

Constitutional

Guidelines on Youth in Yemen

As per NDC Outcomes Document



Women and Youth Forum

About Us:

- Stems from the keenness of the United Nations to promote the principle of engagement in the decision-making process in line with international conventions and norms.
- Completes the process started with the transition process.
- Expresses the believe the United Nation on the importance of women, youth and civil society participation in planning for building the Yemen of the future from within and outside the framework of the NDC.
- Provides a space for women, youth and representatives of the civil society in Yemen to meet and discuss issues of interest to them.
- Responds to the request of many women and youth to provide a free platform for the expression of various opinions and ambitions in a calm and transparent atmosphere.

Overall Objective:

- To overcome all forms of exclusions, social and political marginalization of women, youth and civil society through support and participation in the dialogue process, post dialogue, constitutional making and the creation of tangible mechanisms to achieve equal opportunities.

Sub-objectives:

- Support of youth and women participation in the transition to democracy through awareness-raising on economic, social and political rights with the aim of achieving equal citizenship.
- Creation of a space for meetings of different groups of women, youth and civil society representatives who participated in the national dialogue and from outside of the NDC for exchange of expertise.
- Build bridges of communications between youth and women actors.
- Work to develop various mechanisms to create leaderships with a capacity to build a new future for Yemen based on principles of freedom, democracy and social justice.



Constitutional Guidelines

on Youth in Yemen As per
NDC Outcomes Document

With this resolution [2140], the [Security] Council is supporting the legitimate aspirations of the Yemenis, including the youth, who fought and continue to fight for deep and meaningful change

Assistant UN Secretary-General and Special Adviser on Yemen, Dr. Jamal Benomar (Quotes on Yemeni Women Statement on Security Council Resolution 2140, New York 26 February 2014).

In the Yemeni experience, we note that the role of women, youth and civil society is key to any democratic transition. The wind of change could not have reached the region without these constituencies. Without their effective participation, any democratic process will not be fully realized. We are confident that the new generation of women and youth, who ignited the spark of peaceful change, will continue the fight towards fulfilling this goal

Assistant UN Secretary-General and Special Adviser on Yemen, Dr. Jamal Benomar (Quotes on Yemeni Women - AlJazeera Eighth Forum, Doha 27 May 2014).



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Rights and freedom occupy a distinguished place in constitutions of democratic states around the world. Moreover, they are strongly linked with separation of powers, on the one hand. In addition, with the very existence of a constitution, on the other.

The French Declaration of Rights of Man and Citizenship of 1789 states in provision 16 that: - "Any society in which the guarantee of rights is not ensured, nor a separation of powers is worked out, has no Constitution."

It is a well-known fact that all rights and freedom are based on a constitutional principle: the principle of equality. This principle doesn't seek to eliminate discriminations between citizens on the basis of gender, ethnicity, color, region or... etc only, but also seeks to guarantee justice for all citizens and to ensure the enjoyment of rights and freedoms on equal terms: In respect to public office, benefit from public utilities, equality before the law, public participation and share in the burden of defense and payment of taxes equally.

Since such rights and freedoms are closely attached to the person of mankind, the person's humanity cannot be considered complete unless the person fully enjoys such rights. Yemenis have strived to extract such rights in a number of battles. On the lead were the youth, but their struggle has borne fruit and they have finally gotten what they wanted it. The National Dialogue Conference (NDC) document included many mandatory decisions relevant to civil, political right and freedoms.

In this paper, we will present these decisions as included in the NDC document with the hope that Constitutional Drafting Commission (CDC) will incorporate the same into the new draft constitution.

