system prior to the conflict, others may use both formal and informal forums sequentially or in parallel, depending on access, cost, speed, risk, and the social status of the parties. Given the fragmentation of the judiciary and the deterioration of the formal prosecution system, the choice to seek fairness and justice is shaped as much by security and power as by legal principle. As a result, the key policy question is how to design pragmatic "interfaces" that embed safeguards, enhanced documentation standards, and stronger referral pathways for serious violations, while preserving local legitimacy.



A displaced child overlooks the Al-Birin Muhammasheen camp, west of Taiz city, on February 21, 2021 // Sana'a Center photo

4. An Analysis of Customary Law and TJ Principles Across Five Governorates

Across the five governorates of Hadramawt, Marib, Shabwa, Hudaydah, and Sana'a, customary laws operate as adaptive mediation and justice architectures. These traditional instruments may fill governance vacuums, manage escalations, and structure conflict and resolution cycles. Nevertheless, their application in practice is neither uniform across Yemeni governorates nor socially unbiased. Three structural constraints shape the functions of customary justice across the dimensions examined below. First, power hierarchies (i.e., tribal, political, or conflict-related) continue to condition access, mediator neutrality, and enforcement. Second, the compounding effects of a 12-year-long armed conflict have eroded institutional conditions such as state authority and cohesion on which customary mechanisms depend, while narrowing the space for impartial arbitration and deepening structural power dynamics. Third, specific violation categories, such as politically motivated killings, torture, enforced disappearance, and sexual and gender-based violence, have systematically exceeded customary capacity regardless of which TJ criterion is applied. Rather than repeat these constraints in each sub-section, the analysis below is structured around six primary TJ principles and focuses on the dynamics most acute and particular to each principle: legitimacy and trust; inclusion and access; victim-centeredness; truth-telling and acknowledgment; redress and reparation; and accountability.

4.1 Legitimacy and Trust: Functional Authority Under Strain

Participants across the five governorates broadly agreed that customary law is central to dispute resolution and justice delivery. They said the processes are familiar, relatively fast, inexpensive, socially enforceable, and accessible, especially in tribal areas.[29] Formal justice is often slow, costly, and politically compromised. In Shabwa, Marib, and the Valley and Desert region of Hadramawt, local communities tend to turn to customary justice as a "first resort," especially where tribal cohesion remains strong and social enforcement credible.[30] In more tribally cohesive environments, like Marib, tribesmen first resort to the tribe, and the court is often a secondary option.[31] In Hadramawt, participants similarly noted that customary forums remain realistic instruments, especially in remote districts characterized by limited state presence and reach.[32]

Nevertheless, functional legitimacy is bounded and conditional. In the governorate of Hudaydah, respondents perceive customary justice as necessary but vulnerable to social and political power hierarchies.[33] "Yes, people use customary law, but we know who can influence it. It depends on who you are," said a civil society representative in the governorate.[34] In Houthi-held Sana'a, the perceived legitimacy levels partly mirrored state capture and insurgent governance dynamics. Participants described the functional legitimacy of customary laws as very dependent on social standing and associated wartime political risks. To contextualize these dynamics, a judicial official observed that some cases have been "beyond reach, not because state and customary laws are unclear, but because of who is involved – those politically protected."[35]

This dynamic is especially acute in areas under Houthi control, where the group has sought to consolidate territorial control by reconstructing a parallel governance architecture that has subordinated and systematically displaced state institutions. The Houthis have embedded a network of Mushrifeen (supervisors over institutions and officials), drawn from the movement's trusted circles, across state institutions, including ministries, religious, social, and judicial bodies, to subordinate official bodies to Houthi command and control.[36]

[29] A tribe is a social organization based on a shared line of descent—whether real, genealogical, or mythic—that unites distinct sub-groups under a common cultural, linguistic, and political identity. See Rashad Al-Alimi, "Tribal Judiciary in Yemeni Society," Dar Al-Wadi for Publishing and Distribution, n.d.

[30] Key informant interviews with an arbitrator and legal practitioner, Marib, December 2025; Key informant interview with legal practitioners, Shabwa, December 2025.

[31] Key informant interviews with legal practitioners, Marib, December 2025.

[32] Key informant interviews with legal practitioners and civil society leaders, Hadramawt, December 2025; Focus group discussion with judicial and civil society stakeholders, Hadramawt, December 2025.

[33] Key informant interview with a civil society representative, Hudaydah, December 2025; Focus group discussion with judicial and civil society stakeholders, Hudaydah, December 2025.

[34] Key informant interview with a legal practitioner, Marib, December 2025.

[35] Key informant interview with judicial official, Sana'a, December 2025.

[36] Maysaa Shuja Al-Deen, "Entrenched Power: The Houthi System of Governance," Sana'a Center, July 11, 2022, https://sanaacenter.org/the-yemen-review/june-2022/18144

Through their specialized «Justice System" committee, they oversee the functions of the Supreme Judicial Council, reducing formal judicial independence to a title.[37] In parallel with this institutional capture, the Houthis have deliberately reshaped tribal structures. Through intimidation, targeted fear tactics, and the disruption of traditional mediation agreements, they have displaced established tribal sheikhs and elevated loyalist rivals to fracture traditional social structures. Gradually, they have imposed and reinforced their alternative dispute-resolution order, heavily underwritten by coercive force rather than customary legitimacy, fundamentally challenging the tribal institutions that have historically anchored the Yemeni social order.

Notably, these patterns of control are not felt equally across all demographics. Some interviewees from marginalized communities in Sana'a noted limited benefits from customary laws, relying instead on formal court processes.[38] Ultimately, deep-seated social and political hierarchies shape how different groups experience justice, influencing whether they view customary pathways as accessible or legitimate.

Additionally, the various layers of the conflict, such as deepening polarization, institutional fragmentation, regional interference, and a strained social fabric, have reshaped the concept of mediator neutrality. Along with Sana'a, respondents in Hudaydah and Hadramawt noted that one's political position may influence the space of mediation: who can mediate and which claims are viewed as safe for customary pursuit.[39]

4.2 Inclusion and Access: Structural Barriers and Opportunities

Barriers to inclusion remain the main limitation across governorates. While customary law is theoretically accessible, tribes are expected to protect non-tribal members under the *Al-Raba'a* and Al-Dakheel principle (see section 3 for details). However, access levels may sometimes correlate with social status, tribal affiliation, gender, political capital, and/or limited knowledge of customary codes.

A member of the *Muhammasheen* in Sana'a noted, "If you do not belong to a strong tribe, you enter [the customary justice space] already weaker."[40] The person further spoke about segregation: "When problems arise between us and anyone outside our group, everyone turns against us and assumes we're at fault without even looking at the case. In the end, you're just a Khadem [servant] — that's enough. You're wrong."[41]

[37] Mohammed Al-Shuwaiter, "Houthi Authorities Undermine Judicial Independence with Major Reforms," Sana'a Center, October 16, 2024, https://sanaacenter.org/the-yemen-review/july-sept-2024/23526

[38] Key informant interview with a victim, Sana'a, December 2025.

[39] Focus group discussions with judicial and civil society stakeholders in Hudaydah and Hadramawt, December 2025; Key informant interview with an arbitrator, Hadramawt, December 2025.

[40] Key informant interview with a victim, Sana'a, December 2025.

[41] Ibid.

