

# Transitional Justice and Reconciliation in Yemen

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**Cover photo:** President Abdo Rabbu Mansour Hadi holds up the National Dialogue Conference Outcomes report on at a session of the NDC on January 21, 2014 // Photo credit: EPA/Yayha Arhab



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## Introduction: Connecting the Transition Framework with Transitional Justice and Reconciliation in Yemen

National dialogues have been used as instruments to resolve political crises and pave the way for political transitions and sustainable peace.<sup>[1]</sup> They have emerged in the context of transitional countries struggling with complex legacies of violence and political instability,<sup>[2]</sup> including Afghanistan, Mexico, Somalia, and Colombia. Since then, they have evolved into instruments used in a wider variety of national contexts<sup>[3]</sup> and into a useful means of helping societies repair long-lasting fractures, establish the truth about the past, and stitch together a new social fabric.

At a United Nations Security Council (UNSC) open debate on reconciliation held in late 2019,<sup>[4]</sup> member states discussed the importance of national dialogues in pursuing reconciliation and sustaining peace. During the discussion, however, it was also acknowledged that certain aspects of national dialogues remained vague and needed further clarification. For instance, reconciliation was often assumed as a goal of national dialogues, although this was not always clearly stated. References to reconciliation were largely generic, and the relationship between reconciliation and other objectives, including transitional justice, was not always clearly articulated. Furthermore, it was also not always clear what exactly produced reconciliation in the context of national dialogues and other efforts to sustain peace - as noted in one study, "reconciliation is often a taken-for-granted goal, but many questions remain about what it is these societies are attempting to achieve and how they might do so."<sup>[5]</sup>

In Yemen, the law granting immunity from prosecution to former President Ali Abdullah Saleh and his officials<sup>[6]</sup> tasked the government of national unity<sup>[7]</sup> with preparing and submitting a draft law to the parliament on national reconciliation

[1] Thania Paffenholz, Anne Zachariassen, and Cindy Helfer, "What makes or breaks national dialogues?" Inclusive Peace and Transition Initiative, p. 8, *What Makes or Breaks National Dialogues?*.

[2] Adrian Little, Sarah Madison, "Reconciliation, transformation, struggle: an introduction," *International Political Science Review*, Vol. 38, No. 2 (March 2017).

[3] For example, the 2025 edition of the African Dialogue Series - organized by the United Nations Office of the Special Advisor on Africa - focused on "justice for Africans and for People of African Descent through reparations". Africa Dialogue Series 2025,, United Nations Office of the Special Adviser on Africa. Available at: <https://www.un.org/osaa/ads2025>. In other contexts, truth-telling has been at the center of the desire for political transformation. In Australia, for instance, the 2017 Uluru statement called for a Makarrata Commission to oversee a process of "agreement-making" and "truth-telling" about the truths of colonial history that may or may not lead to local reconciliation. See Vanessa Barolsky, "Truth-telling about a settler colonial legacy: decolonizing possibilities?" *Post Colonial Studies* 2023, Vol. 26, No. 4.

[4] "Reconciliation must evolve to reflect growing complexity of today's conflicts, participants stress during day-long Security Council open debate," SC/14024, November 19, 2019, 8668th meeting, <https://reliefweb.int/report/world/reconciliation-must-evolve-reflect-growing-complexity-today-s-conflicts-participants>

[5] Adrian Little, Sarah Madison, "Reconciliation, transformation, struggle: an introduction," *International Political Science Review*, Vol. 38, No. 2 (March 2017).

[6] According to Law no. 1 of 2012 concerning the granting of immunity from legal and judicial prosecution, immunity from criminal prosecution also applied to "the officials who have worked under the president - in state civil, military and security agencies." See "Yemen's Immunity Law: Breach of International Obligations," Amnesty International (2012). Available at: <https://www.amnesty.org/en/documents/mde31/007/2012/en/>.

[7] A government of national unity was formed in November 2011 as part of the Gulf Cooperation Council (GCC) Initiative to manage the transition of power after President Ali Abdullah Saleh stepped down. The Agreement stipulated a two-year period, to be managed by a care-taker transitional government, during which a National Dialogue Conference would be organized to form the basis of a new constitution as well as of a new government. See Charles Schmitz, "Yemen's National Dialogue," *Middle East Institute*, March 10, 2014. <https://www.mei.edu/publications/yemens-national-dialogue>.

and transitional justice.<sup>[8]</sup> This was complemented by the Implementation Mechanism of the Gulf Cooperation Council (GCC) Initiative, which featured “national reconciliation and transitional justice” amongst the issues to be discussed during the National Dialogue Conference (NDC).<sup>[9]</sup> Beyond these, little guidance was provided on substantive and procedural issues concerning reconciliation and transitional justice.

One of the most controversial developments in the post-2011 transition phase was the existence of parallel decision-making processes, one managed by the government of national unity and the other by the NDC, which often led to different outcomes. The lack of an institutional framework regulating their roles and how each was expected to contribute to reconciliation and transitional justice was a critical yet overlooked factor, contributing to a general perception that the NDC and the country’s wider transition process failed to build a sustainable transitional justice process or contribute to national reconciliation. The start of the conflict in 2014 dashed hopes for a politically inclusive process, and underlined the difficulties of shifting from violence and disarray to a genuine and transformative dialogue.