This document follows the same approach in classifying the current draft constitution, i.e. Fundamental Rights and Freedoms and Duties

Political Foundations Fundamental Rights and Political Empowerment

- A High National Youth Council shall be established and shall be granted sufficient autonomy to ensure that it plays a guidance and oversight role through the participation in the formulation of public policies and monitoring of the implementation in a manner that ensures protection for youth. The protection shall be from social and health risks, violence, motivates a keenness for development programs, capacity building, support for intellectual creativity, cultural development and the creation of clear policies and mechanisms for youth participation in public policy-making through this body. (Constitutional - Political Empowerment - Development)
- The High National Youth Council- Legal Guidelines
- The High National Youth Council shall be responsible for:
 1. Formulation and development of national youth policies aiming at building a capable, effective and active Yemeni generation that participates in the building and development of society.
 2. The National Council shall consult and coordinate with the Executive Authority on the development and funding of interim strategies and national programs for youth to achieve the development goals defined by the High National Youth Council within the framework of implementation of public policies.
 3. The Council should follow-up on the role of the Executive Authority in the implementation of relevant strategies and programs and report on progress periodically. It should evaluate such strategies and programs on a timely basis at all levels.
 4. The High National Youth Council shall guarantee equal representation of male and female youth based on qualification and criteria.
 5. Women shall be represented by at least 30%, youth by at least 20% in all three branches of government.
 6. The law shall provide for the empowerment of youth below the age of 40 in governing bodies of political parties by at least 20 %.
 7. In addition to constitutional provisions, a national policy shall be developed to reflect a positive image for women and youth and works to promote a non-discriminatory culture.
 8. The Constitution shall provide the prerequisites, stated below, for candidates to the following post: President of the Republic, presidents of political parties and political organizations, general secretaries and all the political and leadership posts in the State:
 - A Muslim in religion
 - Born to both Yemeni parents
 - Shall not be married to a foreigner

In respect to youth political empowerment (political participation), the decisions of the NDC included a number of decisions; most important are:



- Shall not be in possession of a non-Yemeni nationality.
 - Shall be a university graduate.
 - That he/she has not previously assumed the post of President of the Republic, a head of a political party, speaker of the Shoora Council, or Prime Minister for two terms.
 - Shall not be less than forty years old for the post of (the President of the Republic).
 - Shall not have been convicted, by a final court judgment, on charges of a breach of trust or honor, a corruption crime, a serious crime, unless exonerated.
 - Shall not be a person that the judiciary would have no access to them for indictment on any violation due to legal restrictions that would obstruct the judiciary.
 - Shall not have been involved in major human rights offenses, violation of the international humanitarian law, in accordance with international conventions, covenants and international laws (war crimes, genocide, or crimes against humanity).
 - Shall not be affiliated to the military or security institutions unless he/she left the military or the security institutions ten years prior to nomination (the GPC refused the 10-year period).
 - Shall furnish a financial disclosure report for him, his children and wives shall declare all moveable and non-movable assets inside the country or abroad and shall transfer the amount back to the country before nomination.
 - That the oath he/she would perform to accept the post shall contain a vow of compliance with the constitution, respect of human rights, abide by the rule of law and good governance and to uphold integrity and responsibility in the performance of all acts for the public good and not for personal gains.
 - Shall be qualified and known for integrity, efficiency and good behavior.
 - Shall not practice any business activity during tenure.
- The State shall guarantee effective participation of youth in all affairs of the State: Political, economic, social, culture and in all spheres by at least 20%.
 - The State shall guarantee to nurture and empower youth for effective political participation

Economic Foundations Economic Rights, Economic Empowerment

On economic empowerment for youth, the NDC document includes a number of decisions which affirmed that

- The State shall commit to the establishment of microfinance banks for the provision of non-interest lending services to youth projects.
- The law shall provide for amendments of the tax and financial legislations to ensure that they contain provisional and regulated exemptions for projects that aim to achieve economic empowerment of women and youth.
- The law shall provide for the provision of loan facilities to women, businesswomen and youth.
- Adoption of small-scale agricultural, fisheries and cooperative projects for the youth.
- Developing the role of the Social Fund for Development, the Public Works Project, and the Small Enterprises Fund and increasing their resources to enable them to expand their labor-intensive programs for job creation and contribution to addressing the unemployment problem.
- Setting aside 20% of the funds allocated for the State programs to finance small scale and medium enterprises. Legislation governing financial institutions, development funds, social welfare, and supporting banks for microfinance activities should be developed to create additional jobs and income opportunities.
- Increasing development budgetary allocations in the Public Budget, especially in the productive, service and labor-intensive activities.
- Creation of an investment friendly climate (political and security stability first) and the development of the banking system so that it becomes a contributor to and finances development.
- Development of the role of the Social Fund for Development, the Public Works Project and the Small Enterprise Fund for the expansion of microfinance for small scale enterprises, productive projects and services projects in the rural and urban areas and various industrial, agricultural, fisheries, trade and services activities ...etc.
- Seek out external labor markets for employment through formal means.