Displaced communities reported comparable dynamics. In Sana'a, a conflict-affected internally displaced person (IDP) – whose house was destroyed during the battle for Hudaydah – described reliance on intermediaries such as a sheikh or *Aqel* (neighborhood chief) to access customary forums and acknowledged that fear of reprisal constitutes a barrier to securing redress.[42] An IDP in Hudaydah noted that "we did not find any protection as IDPs from anyone. In war, customary law and morals fall … or their implementation is selective and favors one's kin."[43] Traditional protection codes fail to provide equal bargaining power because local arbitrators are increasingly polarized, biased, or compelled to comply with politically dictated interests. In Taiz governorate, for instance, IDPs consistently identified functional legal remedy and justice as hard to achieve, owing to frontline chronic insecurity, fragmented authorities, and weak state enforcement capacity.[44] In other instances elsewhere, lack of documentation, intimidation, and forced eviction practices have also increased access barriers to justice and deepened reliance on intermediaries to navigate administrative processes, customary forums, and disputes.[45]

Nevertheless, positive inclusion efforts also exist. The governorates of Marib, Hadramawt, and Shabwa, for instance, repurposed land and property to accommodate waves of displacement, demonstrating collective solidarity.[46] An IDP in Marib noted that they have been positively integrated in the community and can access customary law support, with a local judge further asserting the primacy of *Al-Raba'a* (a person under a tribe's protection).[47] Additionally, it is important to note that a section of IDPs with strong tribal backgrounds resort to their displaced local sheikhs for dispute resolution, customary justice, and compensation.[48]

For Yemeni women, the war has presented both constraints and opportunities for inclusion. Traditionally, although any form of harm to women is socially condemned, with some violations viewed as "black shame,"[49] women have rarely engaged directly in customary

[42] Key informant interview with an IDP, Sana'a, December 2025; Focus group discussion with judicial and civil society stakeholders, Hudaydah, December 2025.

[43] Key informant interview with an IDP, Hudaydah, December 2025.

[44] "Measuring Progress Toward Durable Solutions in Yemen," IOM, October 13, 2025, https://reliefweb.int/report/yemen/yemen-measuring-progress-toward-durable-solutions-yemen

[45] "Protection Monitoring Report — Yemen," UNHCR, 2025, https://reliefweb.int/report/yemen/unhcr-yemen-protection-brief-2025

[46] Focus group discussion with judicial and civil society stakeholders, Marib, December 2025; Key informant interview with victims in Shabwa and Marib, December 2025.

[47] Key informant interviews with a prosecutor and an IDP, Marib, December 2025.

[48] Key informant interview with an IDP, Marib, December 2025.

[49] In tribal customary law, violations are classified by degree of harm severity. The black defect or shame denotes the gravest, most dishonorable violations, including assaults against women or vulnerable persons, and treacherous killing. See: Mohammed Sayyad, "A Document of the Customary Rules of Reference for All Yemeni Tribes," [AR] Khaled bin Alwaleed, Sana'a, 2014; Dr. Arif al-Miklafi, "Guide to Customary Terminology Used in Dealing with Local Conflicts," [AR] Adra Yemen,

justice proceedings. Instead, dispute claims are channeled and pursued through male relatives, with issues of high sensitivity and associated reputational risks often restricted and "covered up."[50] On the other hand, Yemen's war has also opened up opportunities for women to take on public roles as mediators, not least because the conflict left vacuums and required quick interventions. Field accounts offer concrete illustrations of women stepping into humanitarian facilitation, negotiation, and de-escalation, influential functions traditionally dominated by men. These include mediating local disputes; facilitating or supporting the exchange of corpses, forcibly disappeared persons, and prisoners, as well as community safety arrangements including safe exits during armed escalations; and mobilizing public resources for monetary compensation and humanitarian relief efforts.[51] An illustration is the Abductees Mothers Association (AMA), led by Amat al-Salam al-Hajj, which has documented more than 1,300 cases of abductions and enforced disappearance, evidence of torture and medical neglect in Houthi-held areas and STC facilities in government-held areas, pursued victim-centered advocacy, and offered victim support for released detainees, including psychosocial and livelihood support.[52]

Some interviewees described women-led mediation efforts helping to restore order, reopen roads, and avoid localized escalations. They note calibrated interventions "behind the shadows" as practical local conflict-management and mediation assets.[53] In Shabwa, Hiyam al-Qarmoshi, a local activist, contributed to local mediation efforts in 2015 that led to the evacuation of Houthi militants from a civilian building in Ataq, Shabwa, thus averting coalition airstrikes, in exchange for their safe passage.[54] In 2018, Sulaf al-Hanashi, a local activist and mediator in Hadramawt, successfully advocated for the reopening of the Al-Dhabba and Al-Rayyan roads connecting al-Shihr and Mukalla, which had been closed since the takeover and later expulsion of Al-Qaeda in the Arabian Peninsula (AQAP) from Mukalla in 2015-2016.[55]

2008. ; Abdul Razzaq Al-Hattami, "The Black Flaw: A social contract system that is being dismantled [AR]," Assafir Arabi, September 16, 2021, https://assafirarabi.com/ar/40354/2021/09/16/; Key informant interview with a civil society leader, Shabwa, December 2025.

[50] Key informant interview with a civil society leader, Shabwa December 2025; Key informant interview with a legal practitioner, Hadramawt, December 2025.

[51] Rim Mugahed, Bilqees Al-Lahbi, and Magnus Fitz, "Women's Non-Traditional Roles in Tribal Societies," Sana'a Center, January 25, 2022, https://sanaacenter.org/publications/analysis/16331

[52] See reports by the Abductees Mothers Association: https://ama-ye.org/reports/

[53] Key Informant Interview with a civil society activist, Marib, December 2025.

[54] Key Informant Interview with a civil society activist, Shabwa, December 2025; Samah Al-Khader, "Safeguarding a Dying Practice: The Role of Shabwani Women in Tribal Mediation and Reconciliation," Sana'a Center, February 21, 2024, https://sanaacenter.org/ypf/the-role-of-shabwani-women-in-tribal-mediation-and-reconciliation/

[55] Rim Mugahed, Bilqees Al-Lahbi, and Magnus Fitz, "Women's Non-Traditional Roles in Tribal Societies," Sana'a Center, January 25, 2022, https://sanaacenter.org/publications/analysis/16331

Women's efforts advancing human rights and peacebuilding under wartime conditions have been internationally recognized. Amat al-Salam al-Hajj,[56] head of the AMA, and Yasmeen al-Qadhi, a human rights and peacebuilding activist, received the United States of America's International Women of Courage Award.[57] In addition to participating in the local mediations, the two civil society leaders have conducted training for youth and women on customary law mechanisms to support broader local stabilization efforts. Huda al-Sarari, a lawyer and human rights activist who revealed allegations of Emirati-sponsored prison networks in Yemen, received Switzerland's Martin Ennals Award for Human Rights Defenders.[58] Women's non-traditional roles have aided localized de-escalation, human rights, justice-seeking, mediation, settlement, and stabilization processes, demonstrating through leadership that their meaningful, not symbolic, inclusion can amplify "existing but undervalued" societal roles.[59]

4.3 Victim-Centeredness: Between Social Pressures and Normative Commitments

Customary approaches, while often seen as victim-centric, involve various social compromises. Many tribes often seek to protect their tribesmen as much as they seek to hold them accountable. "Protection mechanisms for tribesmen and the escapee from another tribe (Al-Mostajeer), as well as accountability processes, are tribally codified," said one senior tribal sheikh from Al-Jawf.[60]

Second, layered pressure on the victim often arises in support of a traditionally brokered settlement. Multiple accounts across the five governorates indicated forms of pressure on victims to accommodate agreements and accept compromise, including by sheikhs close to mediators, opponents, and friends.[61] "For the sake of peace, sometimes peace means you accept less," one victim from Hudaydah noted.[62] An arbitrator in Marib notes: "If the conflict continues, everyone loses. So, compromise is sometimes better than insisting on a full penalty."[63] These dynamics highlight that customary justice is by design the art of possible justice that is naturally a form of compromised justice.