This paper examines factors that have constrained - but which could have enabled - a sustainable transitional justice process during Yemen’s post-2011 transitional phase. It focuses on the institutional and legal frameworks governing the roles of the government of national unity and the NDC, and the contributions expected to transitional justice and reconciliation. It then provides a critical review of the measures adopted by each and highlights the gaps between governmental policy and NDC proposals. The first part of the paper looks at the framing of reconciliation and transitional justice by the technical committee established to prepare the NDC. This is followed by an analysis of the multiple ways reconciliation and transitional justice were addressed by the government of national unity and during the NDC. The second part will also examine the definitions adopted by the interim government and the NDC on who is considered a victim, the time periods of the violations, and the types of redress measures proposed.

Understanding the shortcomings of prior efforts and noting what didn’t work is crucial for a future transition process in Yemen that successfully addresses and integrates transitional justice concerns. In the conclusion, the paper summarizes key evidence-based lessons from the post-2011 transition period that could help avoid similar obstacles in the future. It also highlights key recommendations and proposes directions for policymakers designing a future intra-Yemeni political process.

[8] Law No. 1 of 2012 concerning the granting of immunity from legal and judicial prosecution. According to this law, the draft law on national reconciliation and transitional justice would help advance “national reconciliation and transitional justice as well as to put in place the necessary measures to ensure that violations of human rights and humanitarian law will not be committed.” See “Yemen’s Immunity Law: Breach of International Obligations,” Amnesty International (2012). Available at: <https://www.amnesty.org/en/documents/mde31/007/2012/en/>.

[9] See Article 21, “Agreement on the implementation mechanism for the transition process in Yemen in accordance with the Initiative of the Gulf Cooperation Council,” November 23, 2011. According to Presidential Decree No. 30 of 2012, “the Comprehensive National Dialogue Conference shall define further steps to achieve national reconciliation and transitional justice and measures that preclude violations of human rights and humanitarian law in the future.” See “Final Report of the Technical Committee to Prepare for the Comprehensive National Dialogue Conference,” December 12, 2012. Available at: <https://constitutionnet.org/sites/default/files/2024-09/Technical%20Committee%20UN%20Translated%20Final%20Report%20Jan%202013.pdf>.

## Part I – Reconciliation and Transitional Justice: Preparations for the National Dialogue Conference

### The 20 Points and the Conceptual Framework Adopted by the Technical Committee

The GCC's Implementation Mechanism provided for the formation of a preparatory technical committee<sup>[10]</sup> charged with creating "a favorable climate for convening the National Dialogue Conference"<sup>[11]</sup> and ensuring the "inclusive representation of all the parties." Participating were groups specified in the implementation mechanism, notably including women, youth, the Southern Movement, the Houthis, other political parties, and civil society representatives.<sup>[12]</sup>

From the beginning, the committee called for a "spirit of reconciliation and harmony and a sense of responsibility and teamwork to infuse all of the committee's decisions and proceedings."<sup>[13]</sup> However, beyond this, there was little guidance or clarity provided by the technical committee on the relationship between national reconciliation and transitional justice, and between these and other dialogue topics.

One important feature of the transition framework in Yemen was that many decisions concerning transitional justice and reconciliation were made before the NDC and thus outside the Conference's deliberative processes and other guarantees of transparency and oversight. While national dialogues are known for being multi-stakeholder negotiation mechanisms,<sup>[14]</sup> with many "decision corridors," in the realm of transitional justice, procedures are particularly important. They not only guarantee transparency; they also help maintain public trust in outcomes, and are an important means of countering efforts by political elites and other actors to hinder efforts to address human rights violations and accountability. Furthermore, many of the measures taken ahead of the NDC - namely the 20 Points and the Guarantees - corresponded to de facto transitional justice and reconciliation measures<sup>[15]</sup> that sought to provide recognition for past harms, promote societal healing, and ensure

<sup>[10]</sup> See Article 19, "Agreement on the implementation mechanism for the transition process in Yemen."

<sup>[11]</sup> "Final Report of the Technical Committee to Prepare for the Comprehensive National Dialogue Conference," December 12, 2012, p. 5, <https://constitutionnet.org/sites/default/files/2024-09/Technical%20Committee%20UN%20Translated%20Final%20Report%20Jan%202013.pdf>

<sup>[12]</sup> "Final Report of the Technical Committee," p. 6. According to Amal al Basha, the technical committee comprised 25 members representing all sectors of society (the General People's Congress party and its allies, opposition coalition parties, other political entities, youth movements, the Southern Movement, the Houthis, NGOs, and women (six in total). See "Gender equality discourse in Yemeni constitutions: rights and duties," Danish Institute for Human Rights, No. 2014/3, [https://www.humanrights.dk/files/media/migrated/as-basha\\_working\\_paper\\_final\\_with\\_addendum.pdf](https://www.humanrights.dk/files/media/migrated/as-basha_working_paper_final_with_addendum.pdf)

<sup>[13]</sup> "Final Report of the Technical Committee," p. 12.