Social and Cultural Foundations

Social and Cultural Rights

The social and cultural rights received substantial attention by all the different working groups of the NDC. This shows the importance of this aspect in the creation of a strong middle class with a capacity for effective political participation to lead, strengthen and maintain the democratic transition in Yemen; including the right to education. The following is a presentation of the most important rights:

- The State shall ensure protection of motherhood, childhood and old age and shall care for the youth and adolescence by providing suitable conditions to develop their talents and capacities.
- Development of measures and required supporting plans to accommodate and utilize youth capacities (female and male youth) to ensure a decent life and a reduction of unemployment.
- The establishment of a high autonomous body for education, training, and scientific research; the aim of which is to improve the quality of education in Yemen.
- Establishment of a national body for women to ensure equitable representation for youth in accordance with standards and quality.
- The State shall guarantee the provision of suitable opportunities to enable the empowerment of youth to utilize their free time and develop their talents and capacity: physically, socially, religiously, culturally, educationally and politically. It shall reaffirm its support for their projects, their right to housing and assist them to overcome unemployment by providing all available opportunities for work, decent life and sound growth.
- The State shall guarantee youth access to information from all national sources, especially those aiming at promoting youth well-being. It shall ensure freedom of scientific research, literary, artistic and cultural accomplishment and shall provide means to achieve that. The State shall provide all types of assistance to advance science and arts, shall promote scientific and technical innovation and creativity, and protects the resulting products.
- The State shall undertake all proper measures to ensure protection of youth from all forms of discrimination and punishment based on the status of the youth or their parents, their activities or expressed opinions or belief. The State shall guarantee proper protection and care for the well-being of the youth. It shall take all proper legislative and administrative measures for this purpose.
- The State shall take proper measures to achieve:
 - a. Expansion of youth participation across, social, economic, cultural and political development of the country.
 - b. Facilitate the entry of youth to culture, science, technology, arts, sports and entertainment activities together with providing the right conditions to unleash their creativity in all fields.
- The State shall ensure protection of motherhood, childhood and old age and shall care for the youth and adolescence by providing suitable conditions to develop their talents and capacities.

- The State shall commit to the protection, development and improvement of pensions funds, the Unemployed Youth Fund, and social security.
- Establishment of national level advisory councils to work for the advancement of the family, youth and children and promotion and protection of their rights.
- Formulation of the civil society and NGO's law to advance the role of women, youth, the marginalized, persons with disability and children.
- Non-Yemenis are not permitted to assume a public service job unless through a temporary contract as needed, provided that there is a lack of similar experience amongst Yemenis and that the post is advertised in the official newspaper.
- Freedom of political action amongst university students is a public right that shall not be infringed upon. They also have the right to form unions.
- Every female and male citizen has a right to practice sports. The State shall commit to provide appropriate support to realize that. The State shall commit to develop a sports education subject as part of the various educational curricula.
- The age of marriage for both sexes shall be fixed at 18 years.
- The law shall provide for empowerment of youth, educationally, professionally, politically and economically and the provision of suitable conditions for the utilization of their energies and development of their skills to play their role in the service of the nation and its issues.
- Promulgation of a law that makes it mandatory for the State to develop required programs for the training of unqualified cadre: professional and educationally, and the creation of job opportunities for them.
- The law shall provide an emphasis of the role of various educational institutions in embedding integrity values through periodic awareness and educational programs in all stages of education and obligate them to develop curriculums that promote the principle of integrity and noble Islamic values.
- There is a need for the establishment of a skills development fund, achievement of its goal in a decentralized fashion through training and qualification of youth and able-bodied persons.
- Strengthening the community's role in development, at the local and central levels, in planning for development, application of such plans, monitoring official performance in environmental protection, natural resources, and consumer protection. Civil society organizations and independent youth in the NDC should be established to participate in monitoring and oversight over the implementation of the NDC outcomes.