[56] U.S. Department of State, ShareAmerica. "Yemeni Advocate Honored for Exposing Houthi Abuses," ShareAmerica, April 7, 2025,https://share.america.gov/yemeni-advocate-honored-for-exposing-houthi-abuses/

[57] U.S. Department of State, "2020 International Women of Courage Award," March 4, 2020, https://2017-2021.state.gov/2020-international-women-of-courage-award/n

[58] "Huda Al-Sarari Is the Laureate of the 2020 Martin Ennals Award for Human Rights Defenders," International Federation for Human Rights, Feb 2020,https://www.fidh.org/en/issues/human-rights-defenders/huda-al-sarari-is-the-laureate-of-the-2020-martin-ennals-award-for

[59] Key informant interview with a civil society activist, Shabwa, December 2025; Focus group discussion with judicial and civil society stakeholders, Shabwa, December 2025.

[60] Key informant interview with a senior tribal sheikh, Al-Jawf, January 2026.

[61] Key informant interviews with an IDP and victims, Sana'a, December 2025; Focus group discussions with judicial and civil society stakeholders, Hudaydah, December 2025.

[62] Key informant interview with a victim, Hudaydah, December 2025.

[63] Key informant interview with an arbitrator, Marib, December 2025.

Consent is officially voluntary but structurally constrained by social dynamics and power asymmetries. In Marib and Shabwa, swifter tribal enforcement can result in greater compliance while also reinforcing expectations of compromise to prevent further escalation.[64] The autonomy of the affected thus co-exists with collective order and stability priorities, especially in cases of inter-communal violence or blood feuds during armed conflicts.

4.4 Truth-telling and Acknowledgment

In Yemen, truth-seeking and telling practices are neither fully institutionalized nor fully absent. Hearing sessions and testimony-seeking techniques are integral to Yemeni traditional arbitration methods, yet documentation practices remain largely informal and rarely aligned with evidence-based standards necessary for TJ processes.[65] This stems from the customary prioritization of mending social relations over creating exhaustive public records, which is the function of the state's legal system. In both Marib and Shabwa, arbitrators have convened hearings in which the parties present accounts, witnesses testify, and a ruling is ultimately weighed against customary classifications of wrongdoing or harm. "We must hear both sides. We ask questions. We listen to witnesses. But the aim is to reach a resolution that ends the problem," one arbitrator said.[66]

In these settings, the concept of "sufficient truth" is pursued differently than in state judicial proceedings. A detailed account of events is often secondary to what third-party mediators deem useful, relevant, and necessary in determining liability and forms of redress. A civil society representative in Hudaydah captures this nuance: "The purpose is not to write history. It is to prevent revenge."[67] This becomes more pronounced in politically charged cases. Participants in the Hudaydah FGD noted a pattern whereby deep dives into politically linked violations may destabilize fragile equilibria: "If you push too much on details, you reopen wounds and create new enemies."[68]

Sexual and gender-based violations constitute the clearest boundary in sensitive cases. Across governorates, survivors and participants more broadly noted that these cases are "under-disclosed" due to high social stigma and an array of repercussions, including reputational harm.[69] In Hadramawt, one participant said, "There are harms that cannot be spoken of publicly. Families prefer silence and cover-up to avoid reputational impact."[70] In such cases, customary platforms may prioritize either a quiet settlement over acknowledgment of guilt or a quiet retreat, leaving grievances fully unresolved, further limiting documentation, transparency, and accountability.

[64] Key informant interviews with an arbitrator, Marib, December 2025 and with an arbitrator, Shabwa, December 2025.

[65] Key informant interview with an arbitrator, Shabwa, December 2025.

[66] Key informant interview with arbitrators, Hudaydah, December 2025.

[67] Key informant interview with a civil society activist, Marib, December 2025.

[68] Focus group discussion with judicial and civil society stakeholders, Hudaydah, December 2025.

[69] Key informant interview with victims in Hadramawt and Sana'a, December 2025.

[70] Key Informant Interview with a victim, Hadramawt, December 2025.

At the same time, acknowledgment procedures carry both symbolic and psychological weight. Public apology, payment of dues, and sacrificial rituals, such as presenting bulls as sacrifices (Tahjeer),[71] the laying down of arms, and formal reconciliation gestures reflect various modalities of recognition, including for the reduction of communal tensions and partial restoration of human dignity. From a TJ perspective, the fundamental limits are structural: customary truth-seeking focuses on social stabilization and de-escalation rather than systematic documentation or historical record-building.

4.5 Redress and Reparation

Redress, unlike truth-seeking, reveals greater strength in customary law, though with structural limitations too. Across governorates, compensation mechanisms have been described as the most developed, socially accepted, and clearest aspect of Yemeni socio-tribal *A'raf*. Compensation is often calibrated in accordance with the degree of harm severity, referencing customary classifications corresponding with U'yub and U'tub (customary offenses and social penalties code), which is the normative "penal code" that clusters shameful violations and associated sanctions, including from one's tribe for failure to adhere to rulings.[72] While the foundational rules are broadly shared across major Yemeni tribes, regional variations exist in implementation mechanisms and penalty values.[73]

In protracted or large-scale disputes, especially those involving multiple casualties, including deaths and injuries, tribes resort to Al-Musaffa (also known as Al-Makhraj), a term meaning the "final accounting" of damage incurred, which serves as a benchmark for settlement. Amin al-Okaimi, an influential tribal sheikh from Al-Jawf, argues that "we cannot fix the consequences of war without Al-Musaffa."[74] Al-Okaimi further elaborated on Al-Musaffa: "When there are many killings or injuries or damages over time, we calculate everything; every life, injury, damage, and then agree on a final settlement."[75] Al-Musaffa is thus a long-standing collective account settlement process that represents one of the sophisticated customary restorative tools within Yemeni *A'araf*. It has been employed in resolving several protracted and costly tribal disputes that led to dozens of casualties over the years, including between the Murad and Abidah tribes in Marib, and the Murad and the Qayfah tribes in neighboring Al-Bayda.[76] In particular, it is intended to "close" cycles of revenge, reset records, and stabilize relations.

[71] Important to note that these offers are often symbolic, and in many cases the sacrificial animal is not slaughtered.

[72] Key informant interview with arbitrators in Shabwa and Marib, December 2025; Key informant interview with civil society activists, Marib, December 2025.

[73] Mohammed Sayyad, "A Document of the Customary Rules of Reference for All Yemeni Tribes," Khaled bin Alwaleed, Sana'a, 2014.

[74] Key informant interview with local sheikh, Amin al-Okaimi, February 2026.

[75] Ibid

[76] Key informant interview with a civil society activist, Marib, December 2025.