<sup>[14]</sup> "National Dialogues and Peace Talks: Key takeaways from our latest peer exchange," Inclusive Peace, n.d., <https://www.inclusivepeace.org/national-dialogues-and-peace-talks-key-takeaways-from-our-latest-peer-exchange/>

<sup>[15]</sup> The 20 points included different types of reparative measures such as restitution (e.g., return of property, and funds seized after the civil war in 1994; return of agricultural lands in the south seized after the civil war in 1994); compensation (e.g., payment of legal entitlements owed to civilian and military employees, detainees, persons coerced to retire and displaced persons as a result of the civil war in 1994; compensation to the owners of agricultural lands in the south that had been seized after the civil war in 1994); rehabilitation (e.g., medical treatment of the wounded from the Sa'ada Wars; medical treatment for the wounded of the 1994 civil war and the Southern Movement, as well as support for their families); satisfaction (e.g., an official apology to the populations of Sa'ada, Harf Sufyan, and other areas damaged during the wars; the release of persons detained in connection with the popular Peace Youth Revolution; locating persons in forced hiding in connection with the Sa'ada Wars, regardless of whether they are dead or alive). See "Final Report of the Technical Committee, Resolutions concerning the content and mechanisms of the National Dialogue Conference," pp. 28-29.

redress to injured parties for wrongs and damages. That being the case, they should have been informed by public debate and other scrutiny to help ensure that measures met the needs and expectations of those who suffered, namely, the victims. Ultimately, the measures were adopted with minimal public scrutiny and input from civil society organizations, including victims' and survivors' groups.

In addition, the structure and general organization of the conference were at odds with its ambitious goals, which were not limited to transitional justice and reconciliation. For example, the high number of participants from political parties raised questions about the suitability of this formula vis-à-vis the Conference's objectives, especially as one of its main aims was to "celebrate diversity"<sup>[16]</sup> and "strengthen the spirit of tolerance to remove the impacts of past conflicts and abuses."<sup>[17]</sup> The total number of conference members was 565: 445 from political parties, and 120 unaffiliated participants meant to represent women, youth, and civil society.<sup>[18]</sup>

However, this did not mean that all women, youth, and civil society participants were unaffiliated. For instance, the technical committee organized youth into those affiliated with political parties (105 seats) and those who were unaffiliated (40). Even in the case of civil society (a total of 40 participants), the nomination of representatives was done by an advisory selection committee, which prioritized professional unions, syndicates, and civil society organizations<sup>[19]</sup> from fields relevant to the dialogue's topics. The technical committee then selected 20 organizations, each represented by two participants. Despite the emphasis on transitional justice and reconciliation, there were no known representatives from victims' organizations among those selected. This contrasted with reports by international mechanisms, which lauded Yemen's "dynamic civil society". A report by one of the UN's Special Procedures from the beginning of the 2000s estimated that there were approximately 3000 civil society organizations in Yemen, of which 700 were engaged in the protection of human rights. These included organizations working on human rights issues, including on matters of importance for transitional justice and reconciliation purposes, such as enforced disappearances.<sup>[20]</sup>

[16] "National Dialogue Conference Outcomes," 2014, 'A just society'. p. 233. Available at: [https://www.peaceagreements.org/media/documents/ag1400\\_5923ff45aad2e.pdf](https://www.peaceagreements.org/media/documents/ag1400_5923ff45aad2e.pdf)

[17] "National Dialogue Conference Outcomes," p. 26.

[18] "Final Report of the Technical Committee, Resolutions concerning the content and mechanisms of the National Dialogue Conference," p. 13-19.

[19] Ibid.

[20] According to a report of the working group on enforced disappearances concerning a mission to Yemen in August 1998, the delegation met with relatives of missing persons and representatives of non-governmental human rights organizations, namely the Yemeni Organization for Human Rights and Democratic Freedom, the 100 Committee to Combat Torture, the Forum for Civil Society, the National Women's Committee, the Human Rights Association, the Arab Democratic Institute, Amnesty International (Yemen), and the Yemen Centre to Help Victims of Violence and Torture, see: (E/CN.4/1999/62/Add.1, 22 December 1998). The report of the Independent Expert on Extreme Poverty who visited Yemen in October 2003, refers to Yemen's "dynamic civil society," which included an estimated 3,191 civil society organizations, around 700 of which were engaged in protection of human rights or the rights of specific groups, see: (E/CN.4/2004/43/Add.1, January 8, 2004). Both reports are available at <https://spinternet.ohchr.org/ViewCountryVisits.aspx?visitType=all&Lang=en>

The features of the NDC that sought to guide the conference's preparatory work raised new questions about how well-suited the overall design was to achieving broad national reconciliation. Process factors of national dialogues - which include elements such as the selection of participants and decision-making procedures, amongst others,<sup>[21]</sup> may seem secondary when compared to the dialogue's objectives and aims. However, they are essential for building trust and cooperation and ensuring successful outcomes. These questions remain relevant today, especially in the context of a future peace agreement. In considering how the latter should address fundamental questions about how to deal with past violations and other legacies, the processes established to bring transitional justice to the heart of the negotiations are as important as their place on the agenda.