- Care for cultures relevant to social groups like women, children, youth, the marginalized, emigrants, and those with special needs. All means that ensure growth and development including the need to provide a suitable and welcoming legislative environment, as well as all forms of financial and moral support should be provided.
- The realization of equitable social development by adoption of strategies, policies, enactment of legislations, implementation of fair verification measures in a comprehensive and holistic approach. This should achieve effective partnership between the people and public management and fair distribution of wealth in a manner which will lead to the dissolution of class differences and removes social distinctions and hierarchy and strengthens the role of the State and its institutions while diminishing the role of non official groups and entities which compete with the existence of the State entity and detracts the from the rule of law. The pivotal role should be given to youth, women, marginalized groups and civil society such as political parties, institutions, unions, and civic social actors.
- Special emphasis on the social dimension of development and promotion of popular participation in monitoring performance of government agencies in this field. And the provision of a supportive material, social, moral and legislative environment to enable historically excluded groups, like women, youth, and people with disabilities, the marginalized and others to effectively participate in the development process.
- Attention to youth and work to create sport and scouts festivals and camps for youth activities in different parts of the country to create a spirit of honest competitiveness, to unleash the creative energies of youth and coordination of collective effort in this aspect; in a manner that realizes and utilizes all resources for the advancement of society and the different groups.
- The State shall protect children and youth from the risks of drug abuse. To this end, it shall adopt strict actions against drug traffickers and dealers.
- The State shall guarantee the education and nurturing of children and youth in a manner, that ensures integrated and comprehensive development of their personality encompassing all aspects: spiritual, moral, cultural, social, physical, emotional and psychological.
- Developing the training base for youth and women in different skills that meet the needs of development
- Practicing sports is a right for all. State institutions and the society shall provide suitable places for the practice and discovery of talented sports persons and nurture them. Whatever action or measure needed should be taken to encourage the practice of sport and popular sports teams.
- The Government should be obligated to nurture the talented and advanced persons and shall be attentive to creativity, innovation and

the establishment of special centers for this purpose.

- Speed up the improvement of the humanitarian situation, especially for those most affected. Mainly, the provision of aid and compensation for the families of martyrs and the injured and the Peaceful Southern Movement since 2007, the Peaceful Popular Youth Revolution, the events in Sa'ada and Abyan and natural disasters. These areas should be reconstructed and the infrastructure and public facilities rehabilitated. Priority should be given to educational and health services, roads, electricity, water networks and to create a situation for the return of those displaced.
- Promulgation of a family law that ensures human and social rights of women, and protection of women from all forms of discrimination, violence, and inhumane treatment. It should also ensure human rights of the child and youth from the coercive social practices of parents and the family authority which, often times, lead to development of an abnormal and an unproductive personality. The law referred to above should include provisions that protect the right of women in inheritance and to choose her partner in life, provides humanitarian, legal, moral, and financial support for divorced women and widows. It should also include appropriate provisions that eliminate the phenomenon of inflated dowries.
- Development of legislations that ensure academic freedom for the teacher, student and researcher in various educational institutions and research centers.
- Expansion in technical educational and vocational training and the development of programs and curricula to meet the needs of the local and international labor markets.
- Expanding general education, higher education and vocational training by adopting market-oriented educational curriculums catering for the provision of various skills and competencies for the local and external labor markets.
- Pay attention to higher applied and technical education to prepare first and third class professionals and technical people.
- Establishment of welfare and rehabilitation houses and centers for the affected persons, (the disabled- psychologically and physically, women children and the elderly). The centers should be located in areas affected by the war. Vocational and technical education training centers should be established to accommodate the youth.
- The Ministry of Education and the Ministry of Higher Education should be ordered to solve the problems of female and male students affected by the wars in Sa'adah and other affected areas. This should be done through a flexible program to enable them to take multi-