The adequacy of these processes is disputed, particularly by weaker community groups. In Sana'a, participants noted that compensation in politically sensitive cases may be socially coerced, yielding agreements that deepen rather than resolve grievances and perceptions of injustice.[77] Victims further speak to the inherent limits of monetary compensation. One victim in Hudaydah emphasized that "Money does not equal justice. Sometimes we accept because there is no other option."[78] Another victim from a marginalized group spoke of inconsistent redress practices that depend on social status, noting that "when we wanted to retaliate against an attack on a woman of our community, a local neighborhood leader (*aqel*) and sheikh intervened, contained the situation, and ensured apology and material compensation. They should have brought heads of cattle, as they do with tribesmen in similar violations."[79]

In many instances, the source of compensation funding is typically collective, demonstrating elements of community cohesion and resource mobilization. Tribe members often contribute their shares to *Al-Ghurm* (financial obligation) and *al-Gharamah* (contributors),[80] and sometimes extend to kin networks to offset remaining costs, whereas guarantors (*Al-Dhumana'a*) oversee compliance of settlement implementation.[81] Several participants cautioned against internationally supported funding mechanisms related to these efforts, fearing mismanagement and the "politicization" of traditional methods, while others, most notably victims, welcomed the idea, arguing it would strengthen redress and reconciliation efforts.[82] A civil society representative in Hadramawt noted: "If compensation comes from outside money, people may question the legitimacy of customary law processes and their settlements."[83]

Overall, while customary redress mechanisms are socially embedded and robust, they operate most effectively in communities with higher social cohesion and fewer harmful power asymmetries that affect participants' power to negotiate. From a TJ perspective, customary redress mechanisms provide important entry points, especially for localized reparations; however, they require stronger safeguards to reduce inequitable agreements and coercive compromises

[77] Key informant interview with a victim, Sana'a, December 2025.

[78] Key informant interview with an IDP victim, Hudaydah, December 2025.

[79] Key informant interview with victim, Sana'a, December 2025.

[80] *Al-Ghurm* is a financial obligation borne by an individual or group, such as the payment of blood money, compensation, or humanitarian expenses, as well as contributions to public interests, such as building roads or digging wells. *Al-Gharamah* refers to the members of the tribe who are obliged to contribute financially to such expenses. Rashad al-Alimi, "Tribal Judiciary in Yemeni Society," Dar Al-Wadi for Publishing and Distribution,n.d., p. 143.

[81] Key informant interview with an arbitrator, Hudaydah, January 2026.

[82] Key informant interview with a victim, Sana'a, December 2025; Key informant interview with a legal practitioner, Hadramawt, December 2025.

[83] Key informant interview with a civil society representative, Hadramawt, December 2025.

4.6 Accountability

Under customary law, accountability functions through social enforcement and pressure. Its effectiveness depends on the degree of tribal cohesion, relational proximity, and reputational cost. As an arbitrator in Marib puts it: "If he belongs to the tribe, he must answer before it. Otherwise, the individual loses social standing and faces penalties."[84] Similarly, arbitrators in Shabwa emphasized that enforcement is stronger when the two parties are part of the same tribal structure or when the process is impartial.[85]

However, social enforcement weakens when perpetrators enjoy political, armed group, or social protection, or are senior military commanders. In Houthi-held Sana'a, a prosecutor referenced the shrinking space for freedom of expression and politically sensitive cases involving senior figures or large-scale and politicized cases beyond individual violations, arguing that "customary law cannot compel someone who is structurally protected by power."[86] FGD participants in Hudaydah further echoed these concerns, pointing out that cases involving or in proximity to politically aligned actors are rarely pursued through customary forums, and when they are, outcomes are biased.[87]

Even within more cohesive tribal environments, enforcement may not fully materialize when a perpetrator has significant social, political, or military status. One judicial official acknowledged: "Sometimes, the tribe defends its own tribesmen regardless."[88] These dynamics strain the restorative justice of customary law. Customary settlement remains most effective in intra-community disputes but cannot alone substitute for the state's criminal accountability frameworks; its limits are most notable when the perpetrators are politically protected, victims are from vulnerable groups, or violations are grave in character.

[84] Key informant interview with an arbitrator, Marib, December 2025. Penalties may include expulsion from tribe, withdrawal of support, and social disapproval.

[85] Key informant interview with an arbitrator, Shabwa, December 2025.

[86] Key informant interview with judicial official, Sana'a, December 2025.

[87] Focus group discussion with judicial and civil society stakeholders, Hudaydah, December 2025.

[88] Key informant interview with a legal practitioner, Marib, December 2025.



Tribesmen from Ibb governorate attend a tribal gathering in Marib governorate in support of pro-government forces against the Houthis, May 7, 2020// Sana'a Center photo

5. Variation Across Governorates: Implications

Comparing dynamics across the five governorates in Yemen finds that customary justice mechanisms do not operate uniformly. The legitimacy, effectiveness, inclusivity, and accountability of customary law vary due to structural drivers. These include tribal cohesion and density, urban-rural configuration, terrain, geographic remoteness, the level of state and service-delivery presence, authority fragmentation, the depth of wartime politicization, and the degree of consolidation of coercive actors. The structural drivers interact and reshape both the functional strength of *A'araf* and their normative boundaries locally and sub-nationally.

Tribal cohesion and lineage density are important factors. Although the defining characteristic of a tribe is descent from a common ancestor, kinship ties may weaken and gradually disappear after the fourth or fifth generation.[89] As a result, the tribe's continued cohesion depends on factors beyond direct blood relations, including shared economic and political interests and intermarriage. In both Marib and Shabwa, where tribal affiliation and cohesion remain profoundly embedded in collective social organization, mobilization, and enforcement mechanisms, customary tribal rulings hold strong credibility. Enforcement relies more on collective responsibility and reputational costs than on formal coercion. As one arbitrator in Marib put it: "When the tribe guarantees a ruling, there is no room to ignore it. Socially, you cannot stand against everyone."[90] Central to ensuring compliance is the guarantor and collective contribution framework.[91] In these contexts, the social fabric functions as an enforcement infrastructure, helping resolve intra-community disputes efficiently. However, tribal cohesion has limits, especially when protection-based dynamics arise, such as Houthi intervention or the shielding afforded by the *Al-Raba'a* (refugee) and *Al-Dhakeel* (protected person) principles. When the perpetrator holds a high social status, political office, or backing from an armed group, enforcement logics become more complicated.

[89] Rashad Al-Alimi, "Tribal Judiciary in Yemeni Society," Dar Al-Wadi for Publishing and Distribution, n.d.

[90] Key informant interview with an arbitrator, Marib, December 2025.

[91] Key informant interview with a legal practitioner, Hadramawt, December 2025.

Geography, state reach, and public access to services constitute a second driver. Wartime transformation has reshaped "center-periphery" relations, enabling the rise of new urban centers, a de facto level of decentralization, and ultimately weakening the dominance of the center. Unequal development in Yemen, most notably in the "periphery," including the governorates of Shabwa and Marib, has reduced trust in state institutions. Where service provision, including electricity, education, health, and transport, as well as formal courts, is absent, weak, or distant, customary law mechanisms have endured as the primary method. In remote areas, participants repeatedly described Yemeni *A'raf* as "the only available, quick, and accessible system."[92] In those contexts, high reliance on customary processes partly reflects the shortage of viable alternatives.