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[21] Thania Paffenholz, "Broadening participation in peace processes: dilemmas and options for mediators, Mediation Practice Series," Centre for Humanitarian Dialogue, June 2014, <https://www.inclusivepeace.org/wp-content/uploads/2021/05/paper-broadening-participation-peace-processes-en.pdf>

## Part II – The Limits of the Framework

### Key Differences Between Measures Adopted by the Government and at the NDC

One of the most striking differences between the government and the NDC concerned their understanding of the past. For the government of national unity, the past essentially comprised three key conflict periods, which included the 1994 Civil War,<sup>[22]</sup> the Sa'ada Wars,<sup>[23]</sup> and human rights violations that occurred in 2011.<sup>[24]</sup>

In contrast, the NDC and, in particular, the Transitional Justice Working Group adopted a broader approach that took into account “all past dossiers of past conflicts.” According to the Conference Outcomes, addressing the past was deemed a fundamental condition for putting in place a “new social contract” in Yemen.<sup>[25]</sup> The past was considered a “heavy burden placed on the shoulders of citizens.”<sup>[26]</sup> Social development and prosperity were perceived to require emancipation from the past.<sup>[27]</sup><sup>[28]</sup> To accomplish this, it was deemed necessary to have “an accurate diagnosis of the past.”<sup>[29]</sup> Without coming to terms with what had happened, there would be no basis for the recognition of the mistakes committed.”<sup>[30]</sup> Finally, knowledge of the past was deemed instrumental to repairing grievances and putting into motion other transitional justice measures.<sup>[31]</sup>

The notion of the past and what was considered part of it played an important role in establishing institutional mechanisms and measures. In the case of the government, these mechanisms included four different commissions: a national commission of inquiry to investigate human rights violations committed during 2011; a commission for land issues in southern governorates; a commission for those forcibly dismissed from their jobs in southern governorates; and a commission for land issues in the Tihama. Other measures adopted by the government before the NDC included an official apology made to the South “for the war of the summer of 1994”<sup>[32]</sup> and an official apology to Sa'ada over repeated military campaigns between 2004 and 2010.<sup>[33]</sup> In 2013, the government also established a compensation fund<sup>[34]</sup> to address land issues and those dismissed in the southern governorates after the 1994 war.

<sup>[22]</sup> “Final Report of the Technical Committee, Resolutions concerning the content and mechanisms of the National Dialogue Conference,” p. 28-29

<sup>[23]</sup> Ibid.

<sup>[24]</sup> Ibid.

<sup>[25]</sup> “National Dialogue Conference Outcomes,” p. 230.

<sup>[26]</sup> “National Dialogue Conference Outcomes,” p. 229.

<sup>[27]</sup> “National Dialogue Conference Outcomes,” p. 229.

<sup>[28]</sup> “National Dialogue Conference Outcomes,” p. 228.

<sup>[29]</sup> “National Dialogue Conference Outcomes,” p. 228.

<sup>[30]</sup> “National Dialogue Conference Outcomes,” p. 228.

<sup>[31]</sup> “National Dialogue Conference Outcomes,” p. 228.

<sup>[32]</sup> Mohammad Ghabari, “Yemeni government apologizes for wars waged by former president,” Reuters, August 21, 2013, <https://www.reuters.com/article/world/yemeni-government-apologises-for-wars-waged-by-former-president-idUSDEEg7KoCR/>

<sup>[33]</sup> Ibid.

<sup>[34]</sup> Republican Decree No. 253 of 2013 established a Compensation Fund for Confiscated Land Issues and Dismissed Civil, Security, and Military Servants in the Southern Governorates.

### **The role of reconciliation in the draft law on transitional justice**

The draft law on transitional justice –initiated by the government of national unity in 2012 and later revised in order to incorporate the Outcomes of the NDC- provided no definition of national reconciliation. However, different parts of the law suggested that it was understood as a condition to put a stop to “the culture of revenge and retribution.” This was also related to the meaning of transitional justice in the draft law: a restorative, non-judicial approach to justice for the “detention of the truth,” reparation to victims, the preservation of national memory, and preventing the recurrence of crimes and violations.

The draft law’s “roadmap” to achieving reconciliation was guided by an overall concern to “understand the mistakes of the past.” Two main approaches that would contribute to this endeavour were the disclosure of truth and reparation – not limited to compensation – for victims of political violence and of other human rights violations.

The draft law also included a section about the establishment of an “equity and national reconciliation commission.” The commission was expected to function as a permanent body responsible for leading efforts and taking the necessary steps to promote national reconciliation (Article 11). The draft law did not differentiate the commission’s reconciliation mandate from its transitional justice functions. According to the draft law, reconciliation was a broad societal goal and a major consideration that should guide the political transition process and all transitional justice efforts.

Finally, the commission’s functions extended to two main periods: the human rights violations resulting from the political conflict from 2011 until the issuance of the draft law; and human rights violations that had occurred since 1994. Despite references to the commission’s mandate,\* the equity and national reconciliation commission was not an investigative body, though it had fact-finding and truth-telling functions.

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\* According to the draft law on transitional justice and reconciliation, this mandate included “any grievance against any group or sect of which material impact is still tangible” as well as “the incidents, background, circumstances and accompanying abuses under the partition rule in the South and in the North and under the unity state.”