year tests on study subjects according to their capacities in order to enable them to catch up with their colleagues and peers in the same age. This should apply to all universities. Those affected by the war in Sa'adah and other areas should be granted a reduction of 10% percentage points off the required cumulative grade average for admission to universities for a period of ten years starting the date this exception enters into force.

- Issuance of a republican decree to establish a consolidated fund for the welfare of the families of martyrs and wounded of the youth revolution, Hirak, the 1994 war, the Sa'adah war and the Tihami issue by all parties which took part in those events so that everyone would receive the same standards of treatment.

Second:

■ Fundamental Rights and Duties ■



The decisions on youth
are stated below:

- Inequalities in the civil service and the armed and security forces, at the central level, shall be addressed through legislations and institutions to ensure that discrimination is abolished and all Yemenis are afforded equal opportunities. In order to address the disparities in representation in employment, the Southerners shall have priority to be hired to vacant jobs and training and qualification in the civil service and the armed and security forces. The appointments must respect skills and qualifications requirements of the civil services and no employee is to be arbitrarily dismissed.
- Freedom of political action amongst university students is a public right that shall not be infringed upon. They also have the right to form unions.
- The State shall ensure the provision of social security for youth in all cases of sickness, disability, unemployment or lose of provider. It shall, in particular, guarantee that for the families of martyrs in accordance with the law.
- Free education at all educational levels: basic, university and higher education in all streams and levels.
- The State shall undertake the provision of technical education and vocational training, development and promotion of enrollment based on equal opportunities.
- The State shall guarantee free and compulsory primary education and free secondary education (general, vocational and technical), free university education at a quality of international standards and take action to realize that.
- The state shall guarantee to nurture women and youth to qualify them and to ensure their spiritual, moral, cultural, scientific, physical, psychological, social and economic development and empowerment for effective political participation.
- The state shall commit to the education and care for adolescence and youth in order to ensure an integrated and comprehensive personal development including spiritual, moral, cultural, social, physical, and emotional and psychology aspects.
- The State shall advance sciences, arts and literature. It shall nurture creative people, inventors and innovators and shall protect their creative work and innovations. It shall work to apply such creative work and innovations to serve the interest of society and shall work to build the cultural infrastructure, scale up cultural services and the establishment of cultural center at the governorate and district levels.



First: To ensure representation of the youth of the Republic of Yemen in all legislative elections at the national level as well as at the regional levels, we recommend that the document should provide for the following:

1. The Republic of Yemen should be divided into 22 electoral constituencies for the federal legislative elections based on the closed proportional lists system and the largest remainder approach for distribution of seats.
2. An electoral constituency should not exceed ten seats. This means if there are a large number of seats in a constituency. For example, the Governorate of Taiz constituency that consists of 39 seats; it should be divided into four electoral constituencies where each of the three constituencies would have ten seats and the fourth nine seats. This would ensure representation for the majority of the districts in the Governorate. Other governorates (states) those with 15, 18 or 20 seats can follow a similar action.
3. To ensure the biggest participation for the low population states, we recommend that constituencies which don't have a population of more than 150,000 or 200,000 should be given five seats in the federal parliament.
4. At the regional level and in order to ensure representations for the districts and the states in the regional legislative council, we recommend that the district is considered a constituency. This would ensure full representations for the population of the district using the same electoral system.
5. We recommend that the pre-condition of obtaining 5000 signature for acceptance of an independent list should be deleted.
6. We recommend that the 1% decisive factor should not be included in the constitution.
7. The constitutions shall provide in the "concluding provisions", a statement that emphasizes that the preamble is an integral part of the constitution and carries the same force.
8. To ensure representation for independent youth, we recommend that 50% of the 20% quota for youth should be allocated to independent youth.
9. Any Yemeni who has reached the age of 25 should be eligible to run for a seat in the federal, regional or local legislative councils.