During the war, both Marib and Shabwa experienced greater autonomy, development, and a strengthened state presence through local authorities. Increased mobility, not least because of internal displacement, reshaped people-to-people, urban-tribal and civil-military relations, two-way societal exposure, and modernization efforts.[93] Marib represents a good example of this transformation. Before the war, the Marib city court suffered from inadequate resources and sporadic closures due to security challenges. At that time, the court had only three judges and recorded the lowest number of cases, averaging about 30 annually. By 2021, however, the number of cases surged to over 1,000, owing to strengthened state authority, mobilization of resources, and above all, an increase in population tenfold due to displacement.[94] Today, the court consists of nine judges, four of whom are women. The Public Prosecution comprises eight prosecutors, in addition to seven judges currently undergoing training within the Prosecution, along with a substantial administrative staff.[95] These bottom-up wartime transformations, reversing the inequality of development, have increased public resort to courts, but customary law is also widely used.

Third is political and social fragmentation, which has allowed coercive actors to consolidate their power. In areas where the Houthi group exerts centralized, consolidated control, including Sana'a, the space for credible customary autonomy and authority has narrowed significantly. This has reshaped mediator impartiality, conditioned accountability outcomes, and shrunk safe spaces. A Sana'a-based legal practitioner noted that some litigants avoid customary platforms entirely, particularly in politically or socially sensitive disputes, because the reputational, psychological, and societal consequences "travel further in the city."[96] To capture the scope of constraints, a judicial official in Sana'a further acknowledged that "there are cases where you cannot move forward, even if you want to."[97] Similarly,

[92] Focus group discussion with judicial and civil society stakeholders, Marib, December 2025; Key informant interview with a legal practitioner, Hadramawt, December 2025.

[93] Focus group discussion with judicial and civil society stakeholders, Shabwa, December 2025.

[94] Mohammed Al-Shuwaiter, "The Impact of the War on Yemen's Justice System," November 2021, https://ilac.se/assets/resources/ilac_yemen_report_2021-english.pdf

[95] Key informant interview with a legal practitioner, Marib, December 2025.

[96] Key informant interview with a legal practitioner, Sana'a, December 2025.

[97] Key informant interview with a judicial official, Sana'a, December 2025.

FGD participants in Hudaydah noted caution when disputes involve armed groups.[98] Put differently, in governorates where power is captured, and tribes are quelled by force, as in Hudaydah and Sana'a, both customary and formal judicial processes are notably constrained, given that armed groups have less appreciation for accountability norms. By contrast, in areas marked by state fragmentation but strong tribal cohesion and autonomy, such as Marib and Shabwa, customary law processes maintain higher legitimacy and stronger internal enforcement capacity. Still, those places also have limits on their capacity to prosecute cross-factional or politically linked cases.

Fourth, wartime "high politics" and polarization have reshaped mediator independence, credibility, and gatekeeping. Traditionally, a tribal sheikh's mediation authority is often inherited through lineage seniority, derived from moral standing, and sustained by perceived impartiality and a justice track record. Amid Yemen's protracted and multi-layered conflict, "neutrality" has increasingly become intertwined with one's political alignment, the lack thereof, or the distribution of political alignment within a family or tribe, enabling cross-actor navigation and overcoming the structural limitations of the conflict. In Hadramawt and Hudaydah, interview and FGD participants noted elevated scrutiny of mediators' political affiliations; community members often ask, "Whose side is he on?"[99] High polarization and politicization have narrowed the scope of disputes that can be addressed publicly and have affected perceptions of the legitimacy of interlocutors and gatekeepers alike. The war has altered the morality of customary mediation and justice delivery efforts.

The fifth driver is the distributional effects of justice provision and associated social stratification. Cross-governorate variation reveals inequalities, especially regarding who accesses and benefits most from customary justice, despite the presence of norms protecting the vulnerable and anti-discrimination norms. For instance, Marib hosted over 2 million IDPs, many of whom fled Houthi political violence and moved to the frontlines of conflict, offering protection to the most vulnerable communities, facilitating social accommodation, dispute mediation, and relative security despite systemic wartime pressures.[100] Arwa al-Ramal, a civil society activist, cited examples of "some tribesmen in Marib cleared their private lands to house IDPs from 2015," supporting the expansion of IDP camps, including for African migrants.[101] In tribal areas such as Marib, Shabwa, Hadramawt's Valley and Desert region, enforcement power greatly favors individuals who are part of or connected to tribal networks over those outside them. This means it disadvantages a section of non-tribal societal segments, women, marginalized groups, and migrants. In Sana'a, Hudaydah, and

[98] Focus group discussion with judicial and civil society stakeholders, Hudaydah, December 2025.

[99] Key informant interview with a civil society representative, December 2025.

[100] Ibrahim Jalal, "Normalizing Houthi Gains in Yemen Puts Marib at Serious Risk," Middle East Institute, March 16, 2020, https://www.mei.edu/publication/normalizing-houthi-gains-yemen-puts-marib-serious-risk/; Nadwa Al-Dawsari, "Tribal Mediation and Community Safety: Essential Foundations for Long-Lasting Peace", Yemen Policy Center, October, 2020, https://www.yemenpolicy.org/tribal-mediation-and-community-safety-essential-foundations-for-long-lasting-peace

[101] Key informant interview with Arwa al-Ramal, a civil society activist, Marib, December 2025.

Hadramawt, vulnerable groups, including *Muhammasheen* and IDPs, described compounded barriers and vulnerability chiefly because of weaker social solidarity, backing, and access, often through gatekeeping and intermediaries.[102] Additionally, gendered patterns of customary justice persist across the five governorates. While women have social protection beyond symbolism, their direct participation in customary justice remains constrained by social and reputational norms. Therefore, the distributional effects of customary law are uneven and do not guarantee equity.

Cross-governorate variation clarifies where customary law is strongest and weakest and demonstrates that traditional justice-provision capacity is highly context-specific and structurally conditioned. Tribal cohesion enhances enforcement but reinforces social hierarchies, while weaker state presence and distance from the center may increase reliance on customary law but cannot fully offset reliance on courts, given documentation limits. By comparison, improved state presence and services may increase reliance on the formal judiciary, with customary law used when useful and necessary. Meanwhile, hybrid coercive consolidation significantly narrows the scope of arbitration and arbitrators' autonomy. Additionally, polarization may reshape mediator credibility and legitimacy, with social stratification largely conditioned on access forms, speed, and outcomes. Together, these factors confirm that customary law cannot fully substitute for formal legal architecture, nor can it be treated as a one-size-fits-all formula for the country's layered grievances. It also cannot be dismissed.

The cross-governorate syntheses provide an insightful baseline of Yemen's structural realities that should inform transitional justice programming and sequencing. TJ design must be territorially calibrated and cautious, in compliance with do-no-harm principles and without undermining the legitimate rights of victims. In instances where customary processes demonstrate strong enforcement and a credible capacity for restoration, they may offer practical entry points, especially for localized redress and reconciliation. Where politicization, polarization, and coercive protection dynamics dominate, adequate safeguards and clear formal referral triggers remain indispensable.

[102] Key informant interview with a member of the *Muhammasheen* community, Sana'a, December 2025; Key informant interview with an IDP, Sana'a, December 2025.