## Measures Proposed During the NDC

In addition to the measures adopted by the government of national unity and those proposed by working groups at the NDC, there were many differences among working groups, which often had different interpretations of the same subject. One instance where this was obvious was with the notion of reconciliation. Even though the published NDC Outcomes contained several references to reconciliation, there was no common definition, and different working groups imbued the term with their own meanings. The Transitional Justice Working Group defined national reconciliation as “political and social consensus based on the transitional justice mechanism for a transition from a situation of political conflict to a situation of peace and promotion of democracy.”<sup>[35]</sup> Their definition also referred to “relations between all political parties and between these and individuals, based on justice and on removing the impacts of past conflicts and abuses.”<sup>[36]</sup>

The Transitional Justice Working Group also emphasized the importance of safeguarding reconciliation whilst supporting truth-telling efforts. According to the Working Group, establishing the truth about the abuse of rights should not jeopardize reconciliation between or the dignity of citizens, political organizations, or military forces.<sup>[37]</sup> The Working Group stated that the recognition of all victims of former political conflicts<sup>[38]</sup> as martyrs was an important condition to achieve comprehensive national reconciliation.<sup>[39]</sup> Finally, it contended that the principle of national reconciliation and tolerance should guide all initiatives aimed at bringing closure to all past dossiers of past conflicts.<sup>[40]</sup>

### Compensation Funds proposed at the National Dialogue Conference

The Compensation Fund established by the government in 2013 was charged with “compensating the claimants of lands and dismissed civil, security, and military servants who deserve compensation in the Southern governorates, according to the remedies and resolutions issued by the two Commissions (Commission for the Forcibly Dismissed and the Commission for Confiscated Land Issues), established by Presidential Decree No. 2 of 2013.”<sup>i</sup>

<sup>[35]</sup> “National Dialogue Conference Outcomes,” p. 26.

<sup>[36]</sup> “National Dialogue Conference Outcomes,” p. 26.

<sup>[37]</sup> “National Dialogue Conference Outcomes,” p. 33.

<sup>[38]</sup> “National Dialogue Conference Outcomes,” p. 36.

<sup>[39]</sup> “National Dialogue Conference Outcomes,” p. 36.

<sup>[40]</sup> “National Dialogue Conference Outcomes,” p. 36 and p. 42.

In contrast, the “Reparation and Compensation Fund”<sup>ii</sup> proposed at the National Dialogue Conference by the Transitional Justice Working Group was expected to be established within the framework of a national reconciliation and transitional justice law and operate under a national transitional justice body. The Reparation and Compensation Fund had a broader scope, which included “different conflicts and wars between the two former parts of the country, the political conflicts, military coups, civil wars, armed conflicts under the partition rule in the South and in the North and under the unity state.”<sup>iii</sup>

Another important difference between the two funds concerned the type of reparation or compensation expected to be provided. The NDC’s Reparation and Compensation Fund was not limited to financial compensation and included measures such as moral reparations, psychological rehabilitation, and vocational education, amongst others.<sup>iv</sup> In contrast, the 2013 Compensation Fund had a narrower purview as the fund was only supposed to provide monetary compensation to “claimants” whose cases had been adjudicated by the two commissions. Non-financial measures to provide redress for the harms and grievances suffered, such as symbolic benefits for the claimants, their families as well as affected communities, were not addressed by the government’s compensation fund.

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I. Republican Decree No. 253 of 2013 establishing a Compensation Fund for Confiscated Land Issues and Dismissed Civil, Security and Military Servants in the Southern Governorates, article 4 a).

II. NDC Outcomes Document, p. 38.

III. NDC Outcomes Document, p. 36

IV. The Working Group on National Reconciliation and Transitional Justice defined reparation as comprising four key elements: restitution, compensation, rehabilitation, and integration. Reparation could be individual or collective and it included financial measures as well as moral ones. The latter included rehabilitation through truth-telling, health and psychological rehabilitation, development programs, and vocational education, amongst others. In addition, the NDC Outcomes contain several references to collective reparation schemes. The working group on transitional justice and national reconciliation, for instance, recommended a collective reparation scheme to expunge past injustices (Tihama) as well as to address inequality and disparities of wealth distribution (Mareb, Mahra and Socotra). See NDC Outcomes Document, p. 31, p. 37-38

But others put the emphasis elsewhere. The Southern Working Group made only one reference to national reconciliation. Under the heading “Addressing Past Injustices,” the Working Group emphasized the importance of redress for past injustices, which included an obligation to provide restitution and compensation for seized land and confiscated property. Land and property rights constituted a core grievance and an integral part of the Southern Question. Addressing this and other grievances was deemed fundamental to national reconciliation.<sup>[41]</sup> The Sa’ada Working Group also made references to reconciliation, but mostly regarding a national reconciliation and transitional justice legal framework. Unlike the Southern Working Group, which placed considerable emphasis on dealing with the past and more specifically on grievances resulting from the 1994 war, the Sa’ada Working Group was more concerned with “mending damages,”<sup>[42]</sup> and redressing the harm caused by disappearances,<sup>[43]</sup> casualties from the Sa’ada Wars,<sup>[44]</sup> forcible dismissal from jobs,<sup>[45]</sup> and the seizure and confiscation of property from institutions and libraries.<sup>[46]</sup>

### The Notion of “Victim”

One of the most complex questions addressed during the NDC was defining the status of a “victim.” Even though five working groups<sup>[47]</sup> included provisions on victims and families, their definitions rarely coincided. Various working groups connected the notion of victim with certain issues – namely, the Sa’ada Wars; the Southern Question; and the 2011 peaceful youth revolution - making the recognition of the status of victims dependent upon specific temporalities. As explained in more detail below, in the great majority of situations, victims were treated as martyrs, and their harm was emphasized from the perspective of sacrifice and struggle.<sup>[48]</sup> Working groups also referred to the notion of “martyr” in ways that did not always coincide, reflecting their unique perspectives and understanding of specific problems.