Second: To ensure an effective role for youth, we recommend the following:

1. The State should guarantee the provision of a suitable climate that would develop youth capacities and unleash their energies. It should work at enabling them to take-up the responsibility and expansion of youth contributions in social, cultural and political development

by making the necessary budgetary allocations commensurate with the duties and responsibilities entrusted to the youth.

2. The State should work to achieve social justice in sustainable development and to strike a balance in the development of all states.
3. Natural resources of all types including oil and gas and other sources of energy are sovereign resources owned by the Yemeni people and the State should exercise its sovereignty over such wealth on the people's behalf.
4. Youth must be consulted on any draft law relevant to youth and sports.
5. Autonomous bodies must be consulted on any draft legislation relevant to their mandate.
6. The High National Youth Council and all other independent bodies should enjoy a legal personality and financial and administrative autonomy.

Third: To ensure supremacy of the Constitution, unity of the nation and equal citizenship, we recommend that the Constitution of Yemen should include the following provisions to emphasis that:

1. The Yemeni Constitution, legislations promulgated based on the Constitution and treaties signed by the Executive Authority should constitute the sovereign law in the nation. Judges in all regions and states are bound by them. No provision in any other regional constitution or law should supersede them (In the General Provisions).
2. Members of the parliament, the federal council, members in the legislative councils of the regions and the states, judges and all senior civil servants and executive officials in the capital city and in the regions and states should be bound by oath to respect and support the Constitution. This should be stated in the (political foundations section) or the (General Provisions) section of the Constitution.
3. The provisions of the constitution are integrated for the purpose of interpretation of the constitution (General Provisions).
4. The exclusion of any Yemeni citizen in any region from exercising their voting or nomination rights or detracting from such right shall be prohibited in any electoral process whether presidential, legislative, federal, regional or local (Bill of Rights).
5. All Yemeni citizens in all regions and states of the Republic of Yemen shall enjoy the same privileges and immunities (Bill of Rights).
6. The addition, deletion or amending of constitutional provision that may lead to detraction of any of the rights and freedoms or change the shape of the State or the form of governance, political system or electoral system at the federal or regional levels shall be prohibited.
7. The constitutional provisions shall be explicit and clear. They shall not allow different interpretation and shall not refer matters to the law and only the narrowest sense.
8. To protect the states from the domination of a political party or a political group, the federal Constitution should provide that the presidential



system and proportional representation should be the adopted mode for elections and decentralization of management.

9. Finally, in respect to the victims of wars and martyrs and the needed compensations, we recommend a transitional provision to oblige the government to develop a scheduled program to address this issue.



The presentation above of the rights and freedoms are those that concern youth and not all rights and freedoms contained in the decisions of the NDC document are included. It is assumed that they would be incorporated into the constitution.

To confirm, we stated that rights and freedom in general, and especially those concerning youth, are considered a cornerstone for the establishment of the state of rights and law, a basic measure for having a constitution and that all these rights and freedoms are based on the principle of equality as one that would guarantee and protect such rights; this is the first point.

The second point: Such rights and freedoms, recognition of such rights, protection by law and exercising them, can only be done under a state which guarantees equal and full citizenship, has a constitution, separation of powers, rule of law and gradual legal rules.

Inevitably, securing such rights is dependent on the establishment of a state of institution. Doing so, would need an agreement to address the issue of concentration of power. That requires the rebuilding of the Yemeni state in terms of: Shape, system of government, political system and electoral system. This must be done on the basis of equal citizenship, social justice and human dignity. Needless to say, these are all contained in the NDC outcomes document. What remains now is to reflect such decisions, including rights and freedoms, in the draft constitution document by the CDC.

For that purpose, we recommend that the rights and freedoms document on youth should comprise of a number of recommendations to be submitted to the CDC for consideration when drafting the constitution.