6. Limits of Customary Law in Grave Violations and Politicized Conflicts

Fieldwork conducted across governorates indicates that customary law is most effective when applied to localized disputes. However, its reliability diminishes significantly when grave violations and harms are politicized or linked to war dynamics and the influence of insurgent authorities. The effectiveness of customary justice is constrained by two primary factors: the political-security landscape and the ability of certain parties to ensure compliance without triggering further escalation.

In Shabwa and Marib, respondents repeatedly described customary processes as a "first resort" for everyday community-level harms and wrongdoings because they are quicker, more accessible, and more socially enforceable. Formal courts are often inefficient, costly, slow, captured, or politicized. But when cases become socially or politically charged (including through linkages to parties to conflict, armed groups, commanders, or foreign and local patronage networks), the space for objective arbitration shrinks, and the possibility of a victim-centered resolution declines significantly. Multiple accounts underscored that conflict dynamics have hardened gatekeeping and "red line" dynamics. Some issues could not be managed and resolved safely without repercussions, reinforcing the notion that customary justice sometimes fails to uphold complete truth-seeking, documentation, or accountability, thereby maintaining an imbalance of power relations in which the victim may remain the weakest node. There is no single, consistent rule governing all cases across all tribes, as outcomes are shaped by several factors, most notably prevailing customary practices, as well as the relative power and influence of the victim, the perpetrator, and the mediator (arbitrator).[103]

The limits are evident when dealing with specific violations such as torture, foreign-backed enforced disappearance, prolonged detention, mass seizure of assets by rebel groups, gender-based violence, and sexual violence. Across the five governorates, KII and FGD respondents tended to distinguish between the "disputes the local community can handle" and the "grave violations that implicate protected actors." Even where customary norms deplore and reject specific harms, the question is whether traditional mechanisms can summon perpetrators, protect witnesses, survivors, or victims, and deliver proportionate and safe remedies without retaliation.

When perpetrators enjoyed different forms of protection, including through paramount political affiliation, armed actors, senior military commanders, foreign patrons, or social standing, outcomes, according to fieldwork, may range from cosmetic or incomplete

[103] Key informant interview with a civil society representative, Shabwa, December 2025.



A child examines the destruction from a US airstrike in the Al-Jeraf neighborhood of Sana'a city, on March 20, 2025 // Sana'a center photo

settlement to non-resolution. Worse are partial settlements conditioned on fear, internalization of trauma, and ultimately silence, especially for women and other vulnerable groups. The findings echo cautions that programming using customary justice alone risks normalizing impunity.[104]

Against this backdrop, new hybrid mediation initiatives emerge. These comprise tribal sheikhs, academics, civil society leaders, legal practitioners, and social figures. Individuals and groups have helped reopen roads, exchange detainees, the deceased, and prisoners, negotiate water access, and support local ceasefires. The Hadramawt Social Peace Commission, Taiz Mediation Committee, and the Reconciliation Committee,[105] also known as the National Mediation Team, are good illustrations of these efforts along the political lines of the conflict and by its frontlines.[106] In Taiz, community mediation initiatives facilitated the reopening of the Al-Qasr road after nearly a decade of Houthi siege, enabling 778,000 civilian crossings within the first month alone,[107] and reducing travel time from over six hours to approximately 15 minutes. On prisoner exchanges, local initiatives have unsurprisingly outperformed the United Nations (UN) mediation track, facilitating the release of over 11,000 prisoners, corpses, and kidnapped persons, against less than half of that figure achieved through UN-led negotiations.[108]

[104] Key informant interview with a civil society activist, Hudaydah, December 2025.

[105] A group of 13 active local mediators, including professors, a lawyer, tribal and social figures, both men and women, has been working voluntarily for about 10 years, primarily on detainee cases, de-escalation, and opening roads.

[106] "Opening Space for Transitional Justice in Yemen," ICTJ, March 2025, https://www.ictj.org/sites/default/files/2025-04/ICTJ_Report_Yemen-TJ_0.pdf

[107] Wissam Mohammed "Opening the Road to Besieged Taiz City: Easing Travel vs. Continued Hardship," Sana'a Center, October 16, 2025, https://sanaacenter.org/the-yemen-review/july-sept-2024/23529

[108] "Local Peace Efforts in Yemen Outpace UN Performance," Asharq Al-Awsat English, July 5, 2025, https://english.aawsat.com/arab-world/5161562-local-peace-efforts-yemen-outpace-un-performance

These findings largely align with the available literature arguing that justice provision in wartime and post-war Yemen is best pursued through the complementarity of formal and customary systems, rather than substitution. Taken together, the evidence suggests that customary processes can be most effective for intra-community disputes and some restoration-oriented settlements; however, they are not intended to deliver complete truth, accountability, and redress for grave violations.

6.1.Rights and Implications for More Vulnerable Groups

A rights-centric review of fieldwork highlights a central tension of equity. Customary law claims legitimacy through social order, enforcement, and norms of reparation and protection. However, it does not provide equal voice, access, settlement, and remedy for vulnerable groups, including women, IDPs, minorities, and other marginalized groups.

Across the five governorates, respondents clearly distinguished between practical redress and rhetoric of normative protection. Local communities publicly condemn harm and misconduct, especially toward women and guests, but social hierarchy and norms, gatekeeping and power dynamics, and reputational risks continue to shape inclusion and restorative justice pathways. In other words, inclusion remains a major constraint in customary law mechanisms.[109]

Numerous accounts highlighted a dual reality regarding women's access levels. On the one hand, customary law has a strong moral condemnation doctrine, accompanied by sanctions, when women face harm. On the other hand, women's justice-seeking is often facilitated by family or community male intermediaries, meaning fear of social stigma often restricts the expression of grievances and, as a result, further internalizes trauma. This is particularly conspicuous in cases of grave harm. Some respondents repeatedly indicated that cases of sexual violence have often been avoided more regularly than not, handled with extreme caution, or contained to avert social fallout.

Mindful of these dynamics, the absence of disclosure must not be equated with the absence of harm in such settings. Multiple contributors explicitly pointed out that "protection" norms of community do not mean that women can effortlessly pursue accountability, especially where a public reporting or disclosure of harm may trigger shame, reprisal, or social exclusion.[110] Without adequate safeguards, confidentiality mechanisms, and trauma-sensitive pathways, customary forums may reproduce anguish and distress through social pressure, exposure, penalties, or imposed settlements.[111]

[109] Key informant interview with a civil society activist, Marib, December 2025.

[110] Key informant interview with a civil society activist, Hudaydah, December 2025; Key informant interview with a legal practitioner, Sana'a, December 2025.

[111] Key informant interview with a civil society representative, Shabwa, December 2025.