According to the Transitional Justice Working Group, a victim was considered “anyone who has been subjected to harm due to abuse, whether an individual or group or legal persons.”<sup>[49]</sup> A victim can also be a member of the family who tries to interfere in order to assist a victim or prevent abuse of a victim.<sup>[50]</sup> The Working Group asserted that the definition included all regions subjected to such

<sup>[41]</sup> “National Dialogue Conference Outcomes,” p. 7.

<sup>[42]</sup> “National Dialogue Conference Outcomes,” p. 13.

<sup>[43]</sup> “National Dialogue Conference Outcomes,” p. 18.

<sup>[44]</sup> “National Dialogue Conference Outcomes,” p. 18.

<sup>[45]</sup> “National Dialogue Conference Outcomes,” p. 18.

<sup>[46]</sup> “National Dialogue Conference Outcomes,” p. 21.

<sup>[47]</sup> These include the Sa’ada Working Group, Transitional Justice and National Reconciliation Working Group, State Building and Constitution Principles and Foundations Working Group, Building the Foundations for the Security and Military Institutions Working Group, and the Development Working Group. The Southern Working Group did not make any references to victims, families, or martyrs. One reason for not including references to “victims” may be that the group considered that all southerners had been injured, beyond the harm caused to individual victims or groups of victims.

<sup>[48]</sup> See for instance, “National Dialogue Conference Outcomes,” p. 2, p. 41, p. 140 (struggle); and p. 2, p. 6, p. 230 (sacrifice).

<sup>[49]</sup> “National Dialogue Conference Outcomes,” p. 27.

<sup>[50]</sup> “National Dialogue Conference Outcomes,” p. 27.

persecution<sup>[51]</sup> and all former political conflicts.<sup>[52]</sup> Anyone who had been persecuted was considered a victim of conflict, regardless of whether the abuses had occurred before or after Yemen's unification. According to the Working Group, all victims of past conflicts should be considered martyrs of the nation.<sup>[53]</sup> Although there is no official definition of who exactly is considered a martyr, the concept is commonly associated with those who sacrifice their lives in defense of national sovereignty, identity, and dignity.<sup>[54]</sup>

For the Sa'ada Working Group, there were two main types of victims: those killed in the Sa'ada Wars ("from all sides"), youth revolution, and Southern Movement;<sup>[55]</sup> and people who had suffered as a result of armed disputes. The Working Group recognized the latter as victims but not as martyrs. It contended that the state should provide care to the families of martyrs and the wounded<sup>[56]</sup> and recommended the establishment of a fund to this end.<sup>[57]</sup> The Working Group proposed an approach based on "national conciliation, reconciliation, and forgiveness,"<sup>[58]</sup> for grievances between the residents of Sa'ada and other affected governorates and districts, to "remove all grudges"<sup>[59]</sup> and make those "living in fear feel secure."<sup>[60]</sup> Finally, the report of the Southern Working Group highlighted the importance of achieving redress for past injustices without delay.<sup>[61]</sup> This working group made no reference to victims, acknowledging instead those "who had suffered the most."<sup>[62]</sup>

Working groups distinguished between martyrs – people directly harmed by violations and abuse committed during the three key conflict periods identified,<sup>[63]</sup> and those indirectly harmed, such as families. Although families were not recognized as martyrs, some of the working groups proposed social benefits and other kinds of assistance for families of martyrs, mainly through the establishment of a national governmental body.<sup>[64]</sup>

[51] "National Dialogue Conference Outcomes," p. 27.

[52] "National Dialogue Conference Outcomes," p. 36.

[53] "National Dialogue Conference Outcomes," p. 36.

[54] Since the conflict began in 2014, the notion of martyrdom has been used by parties to the conflict in order to fit their narratives. For instance, for the Houthis, the term refers to those who fall in defense of the nation's identity against Western - particularly American - "cultural and ideological invasion." For the internationally recognized government, martyrs are those who sacrifice their lives against "the abhorrent racist imamite project." See "The martyr in Yemeni consciousness: a path of loyalty and endless struggle toward faithful liberation and nation-building," Yemen Extra, October 27, 2025, <https://www.yemenextra.net/2025/10/27/the-martyr-in-yemeni-consciousness-a-path-of-loyalty-and-endless-struggle-toward-faithful-liberation-and-nation-building/> and "President al Alimi and the two PLC members lay foundation stone for martyrs' memorial in Taiz," Official Website of President Dr. Rashad Al-Alimi, August 27, 2024, <https://presidentalalimi.net/en/news714.html>

[55] "National Dialogue Conference Outcomes," p. 20.

[56] "National Dialogue Conference Outcomes," p. 20.

[57] "National Dialogue Conference Outcomes," p. 20. In the case of wives and children of victims of armed disputes, the Working Group advocated for their inclusion in state program as part of its duty of care until such time they would be able "to forge a livelihood and improve their economic situation." They were, however, not considered as wives and children of martyrs.

[58] "National Dialogue Conference Outcomes," p. 18.