Access to protection for vulnerable community groups, including IDPs and marginalized communities such as the *Muhammasheen*, is often inconsistent despite theoretical frameworks being in place. Although customary justice can protect the socially embedded and integrated, it can have a different impact on those without tribal affiliation, bargaining power, or access to intermediaries and interlocutors. Multiple respondents distinguished between IDPs treated as "guests" within their region and the historically marginalized groups encountering more profound social stigma and weaker societal integration. Compounded structural differentiations have, more often than not, resulted in limited voice, uneven outcomes, and a narrow space for contesting rulings. For instance, several marginalized respondents noted that monetary compensation may be inadequate, imposed, or disproportional, especially when compared to the same harm-related redress offered to a tribesman.[112]

Victim-centeredness, as a principle, cannot be assumed because, unlike customary law, which focuses on the community level, it focuses on the individual level. It manifests unevenly in practice, requiring a calibrated TJ design through proportional safeguards that significantly reduce coercive or intimidating dynamics while strengthening inclusion, accountability, and representation.[113] In settings where sharp power asymmetries arise or when disputes involve influential actors, negotiated settlements may only partially restore financial and psychological reparations, leaving survivors and victims with limited redress. Truth acknowledgment and non-recurrence guarantees are limited. Without a victim-centric approach that involves meaningful participation, credible documentation, and truth-telling, settlements, formal and informal, risk entrenching a culture of impunity.[114]

Customary law pathways can evidently contribute to localized peace-making, community-level dispute management, reconciliation, negotiated forms of acknowledgment, truth, and redress. However, they require adequate safeguards to avert coercive or exclusionary dynamics, especially for more vulnerable segments of society, as well as defined boundaries and referral triggers, most notably for serious violations. TJ engagements are encouraged to ask: "who can speak, who can safely participate, whose harm is recognized, what is documented, what happens when the perpetrator is protected, and what implications do these dynamics have on victims above all?"[115]

[112] Focus group discussion with judicial and civil society stakeholders in Marib and Hudaydah, December 2025; Key informant interviews with a civil society activist, Hudaydah, December 2025; Key informant interview with a legal practitioner, Hudaydah, December 2025.

[113] Key informant interview with a legal practitioner, Sana'a, December 2025; Key informant interview with a mediator and local peace committee member, Hadramawt, December 2025.

[114] Key informant interview with a civil society activist, Hudaydah, December 2025.

[115] Key Informant interview with a victim and legal practitioner, Hadramawt, February 2026.



Students returning from school and passing by destroyed houses in the Thaabat neighborhood, which witnessed fierce fighting between internationally recognized government forces and the Houthis, November 8, 2022 // Sana'a Center photo

7. Conclusion and Implications for TJ Programming

The emerging evidence from cross-governorate analysis suggests that customary law is community-centric and thus remains the most operationally accessible conflict-management infrastructure for day-to-day social stabilization, dispute resolution, and a degree of restorative justice. Its effectiveness is structurally limited and contingent on the premises of transitional justice. Overall, the evidence shows a mixed picture: customary justice remains central in wartime Yemen. Its legitimacy is functional but power-conditioned. Inclusion gaps persist; victim-centeredness is socially constrained; truth-seeking is secondary to de-escalation; redress mechanisms are comparatively strong; accountability weakens in cases of politicization and serious violations; and complementarity with safeguards is essential. These dynamics underscore the study's core argument and call for selective integration of the customary processes in transitional justice work. These include victim-centered truth-telling, evidentiary standards, accountability for serious violations, equal participation and representation, and proportional restorative justice. TJ programming should therefore neither dismiss customary mechanisms entirely nor apply them in a one-size-fits-all way. Instead, transitional justice programming should invest in selectively integrating traditional and hybrid mechanisms where they function more effectively and credibly, while establishing clear boundaries, adequate safeguards, and referral pathways where they are weakest.

Accountability is where defined boundaries matter most. Customary processes appear most functional in intra-community disputes because of the credibility of social enforcement and the manageability of power asymmetries. However, they become fragile when perpetrators leverage protection-based dynamics, including social, political, or armed group relationships.[116] Serious or protected violations, including enforced disappearance, sexual violence, torture, and politically motivated killing, are among the least amenable to

[116] Key informant interview with a victim, Hudydah, December 2025; Key informant interview with a legal practitioner, Hadramawt, December 2025; Key informant interview with an arbitrator, Shabwa, December 2025.

customary settlement due to perceived risks and the way in which customary mechanisms are established differently from state criminal accountability frameworks.[117] Consistent with TJ literature, restorative resolution may contain or reduce local escalations; however, it cannot credibly replace accountability systems for serious violations.[118] Programmatically, clear referral-trigger pathways for serious violations, accompanied by credible and adequate safeguards, including protections against reprisal for survivors, victims, and witnesses, are thus of paramount importance.

Stronger truth-telling and documentation practices remain necessary from a victim-centric approach. Across multiple contexts, including politically charged environments, customary resolutions may lean towards restoring social equilibrium and "closing the file" rather than generating comprehensive fact-finding records that meet TJ evidentiary requirements.[119] This dynamic reflects the community-centric logic of customary mechanisms and outcomes, as opposed to the individual-centric TJ approach, which prioritizes the victim's needs. Without minimum documentation, truth-telling, and memory commemoration protocols, the space for credible accountability and non-recurrence guarantees narrows.[120] Additionally, the prospect of victim-centric acknowledgment of harm may become subject to coercive narratives, selective testimonies, or even rumors. TJ programming should thus introduce practical documentation benchmarks and thresholds that support evidentiary continuity and strengthen customary pathways, including when cases must be referred.

Redress and reparations show a more promising opportunity, despite the uneven distributional effects of customary restorative justice. Across the five governorates, customary practices appeared comparatively effective and enjoyed relative functional legitimacy in material, symbolic, and psychological forms of redress, especially where bargaining dynamics were not tilted in one side's favor, and enforcement remained socially credible. These included monetary compensation, a public apology, the provision of arms or *Janabi*, the ceremonial sacrifice of bulls, and a restorative settlement. However, multiple accounts expressed concerns over layered forms of pressure on victims to welcome and accept compromises to ensure "social peace," which risk turning agreed-upon redress into coerced resolution rather than victim-centric remedy and satisfaction.[121] TJ programming must therefore capitalize on customary reparative

[117] Focus group discussion with judicial and civil society stakeholders, Marib, December 2025.

[118] Elham Manea," Yemen's Contentious Transitional Justice and Fragile Peace", Middle East Institute, February 14, 2014, https://mei.edu/publication/yemens-contentious-transitional-justice-and-fragile-peace/

[119] Key informant interview with a legal practitioner, Sana'a, December 2025; Key informant interview with a civil society activist, Marib, December 2025; Focus group discussion with judicial and civil society stakeholders, Marib, December 2025.

[120] Erica Gaston and Nadwa al-Dawsari, "Dispute Resolution and Justice Provision in Yemen's Transition", USIP Special Report 345, April 1, 2014, https://www.jstor.org/stable/resrep12230; Marta Mendes and Yazeed Al-Jeddawy, "Engaging Victims in Peace-Making and Transitional Justice in Yemen," Sana'a Center, March 24, 2024, https://sanaacenter.org/publications/policy-research/22094

[121] Key informant interview with a victim, Hudydah, December 2025; Key informant interview with a civil society activist, Marib, December 2025.

logics for localized, non-serious violations while embedding consent safeguards to prevent coerced settlements. This could be achieved by linking forms of customary redress to wider reparations benchmarks and thinking, especially where violations are systemic or widespread.[122]

These risks and opportunities converge when we talk about representation, inclusion, and equity. Women, IDPs, religious and racial minorities, as well as marginalized groups, encounter uneven levels of access, weaker bargaining power and leverage, and mediated participation in justice-seeking processes.[123] While vulnerable groups are normatively protected, this protection does not consistently lead to equitable voice, representation, procedures, or outcomes. For instance, a large section of local communities across the five governorates has stigmatized and under-disclosed sexual and gender-based violence, thus limiting truth, accountability, reparation, and public solidarity.[124] This corroborates past research cautioning that customary systems may inadvertently or structurally reproduce power hierarchies even while offering access. Therefore, TJ programming must regard inclusion as a design metric, not a symbolic action, best measured through voice, participation, legitimacy, access, and outcome equity, with adequate safeguards against layered coercion techniques and gatekeeping capture.[125]

Violation of non-recurrence and durable justice provision requires rebuilding of state institutions in Yemen –especially related to service delivery and the security, legislative, and legal sectors– and is far beyond what customary law can provide during war and post-war environments.[126] TJ programming can better integrate customary processes into a broader category and sequencing approaches. In other words, use customary mechanisms to maintain local order, stabilize local disputes, and empower restorative redress, while building truth-telling, documentation, referral, and adequate safeguards for rights to prevent the normalization of impunity and exclusionary and shielding dynamics. Overall, customary justice has emerged as a functional layer of informal governance that can inform TJ programming through limited and safeguarded integration.