[59] Ibid.

[60] Ibid.

[61] "National Dialogue Conference Outcomes," p. 6.

[62] "National Dialogue Conference Outcomes," p. 6-7.

[63] The transitional justice working group includes one reference to the "Public Authority for the Welfare of Martyrs and Struggle of the Revolution." See "National Dialogue Conference Outcomes," p. 38.

[64] "National Dialogue Conference Outcomes," p. 42.

The relationship between victimhood and martyrdom, and between these and the specific periods of conflict identified by the working groups, raised questions about who was considered to have suffered from harm and therefore entitled to support. The blurring between martyrs and victims could be highly prejudicial to a victim's right to reparation for harm suffered. The concept of martyrdom emphasizes heroic sacrifice and is at odds with the conception of a passive victim.<sup>[65]</sup> It is also at odds with contemporary human rights discourse and, in particular, with the notion of victims as rights holders.<sup>[66]</sup> Secondly, people who had suffered human rights violations and abuses committed in situations and circumstances other than those explicitly provided for in the NDC Outcomes, such as cases of forced disappearances, were excluded from the concept of martyrdom. Furthermore, the blurring of martyrs and victims, and the intersection of martyrdom with specific time periods, meant that reparations and other measures taken by the state prioritized the relatives of martyrs and imposed stricter limitations on families of non-martyrs and persons who had suffered harm in other periods and circumstances. Finally, working group discussions did not address victimhood related to the broader issue of accumulated grievances concerning racism, gender inequality, social exclusion, or poverty in Yemen, amongst other issues.

### Missing and Disappeared Persons

The topic of missing and disappeared persons in Yemen was addressed in a very different manner than that of martyrs and families. A total of four working groups addressed the topic.<sup>[67]</sup> Under the heading "Solutions, Treatments, and Guarantees," the Sa'ada Working Group called for the "disclosure of those who have disappeared, those forcibly held in secret detention, and those abducted."<sup>[68]</sup> The disclosure of the whereabouts of disappeared persons was also included as a point of action in the reports of the Transitional Justice Working Group and the Good Governance Working Group.

Some groups addressed the issue of disappearances in connection with other human rights issues, mainly detention. For instance, alongside the disclosure of the whereabouts of the missing, the Sa'ada Working Group called for the "release of all prisoners held in connection with the incidents amongst all parties." The Rights and Freedoms Working Group shared a similar understanding, proposing maximum penalties for perpetrators of forced disappearances as well as arbitrary detention, secret detention, and abductions. According to the report of the Transitional Justice Working Group, in addition to disappearances, the disclosure of truth should also extend to acts of torture, killings, and detention.<sup>[69]</sup>

<sup>[65]</sup> David Ongenaert, Claudia Soler, "Beyond victim and hero representations? A comparative analysis of UNHCR's Instagram communication strategies for the Syrian and Ukrainian crises," *Journal of Refugee Studies*, Volume 37, Issue 2, June 2024, Pages 286–306, <https://doi.org/10.1093/jrs/feae035>

<sup>[66]</sup> "Declaration of Basic Principles of Justice for Victims of Crimes and Abuse of Power," November 29, 1985, General Assembly Resolution 40/34, <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-basic-principles-justice-victims-crime-and-abuse>

<sup>[67]</sup> The Sa'ada Working Group, Transitional Justice and National Reconciliation Working Group, the Good Governance Working Group, and the Rights and Freedoms Working Group.

<sup>[68]</sup> "National Dialogue Conference Outcomes," p. 18.

<sup>[69]</sup> Three of the four working groups included provisions about disclosure, both with regards the whereabouts of missing persons as well as with

Working groups differed, however, on the time frame under consideration. Whereas for the Sa'ada Working Group, the topic of disappearances was connected to the wars in the governorate, the Transitional Justice Working Group did not connect the issue to a specific conflict. Instead, all political conflicts were considered part of the history of Yemen. Therefore, the obligation for the state to disclose the truth about the whereabouts of missing persons applied to all periods of conflict.<sup>[70]</sup> With regard to transitional justice measures for families of missing persons, in the framing of the NDC, missing persons were not necessarily considered martyrs. As a result of this, families of missing persons were not promised the same entitlements - to state care and other forms of assistance - as the families of martyrs. The Sa'ada Working Group did not share this understanding and included in their report a proposal for the government "to treat the families of the disappeared persons due to the wars in Sa'ada in the same manner as the families of martyrs."<sup>[71]</sup> The Transitional Justice Working Group also proposed considering missing persons – regardless of when they had disappeared – martyrs of the nation and of its national movement.<sup>[72]</sup> However, it did not include provisions to support the families of "missing martyrs."

Other measures proposed by the working groups included uncovering the truth<sup>[73]</sup> and national memorialization; financial compensation and psychological support for prisoners (Sa'ada Working Group); the hand-over of remains to families (Transitional Justice Working Group); disclosure of the whereabouts of remains of victims of the political conflict (Good Governance Working Group); imposing maximum penalties for perpetrators of arbitrary, secret detention, forced disappearances, and abductions; and the release of all political prisoners and missing persons (Rights and Freedoms Working Group).