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[122] Mohammed Al-Hetar, "The Use of Tribal Custom within the Framework of Transitional Justice in Yemen[AR]," The Moroccan Center for Transitional Justice and Study of International Reports, April 18, 2025, www.cmjteri.org.ma/-مقال-حول-توظيف-العُرف-القَبَلي-ضمن-مسا/

[123] Key informant interview with victims, Sana'a, December 2025.

[124] Focus group discussions with judicial and civil society activists, Marib, Shabwa, Hudaydah, and Hadramawt, December 2025.

[125] Najwa Adra,"Tribal Mediation in Yemen and Its Implications for Justice," 2011, http://www.najwaadra.net/tribalmediation.pdf

[126] Key informant interview with a legal practitioner, Hadramawt, December 2025; Key informant interview with an arbitrator, Shabwa, December 2025.

8. Recommendations

Building on the paper's cross-governorate comparative findings, the recommendations translate conditional complementarity into practical choices. They draw on fieldwork participants' views and prioritize victim-centeredness and inclusion, minimum safeguards and documentation standards, and defined boundaries and referral-trigger pathways, particularly for serious or socially or politically protected violations.

For Programs Addressing TJ in Yemen:

- Adopt a "selective integration" approach, framing customary processes as relevant mechanisms for restorative justice and localized dispute resolution, while restricting their involvement in serious violations such as sexual and gender-based violence.
- Establish «red lines" and referral triggers for violations that should not be handled through customary resolution, such as sexual violence, child recruitment, and national-level disputes.
- Establish minimum documentation and accountability standards to ensure continuity of evidence. This includes implementing a concise case intake form, outlining levels of redress, detailing the incident timeline, specifying types of harm, obtaining parties' consent, and assessing risks of coercion, all while protecting identities from public exposure.
- Establish effective safeguards against coerced settlements in any involvement with customary proceedings. This includes conducting private consultations with victims prior to settlement, ensuring checks for voluntary participation, allowing cooling-off periods to reconsider settlements, and incorporating no-reprisal clauses in agreements.
- Establish inclusion as a key metric to gain a clearer understanding of who participates in forums, who speaks, who benefits, and who is pressured to make concessions. This should involve tracking the equity of voice, access, and outcomes for more vulnerable societal groups, such as women, internally displaced persons (IDPs), the *Muhammasheen*, religious minorities, and others.
- Invest in a governorate-level interface map that comprises formal and customary systems to better tailor programming, including granular mapping of where courts do or do not operate, where customary rulings are most and least recognized, where service delivery is decreasing or increasing reliance on courts, and where gatekeeping is highest or lowest.

For Yemeni Stakeholders (the government, tribes, Civil Society Organizations (CSOs), the judiciary, and local authorities):

- Invest in standardizing fundamental procedural fairness norms (i.e., charters).
- Strengthen the mandates of and develop clear transitional justice coordination mechanisms between the National Commission for the Investigation of Alleged Human

Rights Violations, the Consultation and Reconciliation Commission (CRC), the national judiciary, and CSOs.

- Create safer pathways for women's and victims' voices and active participation, including through tribal-CSO initiatives.
- Strengthen non-coercive settlement and enforcement norms, particularly towards more vulnerable groups and victims.
- Define when customary pathways should defer to state judicial processes and/or ensure minimum documentation for future accountability and transparency, especially in cases where harm is serious, socially or politically sensitive, and/or engages protected actors.

For International Partners and UN Actors

- Avoid funding models that promote quick fixes at any cost; instead, support programming centered on victims that ensures voluntariness, safety, and human dignity, particularly for victims and the most vulnerable groups.
- Invest in building customary documentation capacities as a public good by raising awareness and providing training and capacity-building in conflict- and trauma-sensitive documentation and archiving standards.
- Mobilize long-term resources for protection-linked pathways for the most serious harms (sexual and gender-based violence, child harms, enforced disappearance), including through pairing legal aid with safe referral options and psychological support, accompanied by non-stigmatizing outreach.
- Allocate operational resources to support local dispute settlement and social stabilization initiatives to empower vetted mediators, guarantors, and justice providers.
- Integrate, expand, and support hybrid initiatives for conflict resolution and justice provision, such as the Reconciliation Committee, the Taiz Mediation Committee, and the Hadramawt Social Peace Committee.
- Support governorate-specific designs rather than one-size-fits-all national templates to reflect sub-national variations and strengthen what locally works.

For TJ Practitioners on Evidence, Learning, and Sequencing

- Establish iterative learning by viewing customary-TJ linkages as an adaptive program, with regular assessments to adjust inclusion measures, referral triggers, and proportional safeguards.
- Protect the linkage against elite capture by diversifying interlocutors and gatekeepers, and by monitoring and accountability, including with excluded groups and CSOs.
- Sequence integration pragmatically, beginning with restorative redress in localized disputes where customary processes are strongest, and gradually expanding where the credibility of safeguards, documentation, truth-telling, and referral options is established.

Ibrahim Jalal is a senior researcher, team leader, and policy advisor working at the intersection of conflict political economies, transnational threats, tribal-state relations, geopolitical risk, institutional reform, and regional security across the Middle East and Horn of Africa. He has worked with the the Institute of Development Studies (IDS) at the University of Sussex, United Nations, Carnegie Endowment for International Peace, the Middle East Institute, Amazon's Risk and Resilience function, S&P Global, the Overseas Development Institute, and the XCEPT programme. His analysis has been featured on the BBC, CNN, and France 24, and he advises policymakers, and corporate leaders on evolving risks, crisis management, organisational resilience, and strategic foresight. He holds master's degrees in Strategy and Diplomacy and in Security, Conflict and Strategic Studies from the University of Glasgow, and a BA in International Affairs with a minor in International Law.

Mohammed al-Shuwaiter is a jurist based in Canada, holding an LL.M. in International Law from American University Washington College of Law (AUWCL) in Washington, D.C., where he specialised in international humanitarian law and human rights. In Yemen, Mohammed earned his law degree, worked as a legal researcher at the Ministry of Justice, and served as a constitutional consultant to the Rapporteur of Yemen's Constitutional Drafting Committee. He has since provided consulting services to a number of international organisations, including the World Bank, on legal and governance issues relating to the Middle East. His research spans the rule of law, human rights, international humanitarian law, the judiciary, and transitional justice, with particular focus on how the war in Yemen has affected the legitimacy of state institutions, the judiciary, and transitional justice processes. Mohammed is also the co-founder and Executive Director of Qanun, the Arabic Human Rights Platform.

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