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regards to the truth of what happened to them. In some cases, such as that of the Transitional Justice Working group, the call for the state to "disclose the truth about disappearances" was accompanied by a proposal to give the Transitional Justice Commission a mandate to investigate "all incidents and events including killings, detentions, and forced disappearances in all governorates," see "National Dialogue Conference Outcomes," p. 40. The draft transitional justice law also included a provision mandating that the Transitional Justice Commission "search for forced disappearances that were unaccounted for, according to reports and complaints submitted, and determine the fate of the victims." See "Draft Law on Transitional Justice and National Reconciliation," p. 4.

[70] According to the report of the Transitional Justice Working Group, "the state should be compelled to disclose the truth about [...] forced disappearances in the course of all political conflicts and in all areas for the period covered by the law up to the current time." "National Dialogue Conference Outcomes," p. 40.

[71] "National Dialogue Conference Outcomes," p. 22.

[72] "National Dialogue Conference Outcomes," p. 40.

[73] From a transitional justice perspective, "uncovering the truth" is a recognized human right to which all victims and survivors of human rights violations are entitled to. It is based on the recognition of "the right to know about the circumstances of serious violations of victims' human rights and about who was responsible." International Center of Transitional Justice, <https://www.ictj.org/truth-and-memory>.

## Conclusion and Directions for Further Exploration

By examining the decision-making processes of the National Dialogue Conference (NDC) and the measures adopted in the realm of transitional justice and reconciliation, this study seeks to shed light on critical features of the conference and their impact on reconciliation and transitional justice outcomes in Yemen.

While the NDC took important steps toward reconciliation, it left many critical questions unanswered. By not putting in place clear processes to manage the different inputs received before the start of the conference in 2013, it was unclear how to integrate these in the design of the NDC or how to include all relevant stakeholder groups in a meaningful manner.<sup>[74]</sup>

Most importantly, with no clear understanding of the relationship between the NDC framework and reconciliation and transitional justice – including their potential to reinforce each other – or between the NDC and the government of national unity, the transition process missed an important opportunity to address the root causes of violence in Yemen, deal with past grievances and harms, and achieve the full transformative potential of the national dialogue.

Even though working groups at Yemen's National Dialogue Conference addressed many victim-related topics, their definitions of who constitutes a victim remained largely circumscribed to specific periods and events of Yemen's history, as well as to the notion of "martyrs." The discussions and outcomes left out other categories of victimhood and broader issues of accumulated grievances concerning racism, gender inequality, social exclusion, and poverty.

More than ten years later, the issues of victimhood and transitional justice are poorly featured in peace negotiations in Yemen. Since the beginning of the conflict in 2014, language on accountability, reparations, and transitional justice has progressively faded away from UNSC resolutions. Few briefings by the UN Special Envoy for Yemen have included language on transitional justice and victims.<sup>[75]</sup> The UN Special Envoy's efforts to get parties in Yemen to resume negotiations and, in particular, the UN's road map for peace, have so far not articulated any commitments to victims and to transitional justice.<sup>[76]</sup>

According to the Berghof Foundation, "very often, after peace accords have been signed, there may be a firm consensus to avoid talking about what happened in the past and a reluctance to initiate trials so as not to jeopardize the hard-won peace."<sup>[77]</sup> While the circumstances in Yemen may make it challenging to bring the topic of victims and transitional justice into the peace negotiations, as well as to include them as a central component of an intra-Yemeni political process, there are nevertheless steps that can be taken in the short-to-medium term that can help promote effective outcomes in a future political process in Yemen.<sup>[78]</sup>

[74] "National Dialogues at Crossroads: National Dialogues x Transitional Justice," Berghof Foundation, See supra no. 8. p. 4

[75] Sana'a Center for Strategic Studies, "Engaging Victims in Peacemaking and Transitional Justice in Yemen," Marta Mendes and Yazeed al-Jeddawy, March 24, 2024, p. 34. [https://sanaacenter.org/files/Engagin\\_Victims\\_in\\_Peace\\_Making-and\\_Transitional\\_Justice\\_in\\_Yemen\\_en.pdf](https://sanaacenter.org/files/Engagin_Victims_in_Peace_Making-and_Transitional_Justice_in_Yemen_en.pdf)

[76] Security Council Monthly Briefing, UN Special Envoy, March 6, 2025, S/PV.9873.

[77] Berghof Foundation, National Dialogues at Crossroads: National Dialogues x Transitional Justice. See supra no. 8, p. 15.

[78] Security Council Monthly Briefing, UN Special Envoy, February 13, 2025, S/PV.9858, p. 3.

The two most important steps in this regard are refining our understanding of victims in Yemen. This means identifying consistent patterns of violations for victims, identifying long-term causes of conflict (e.g., grievances), identifying existing reparative justice activities, and identifying victim organizations with the capacity to promote and engage in transitional justice and reconciliation processes. The second step is to determine what linkages could exist between a future intra-Yemeni political process and transitional justice and reconciliation. Even if an intra-Yemeni political process is some way off, it is nevertheless advisable to start promoting dialogue between the government and civil society, between political parties and movements and civil society, and between the executive and the legislative branches of power. One concrete direction is to identify the existing structures among these actors for sharing information and collaborating on transitional justice and reconciliation. This could help identify the gaps that make it difficult to facilitate a coherent approach to these issues, while also determining which forms of dialogue and decision-making are best suited to address transitional justice and reconciliation concerns in a victim-centered manner.

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